

By: Coleman

H.B. No. 4502

A BILL TO BE ENTITLED

AN ACT

relating to charity care.

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

SECTION 1. Sections 311.031(2) and (16), Health and Safety Code, are amended to read as follows:

(2) "Charity care" means the unreimbursed cost, not including bad debt expense, to a hospital of:

(A) providing, funding, or otherwise financially supporting health care services on an inpatient or outpatient basis to a person classified by the hospital as "financially indigent" or "medically indigent"; and/or

(B) providing, funding, or otherwise financially supporting health care services provided to financially indigent persons through other nonprofit or public outpatient clinics, hospitals, or health care organizations.

(16) "Unreimbursed costs" means the costs a hospital incurs for providing services after subtracting payments received from any source for such services including but not limited to the following: third-party insurance payments; Medicare payments; Medicaid payments; Medicare education reimbursements; state reimbursements for education; payments from drug companies to pursue research; grant funds for research; and disproportionate share payments. For purposes of this definition, the term "costs" shall be calculated by applying the hospital's Medicare cost ratio

1 ~~[to charge ratios derived in accordance with generally accepted~~  
2 ~~accounting principles for hospitals]~~ to billed charges. The  
3 executive commissioner of the Health and Human Services Commission  
4 by rule may supplement the Medicare cost ratio with additional  
5 expenses and revenues that are reasonable and medically necessary  
6 and subject to third-party insurer reimbursement. The calculation  
7 of the cost to charge ratios shall be based on the most recently  
8 completed and audited prior fiscal year of the hospital or hospital  
9 system. Prior to January 1, 1996, for purposes of this definition,  
10 charitable contributions and grants to a hospital, including  
11 transfers from endowment or other funds controlled by the hospital  
12 or its nonprofit supporting entities, shall not be subtracted from  
13 the costs of providing services for purposes of determining  
14 unreimbursed costs. After January 1, 1996, for purposes of this  
15 definition, charitable contributions and grants to a hospital,  
16 including transfers from endowment or other funds controlled by the  
17 hospital or its nonprofit supporting entities, shall not be  
18 subtracted from the costs of providing services for purposes of  
19 determining the unreimbursed costs of charity care and  
20 government-sponsored indigent health care.

21 SECTION 2. Amend Texas Government Code, Chapter 531 to add a  
22 new Subchapter Q to read as follows:

23 Subchapter Q. Study on Hospital Billing and Collection Practices

24 Sec. 531.701. Study concerning hospital billing and  
25 collection practices.

26 (a) The Texas Health and Human Services Commission shall study  
27 the effects of hospital and billing practices on the uninsured and

1 underinsured.

2 (b) By the use of a hospital questionnaire and such other  
3 investigative tools including sample hospital audits, interviews,  
4 public hearings and reports, the study shall address:

5 (i) the effects of hospital billing, including pricing and  
6 discounting. practices by public health region as designated under  
7 Texas Health & Safety Code, Section 121.007 upon the uninsured, the  
8 underinsured, insurers, governmental payors, and other third-party  
9 payors;

10 (ii) The effects of hospital billing, including pricing and  
11 discounting, and collection practices upon the uninsured and  
12 underinsured including any barriers to health care access and  
13 economic consequences; and

14 (iii) The actions other jurisdictions have taken through  
15 legislation or litigation to address hospital billing and  
16 collection practices upon the uninsured and the underinsured.

17 (c) Any data presented in the study shall be indexed by hospital  
18 organizational structure: for profit, nonprofit, and public.

19 (d) The study shall commence no later than November 15, 2009 and  
20 produce a report on the study to be filed with the legislature no  
21 later than December 15, 2010. At that date, the commission shall  
22 publish the report on its website in a conspicuous location.

23 (e) The performance of the study may be delegated by the  
24 commission to one or more working groups that may include public  
25 members and representatives from the Texas Attorney General, Texas  
26 Comptroller of Public Accounts and the Texas Department of State  
27 Health Services. At least half of the public members appointed to

1 any working group must be individuals or representatives of  
2 organizations that advocate on behalf of consumers on health care  
3 issues.

4 (f) Public hearings shall be held throughout the state to receive  
5 public testimony for inclusion in the report. At the commission's  
6 request, a working group member may coordinate, convene, and  
7 preside at a public hearing. Among other resources, the commission  
8 may rely on donations of space, equipment, and personnel for the  
9 public hearing.

10 (g) The commission or its delegate may retain public accountants  
11 and such other experts considered reasonably necessary to perform  
12 the study and may seek collaboration from the Texas Attorney  
13 General, the Texas Comptroller of Public Accounts and the Texas  
14 Department of State Health Services.

15 Sec. 531.702. Expiration of Subchapter. This Subchapter  
16 expires on January 31, 2011.

17 SECTION 3. Subchapter D, Chapter 311, Health and Safety  
18 Code is amended by adding Section 311.0471 to read as follows:

19 Sec. 311.0471. INVESTIGATION AND ENFORCEMENT. (a) Except  
20 as otherwise provided, this section applies only to a hospital, as  
21 that term is defined by Section 311.031.

22 (b) The attorney general shall investigate whether a  
23 hospital has violated this Subchapter on receipt of a public  
24 complaint.

25 (c) The attorney general may conduct any investigation  
26 considered necessary regarding possible violations of this  
27 Subchapter by a hospital, including:

1           (1) examination of the hospital's premises;

2           (2) on written request to the chief operating officer  
3 of the hospital, examination of any record, book, document,  
4 account, or paper necessary to investigate the alleged violation;

5           (3) requiring the hospital to file a statement or  
6 report or answer interrogatories in writing relating to all  
7 information relevant to the alleged violations; and

8           (4) subpoena examination under oath of any person who  
9 possesses knowledge or information directly related to the alleged  
10 violations.

11           (d) If the attorney general has reason to believe that a  
12 hospital has violated this Subchapter, the attorney general may  
13 bring action on behalf of the state against the hospital to obtain  
14 temporary, preliminary, or permanent injunctive relief for any act,  
15 policy, or practice by the hospital that violates this Subchapter.  
16 Before bringing an action, the attorney general may permit the  
17 hospital to submit a correction plan for the attorney general's  
18 approval.

19           (e) The attorney general may seek a civil monetary penalty  
20 not to exceed \$1,000 per violation per day if a hospital, by pattern  
21 or practice, knowingly violates this Subchapter.

22           (f) In an action filed under this Subchapter, the attorney  
23 general may seek the recovery of court costs and legal fees.

24           (g) If a court grants a final order of relief against a  
25 nonprofit hospital for a violation of this Subchapter, the  
26 attorney general shall notify each taxing authority that has  
27 granted the nonprofit hospital a tax exemption about the court's

1 decision.

2 (h) The attorney general shall establish a complaint  
3 process through which the public may file complaints involving  
4 violations of this Subchapter. The complaint process at a minimum  
5 must include:

6 (1) a mail address, a toll-free telephone number, and  
7 an e-mail address for receiving complaints;

8 (2) a public education campaign concerning the  
9 obligations hospitals have to the public under this Subchapter;

10 (3) a public education campaign concerning the  
11 attorney general's complaint process; and

12 (4) complaint forms and instructions to aid the public  
13 in making complaints.

14 (i) The attorney general shall prepare and publicly  
15 distribute, including posting in a conspicuous location on the  
16 attorney general's website, an annual report that informs the  
17 public of the attorney general's activities under this Subchapter  
18 for the previous year.

19 SECTION 4. This Act takes effect September 1, 2009.