

## **BILL ANALYSIS**

S.B. 872  
By: Nelson  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, there are laws governing general fraud and abuse applicable to physicians and hospitals, but there are no existing laws specific to physician-owned niche hospitals. As a result of an increased appearance of such niche hospitals over the last decade, health care policy advocates are concerned about a potential conflict-of-interest between physician-owners and community and rural hospitals. As proposed, SB 872 directs the Department of State Health Services (DSHS) to conduct a study on the impact of niche hospitals on the financial health of Texas hospitals and the quality of care of hospital services.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Board of Medical Examiners in SECTION 2 of this bill.

### **ANALYSIS**

The bill adds language that states that unprofessional conduct includes knowingly directing or requiring a patient to obtain goods or services from a niche hospital in which the health care provider or immediate family member has a financial interest, unless the provider discloses to the patient, in writing, this financial interest and informs the patient about other alternative health care facility options. In addition to the requirement that a physician notify the DSHS of any ownership interest held by the physician in a niche hospital or the use of public use data by the Texas Health Care Information Council to prepare and issue reports that provide information for review and analysis by the Health and Human Services Commission relating to services provided by niche hospitals and that are provided by a physicians with an ownership interest in the niche hospital. This disclosure does not apply to a financial interest in publicly available shares of a registered investment company, such as a mutual fund, that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

The bill defines "diagnosis-related group" and "niche hospital." The State Board of Medical Examiners, in consultation with the DSHS, is required to adopt rules governing the form and content of this notice.

The DSHS is required to conduct a study regarding the impact of niche hospitals on the financial viability of other general hospitals in this state. The study is required to evaluate: the number of niche hospitals currently operating in this state; the number of niche hospitals in this state that are currently under construction or in the planning phase of construction; the location of each niche hospital and its proximity to other general hospitals; the financial impact of niche hospitals on other general hospitals; the referral patterns of physicians with an ownership interest in a niche hospital as compared to the referral patterns of physicians with privileges at a niche hospital who do not have an ownership interest in the niche hospital; and the range of services provided by niche hospitals in this state, with particular emphasis on the provision of emergency and charity care services. Not later than December 1, 2006, the DSHS is required to submit a report to the legislature regarding the results of this study. The enabling language for the study expires September 1, 2007.

The changes made in defining unprofessional conduct apply only to conduct that occurs on or after the effective date of this bill. Conduct that occurs before the effective date of this bill is governed by the law as it existed immediately before the effective date of this bill, and that law is continued in effect for that purpose.

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**EFFECTIVE DATE**

September 1, 2005.