

1-1 By: Nelson S.B. No. 872
1-2 (In the Senate - Filed March 2, 2005; March 10, 2005, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 March 30, 2005, reported favorably by the following vote: Yeas 8,
1-5 Nays 0; March 30, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to a study regarding the impact of niche hospitals on other
1-9 general hospitals and to certain disclosure requirements regarding
1-10 niche hospitals.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 105.002, Occupations Code, is amended by
1-13 amending Subsection (a) and adding Subsections (c) and (d) to read
1-14 as follows:

1-15 (a) A health care provider commits unprofessional conduct
1-16 if the health care provider, in connection with the provider's
1-17 professional activities:

1-18 (1) knowingly presents or causes to be presented a
1-19 false or fraudulent claim for the payment of a loss under an
1-20 insurance policy; ~~or~~

1-21 (2) knowingly prepares, makes, or subscribes to any
1-22 writing, with intent to present or use the writing, or to allow it
1-23 to be presented or used, in support of a false or fraudulent claim
1-24 under an insurance policy; or

1-25 (3) knowingly directs or requires a patient to obtain
1-26 health care goods or services from a niche hospital in which the
1-27 health care provider or an immediate family member of the provider
1-28 has a financial interest, unless the provider:

1-29 (A) discloses to the patient, in writing, that
1-30 the provider or the provider's family member has a financial
1-31 interest in the niche hospital; and

1-32 (B) informs the patient that the patient has the
1-33 option of using an alternative health care facility.

1-34 (c) Subsection (a)(3) does not apply to a financial interest
1-35 in publicly available shares of a registered investment company,
1-36 such as a mutual fund, that owns publicly traded equity securities
1-37 or debt obligations issued by a niche hospital or an entity that
1-38 owns the niche hospital.

1-39 (d) In this section:

1-40 (1) "Diagnosis-related group" means the
1-41 classification system mandated by Medicare regulations for
1-42 reimbursement purposes that groups patients according to principal
1-43 diagnosis, presence of a surgical procedure, age, presence or
1-44 absence of significant complications, and other relevant criteria.

1-45 (2) "Niche hospital" means a hospital that:

1-46 (A) classifies at least two-thirds of the
1-47 hospital's Medicare patients or, if data is available, all
1-48 patients:

1-49 (i) in not more than two major
1-50 diagnosis-related groups; or

1-51 (ii) in surgical diagnosis-related groups;
1-52 (B) specializes in one or more of the following

1-53 areas:

1-54 (i) cardiac;

1-55 (ii) orthopedics;

1-56 (iii) surgery; or

1-57 (iv) women's health; and

1-58 (C) is not:

1-59 (i) a public hospital;

1-60 (ii) a hospital for which the majority of
1-61 inpatient claims are for major diagnosis-related groups relating to
1-62 rehabilitation, psychiatry, alcohol and drug treatment, or
1-63 children or newborns; or

1-64 (iii) a hospital with fewer than 10 claims

2-1 per bed per year.

2-2 SECTION 2. (a) In this section, "niche hospital" has the
2-3 meaning assigned by Section 105.002, Occupations Code.

2-4 (b) The Department of State Health Services shall conduct a
2-5 study regarding the impact of niche hospitals on the financial
2-6 viability of other general hospitals located in this state.

2-7 (c) In conducting the study, the Department of State Health
2-8 Services shall evaluate:

2-9 (1) the number of niche hospitals currently operating
2-10 in this state;

2-11 (2) the number of niche hospitals in this state that
2-12 are currently under construction or in the planning phase of
2-13 construction;

2-14 (3) the location of each niche hospital and its
2-15 proximity to other general hospitals;

2-16 (4) the financial impact of niche hospitals on other
2-17 general hospitals;

2-18 (5) the referral patterns of physicians with an
2-19 ownership interest in a niche hospital as compared to the referral
2-20 patterns of physicians with privileges at a niche hospital who do
2-21 not have an ownership interest in the niche hospital; and

2-22 (6) the range of services provided by niche hospitals
2-23 in this state, with particular emphasis on the provision of
2-24 emergency and charity care services.

2-25 (d) Not later than December 1, 2006, the Department of State
2-26 Health Services shall submit a report to the legislature regarding
2-27 the results of the study conducted under this section.

2-28 (e) This section expires September 1, 2007.

2-29 SECTION 3. Section 105.002, Occupations Code, as amended by
2-30 this Act, applies only to conduct that occurs on or after the
2-31 effective date of this Act. Conduct that occurs before the
2-32 effective date of this Act is governed by the law as it existed
2-33 immediately before the effective date of this Act, and that law is
2-34 continued in effect for that purpose.

2-35 SECTION 4. This Act takes effect September 1, 2005.

2-36 * * * * *