

By: Nelson

S.B. No. 872

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a study regarding the impact of niche hospitals on other
3 general hospitals and to certain reports and disclosure
4 requirements regarding niche hospitals.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 105.002, Occupations Code, is amended by
7 amending Subsection (a) and adding Subsections (c) and (d) to read
8 as follows:

9 (a) A health care provider commits unprofessional conduct
10 if the health care provider, in connection with the provider's
11 professional activities:

12 (1) knowingly presents or causes to be presented a
13 false or fraudulent claim for the payment of a loss under an
14 insurance policy; ~~or~~

15 (2) knowingly prepares, makes, or subscribes to any
16 writing, with intent to present or use the writing, or to allow it
17 to be presented or used, in support of a false or fraudulent claim
18 under an insurance policy; or

19 (3) knowingly directs or requires a patient to obtain
20 health care goods or services from a niche hospital in which the
21 health care provider or an immediate family member of the provider
22 has a financial interest, unless the provider:

23 (A) discloses to the patient, in writing, that
24 the provider or the provider's family member has a financial

1 interest in the niche hospital; and

2 (B) informs the patient that the patient has the
3 option of using an alternative health care facility.

4 (c) Subsection (a)(3) does not apply to a financial interest
5 in publicly available shares of a registered investment company,
6 such as a mutual fund, that owns publicly traded equity securities
7 or debt obligations issued by a niche hospital or an entity that
8 owns the niche hospital.

9 (d) In this section:

10 (1) "Diagnosis-related group" means the
11 classification system mandated by Medicare regulations for
12 reimbursement purposes that groups patients according to principal
13 diagnosis, presence of a surgical procedure, age, presence or
14 absence of significant complications, and other relevant criteria.

15 (2) "Niche hospital" means a hospital that:

16 (A) classifies at least two-thirds of the
17 hospital's Medicare patients or, if data is available, all
18 patients:

19 (i) in not more than two major
20 diagnosis-related groups; or

21 (ii) in surgical diagnosis-related groups;

22 (B) specializes in one or more of the following
23 areas:

24 (i) cardiac;

25 (ii) orthopedics;

26 (iii) surgery; or

27 (iv) women's health; and

1 (C) is not:

2 (i) a public hospital;

3 (ii) a hospital for which the majority of
4 inpatient claims are for major diagnosis-related groups relating to
5 rehabilitation, psychiatry, alcohol and drug treatment, or
6 children or newborns; or

7 (iii) a hospital with fewer than 10 claims
8 per bed per year.

9 SECTION 2. Subchapter B, Chapter 162, Occupations Code, is
10 amended by adding Section 162.052 to read as follows:

11 Sec. 162.052. NOTICE OF CERTAIN OWNERSHIP INTERESTS.

12 (a) In this section, "niche hospital" has the meaning assigned by
13 Section 105.002.

14 (b) A physician shall notify the Department of State Health
15 Services of any ownership interest held by the physician in a niche
16 hospital.

17 (c) Subsection (b) does not apply to an ownership interest
18 in publicly available shares of a registered investment company,
19 such as a mutual fund, that owns publicly traded equity securities
20 or debt obligations issued by a niche hospital or an entity that
21 owns the niche hospital.

22 (d) The board, in consultation with the Department of State
23 Health Services, shall adopt rules governing the form and content
24 of the notice required by Subsection (b).

25 SECTION 3. Section 108.011, Health and Safety Code, is
26 amended by adding Subsections (c-1) and (c-2) to read as follows:

27 (c-1) The council shall use public use data to prepare and

1 issue reports that provide information for review and analysis by
2 the Health and Human Services Commission relating to services that
3 are provided in a niche hospital, as defined by Section 105.002,
4 Occupations Code, and that are provided by a physician with an
5 ownership interest in the niche hospital.

6 (c-2) Subsection (c-1) does not apply to an ownership
7 interest in publicly available shares of a registered investment
8 company, such as a mutual fund, that owns publicly traded equity
9 securities or debt obligations issued by a niche hospital or an
10 entity that owns the niche hospital.

11 SECTION 4. (a) In this section, "niche hospital" has the
12 meaning assigned by Section 105.002, Occupations Code.

13 (b) The Department of State Health Services shall conduct a
14 study regarding the impact of niche hospitals on the financial
15 viability of other general hospitals located in this state.

16 (c) In conducting the study, the Department of State Health
17 Services shall evaluate:

18 (1) the number of niche hospitals currently operating
19 in this state;

20 (2) the number of niche hospitals in this state that
21 are currently under construction or in the planning phase of
22 construction;

23 (3) the location of each niche hospital and its
24 proximity to other general hospitals;

25 (4) the financial impact of niche hospitals on other
26 general hospitals;

27 (5) the referral patterns of physicians with an

1 ownership interest in a niche hospital as compared to the referral
2 patterns of physicians with privileges at a niche hospital who do
3 not have an ownership interest in the niche hospital; and

4 (6) the range of services provided by niche hospitals
5 in this state, with particular emphasis on the provision of
6 emergency and charity care services.

7 (d) Not later than December 1, 2006, the Department of State
8 Health Services shall submit a report to the legislature regarding
9 the results of the study conducted under this section.

10 (e) This section expires September 1, 2007.

11 SECTION 5. Section 105.002, Occupations Code, as amended by
12 this Act, applies only to conduct that occurs on or after the
13 effective date of this Act. Conduct that occurs before the
14 effective date of this Act is governed by the law as it existed
15 immediately before the effective date of this Act, and that law is
16 continued in effect for that purpose.

17 SECTION 6. This Act takes effect September 1, 2005.