

A BILL TO BE ENTITLED

AN ACT

relating to the provision of health care services by certain entities, including niche hospitals; providing a criminal penalty.

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

SECTION 1. Section 105.002(d)(2), Occupations Code, is amended to read as follows:

(2) "Niche hospital" means a hospital ~~[that]~~:

(A) in which:

(i) ~~[classifies]~~ at least 45 percent ~~[two-thirds]~~ of the hospital's Medicare claims are for cardiac, orthopedic, or surgical services; or

(ii) at least 66 percent of the hospital's Medicare patients are classified in two major diagnosis-related groups, the primary one of which relates to cardiac, orthopedics, or surgery; and ~~[patients or, if data is available, all patients:~~

~~[(i) in not more than two major diagnosis-related groups; or~~

~~[(ii) in surgical diagnosis-related groups;]~~

(B) that ~~[specializes in one or more of the following areas:~~

~~[(i) cardiac,~~

~~[(ii) orthopedics,~~

~~[(iii) surgery; or~~

1 ~~[(iv) women's health; and~~

2 ~~[(C)]~~ is not:

3 (i) a public hospital;

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

8 (iii) a hospital with fewer than 25
9 Medicare ~~[10]~~ claims per bed per year; or

10 (iv) a bariatric surgical hospital or other
11 hospital specializing in surgeries not covered by Medicare.

12 SECTION 2. Subchapter B, Chapter 241, Health and Safety
13 Code, is amended by adding Section 241.0261 to read as follows:

14 Sec. 241.0261. EMERGENCY DEPARTMENT PHYSICIANS. A hospital
15 emergency department must have on duty at all times at least one
16 physician who is board certified in emergency medicine.

17 SECTION 3. Subtitle C, Title 2, Health and Safety Code, is
18 amended by adding Chapter 65 to read as follows:

19 CHAPTER 65. INDIGENT HEALTH CARE GRANT PROGRAM

20 Sec. 65.001. DEFINITIONS. In this chapter:

21 (1) "Department" means the Department of State Health
22 Services.

23 (2) "Executive commissioner" means the executive
24 commissioner of the Health and Human Services Commission.

25 (3) "Health care facility" means a public or private
26 hospital, skilled nursing facility, intermediate care facility,
27 ambulatory surgical facility, family planning clinic that performs

1 ambulatory surgical procedures, rural or urban health initiative
2 clinic, kidney disease treatment facility, inpatient
3 rehabilitation facility, or other facility designated as a health
4 care facility by federal law. The term does not include the office
5 of physicians or practitioners of the healing arts practicing
6 individually or in groups.

7 Sec. 65.002. INDIGENT HEALTH CARE ACCOUNT. (a) The
8 indigent health care account is a dedicated account in the general
9 revenue fund.

10 (b) Money in the account may be appropriated only to the
11 department to fund grants awarded under Section 65.004.

12 (c) The account is exempt from the application of Section
13 403.095, Government Code, and interest earned on money in the
14 account shall be credited to the account.

15 Sec. 65.003. ALLOCATION OF CERTAIN TAX REVENUE TO INDIGENT
16 HEALTH CARE ACCOUNT. (a) Notwithstanding Section 171.401, Tax
17 Code, each state fiscal year the comptroller shall deposit to the
18 credit of the account established under Section 65.002 an amount
19 equal to eight percent of the money received under Chapter 171, Tax
20 Code, that is derived from the imposition of the franchise tax
21 during that state fiscal year on for-profit health care facilities.
22 This subsection does not affect the amount the comptroller is
23 required to deposit to the credit of the property tax relief fund
24 under Section 171.4011, Tax Code.

25 (b) The comptroller may determine the amount described by
26 Subsection (a) using available statistical data, if necessary. The
27 comptroller may require for-profit health care facilities or other

1 taxpayers to report additional information to the comptroller as
2 necessary to make the allocation required by Subsection (a).

3 Sec. 65.004. GRANT PROGRAM. (a) The executive
4 commissioner by rule shall establish a grant program administered
5 by the department to award grants to health care facilities to
6 provide indigent health care services.

7 (b) The executive commissioner and department, as
8 appropriate, shall:

9 (1) establish application procedures and eligibility
10 guidelines for awarding grants; and

11 (2) monitor the use of grants awarded under the
12 program.

13 (c) The department shall require each health care facility
14 receiving a grant under this section to maintain records and
15 information related to the receipt and use of the grant.

16 SECTION 4. Subtitle B, Title 4, Health and Safety Code, is
17 amended by adding Chapter 257 to read as follows:

18 CHAPTER 257. HOSPITAL AND AMBULATORY SURGICAL CENTER DATA

19 REPORTING REQUIREMENTS

20 Sec. 257.001. DEFINITIONS. In this chapter:

21 (1) "Ambulatory surgical center" means a facility
22 licensed under Chapter 243.

23 (2) "Contractual allowance" means the difference
24 between revenue at established rates and amounts realizable from
25 third-party payors under contractual agreements.

26 (3) "Department" means the Department of State Health
27 Services.

1 (4) "Hospital" means a general or special hospital
2 licensed under Chapter 241.

3 Sec. 257.002. DEPARTMENT ADMINISTRATION OF HOSPITAL AND
4 AMBULATORY SURGICAL CENTER REPORTING AND COLLECTION SYSTEM. (a)
5 The department shall establish a uniform reporting and collection
6 system for hospital and ambulatory surgical center financial and
7 utilization data required under this chapter.

8 (b) The executive commissioner of the Health and Human
9 Services Commission shall adopt necessary rules consistent with
10 this chapter to govern the reporting and collection of data.

11 Sec. 257.003. HOSPITAL FINANCIAL AND UTILIZATION DATA
12 REQUIRED. (a) In this section, "ownership interest" does not
13 include an ownership interest in publicly available shares of a
14 registered investment company, such as a mutual fund, that owns
15 publicly traded equity securities or debt obligations issued by a
16 hospital or an entity that owns the hospital.

17 (b) A hospital shall submit to the department financial and
18 utilization data for that hospital, including data relating to the
19 hospital's:

- 20 (1) total gross revenue, including:
21 (A) Medicare gross revenue;
22 (B) Medicaid gross revenue;
23 (C) other revenue from state programs;
24 (D) revenue from local government programs;
25 (E) local tax support;
26 (F) charitable contributions;
27 (G) other third-party payments;

- 1 (H) gross inpatient revenue; and
2 (I) gross outpatient revenue;
3 (2) total deductions from gross revenue, including:
4 (A) contractual allowance; and
5 (B) any other deductions;
6 (3) unreimbursed cost of providing health care
7 services on an inpatient basis to a person classified by the
8 hospital as an indigent person;
9 (4) unreimbursed cost of providing health care
10 services on an outpatient basis to a person classified by the
11 hospital as an indigent person;
12 (5) bad debt expense;
13 (6) total admissions, including:
14 (A) Medicare admissions;
15 (B) Medicaid admissions;
16 (C) admissions under a local government program;
17 and
18 (D) any other type of admissions;
19 (7) the category that best describes the hospital and
20 the type of services it provides to the majority of admissions;
21 (8) whether the severity of illness of each patient
22 admitted is major, moderate, or minor;
23 (9) total discharges;
24 (10) total patient days;
25 (11) average length of stay;
26 (12) total number of patient beds;
27 (13) total outpatient visits;

- 1 (14) total emergency department visits;
- 2 (15) total number of inpatient surgeries;
- 3 (16) total number of outpatient surgeries;
- 4 (17) total assets;
- 5 (18) total liabilities; and
- 6 (19) ownership information, including:

7 (A) the name and business address of each person
8 who has an ownership interest of 50 percent or more in the hospital;
9 and

10 (B) a statement of whether one or more physicians
11 have an ownership interest in the hospital and, if so, the name,
12 address, and percentage of ownership of each physician having at
13 least a 10 percent ownership interest in the hospital.

14 (c) The data must be based on the hospital's most recent
15 audited financial records.

16 (d) The data must be submitted in the form and at the time
17 established by the department, except that the information required
18 under Subsection (b)(19) must be submitted quarterly and
19 immediately after the occurrence of any event resulting in a
20 significant change to a hospital's ownership status.

21 Sec. 257.004. AMBULATORY SURGICAL CENTER FINANCIAL AND
22 UTILIZATION DATA REQUIRED. (a) In this section, "ownership
23 interest" does not include an ownership interest in publicly
24 available shares of a registered investment company, such as a
25 mutual fund, that owns publicly traded equity securities or debt
26 obligations issued by an ambulatory surgical center or an entity
27 that owns the ambulatory surgical center.

1 (b) An ambulatory surgical center shall submit to the
2 department financial and utilization data for that center,
3 including data relating to the center's:

4 (1) total gross revenue, including:

5 (A) Medicare gross revenue;

6 (B) Medicaid gross revenue;

7 (C) other revenue from state programs;

8 (D) revenue from local government programs;

9 (E) local tax support;

10 (F) charitable contributions; and

11 (G) other third-party payments;

12 (2) total deductions from gross revenue, including:

13 (A) contractual allowance; and

14 (B) any other deductions;

15 (3) unreimbursed cost of providing health care
16 services to a person classified by the center as an indigent person;

17 (4) bad debt expense;

18 (5) total admissions, including:

19 (A) Medicare admissions;

20 (B) Medicaid admissions;

21 (C) admissions under a local government program;

22 and

23 (D) any other type of admissions;

24 (6) total number of surgeries;

25 (7) a description of the type of surgical procedures
26 the center provides to the majority of patients;

27 (8) total assets;

1 (9) total liabilities; and

2 (10) ownership information, including:

3 (A) the name and business address of each person
4 who has an ownership interest of 50 percent or more in the center;
5 and

6 (B) a statement of whether one or more physicians
7 have an ownership interest in the center and, if so, the name,
8 address, and percentage of ownership of each physician having at
9 least a 10 percent ownership interest in the center.

10 (c) The data must be based on the ambulatory surgical
11 center's most recent audited financial records.

12 (d) The data must be submitted in the form and at the time
13 established by the department, except that the information required
14 under Subsection (b)(10) must be submitted quarterly and
15 immediately after occurrence of any event resulting in a
16 significant change to an ambulatory surgical center's ownership
17 status.

18 Sec. 257.005. USE OF DATA. (a) In this section, "niche
19 hospital" has the meaning assigned by Section 105.002(d)(2),
20 Occupations Code.

21 (b) Not later than December 1 of each even-numbered year,
22 the department shall use the data collected under this chapter to
23 publish a report regarding the impact of niche hospitals operating
24 in this state on:

25 (1) the financial viability of other hospitals and
26 ambulatory surgical centers operating in this state; and

27 (2) to the extent feasible:

1 (A) the cost of health care;

2 (B) the quality of health care; and

3 (C) access to health care.

4 Sec. 257.006. CONFIDENTIAL DATA; CRIMINAL PENALTY. (a)

5 Any data regarding a specific patient reported or submitted to the
6 department under this chapter is confidential, and the department
7 must remove any information that individually identifies a patient
8 before disclosing the information.

9 (b) A person commits an offense if the person discloses
10 confidential data obtained under this chapter.

11 (c) An offense under Subsection (b) is a Class B
12 misdemeanor.

13 SECTION 5. (a) Except as provided by Subsection (b) of this
14 section, this Act takes effect September 1, 2007.

15 (b) Chapter 65, Health and Safety Code, as added by this
16 Act, takes effect January 1, 2008.