

By: Nelson

S.B. No. 872

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a study regarding the impact of niche hospitals on other
3 general hospitals and to certain disclosure requirements regarding
4 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. (a) In this section, "niche hospital" has the
10 meaning assigned by Section 105.002, Occupations Code.

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

14 (c) In conducting the study, the department shall evaluate:

15 (1) the number of niche hospitals currently operating
16 in this state;

17 (2) the number of niche hospitals in this state that
18 are currently under construction or in the planning phase of
19 construction;

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

22 (4) the financial impact of niche hospitals on other
23 general hospitals;

24 (5) the referral patterns of physicians with an
25 ownership interest in a niche hospital as compared to the referral
26 patterns of physicians with privileges at a niche hospital who do
27 not have an ownership interest in the niche hospital; and

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

4 (d) Not later than December 1, 2006, the department shall
5 submit a report to the legislature regarding the results of the
6 study conducted under this section.

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

8 SECTION 3. Section 105.002, Occupations Code, as amended by
9 this Act, applies only to conduct that occurs on or after the
10 effective date of this Act. Conduct that occurs before the
11 effective date of this Act is governed by the law as it existed
12 immediately before the effective date of this Act, and that law is
13 continued in effect for that purpose.

14 SECTION 4. This Act takes effect September 1, 2005.