

By: Duncan

S.B. No. 1461

A BILL TO BE ENTITLED

AN ACT

relating to the registration of diagnostic imaging equipment, the accreditation of diagnostic imaging facilities, and the regulation of diagnostic imaging providers; providing penalties.

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

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. DIAGNOSTIC IMAGING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "Center" means the Center for Health Statistics of the Department of State Health Services.

(2) "Department" means the Department of State Health Services.

(3) "Diagnostic imaging equipment" means a machine or equipment used to perform magnetic resonance imaging, computed tomography, positron emission tomography, and any hybrid technology that combines any of those imaging modalities.

(4) "Diagnostic imaging facility" means any location where a diagnostic imaging service is provided to a patient for a fee by a diagnostic imaging provider.

(5) "Diagnostic imaging provider" means any person that has an investment interest in any facility, office, clinic, imaging center, hospital, or other location in which a diagnostic

1 imaging service is provided or in any machine or equipment that is
2 used to provide a diagnostic imaging service.

3 (6) "Diagnostic imaging service" means magnetic
4 resonance imaging, computed tomography, positron emission
5 tomography, and any hybrid technology that combines any of those
6 imaging modalities.

7 (7) "Health care provider" means a person licensed as
8 a health care professional or authorized to practice in health care
9 under Subtitle B or C.

10 (8) "Immediate family member" means a person's spouse,
11 child, child's spouse, grandchild, grandchild's spouse, parent,
12 parent-in-law, or sibling.

13 (9) "Investment interest" means an equity or debt
14 security issued by a person, including shares of stock in a
15 corporation, membership or other interest in a company, including a
16 limited liability company, units or other interests in a
17 partnership, including a limited liability partnership, bonds,
18 debentures, notes, or other equity interests or debt instruments.
19 The term includes the rental or time sharing of imaging equipment in
20 which a referring health care provider receives a portion of the
21 billing revenue.

22 (10) "Investor" means a person who directly or
23 indirectly holds a legal, beneficial ownership, or investment
24 interest, including an interest held through an immediate family
25 member, trust, or another person related to the investor within the
26 meaning of "related to the provider" as defined by 42 C.F.R. Section
27 413.17.

1 (11) "Licensing authority" means a department, board,
2 office, or other agency of this state that regulates a health care
3 provider subject to this chapter.

4 (12) "Patient" means a person who receives a physical
5 examination, evaluation, diagnosis, or treatment by a health care
6 provider.

7 (13) "Referral" means a health care provider's request
8 for or ordering of a diagnostic imaging service for a patient.

9 Sec. 113.002. RULES. The executive commissioner of the
10 Health and Human Services Commission, on behalf of the department
11 and center and as necessary to protect the public health and safety,
12 shall adopt rules specifying the procedures health care providers
13 and diagnostic imaging providers must use to comply with this
14 chapter.

15 [Sections 113.003-113.050 reserved for expansion]

16 SUBCHAPTER B. REGISTRATION OF FACILITIES

17 Sec. 113.051. REGISTRATION REQUIRED. A person may not
18 operate a diagnostic imaging facility unless the person holds a
19 diagnostic imaging facility certificate of registration issued
20 under this subchapter.

21 Sec. 113.052. APPLICATION; ISSUANCE. (a) An applicant for
22 a diagnostic imaging facility certificate of registration shall
23 file an application with the department on the form prescribed by
24 the department.

25 (b) The applicant is entitled to a diagnostic imaging
26 facility certificate of registration if:

27 (1) the applicant pays any required fee; and

1 (2) the applicant's facility meets the accreditation
2 requirements under Section 113.053 and department rule.

3 Sec. 113.053. ACCREDITATION. (a) The department may not
4 issue a diagnostic imaging facility certificate of registration to
5 a person unless the person's diagnostic imaging facility has been
6 accredited by a nationally recognized accreditation organization
7 approved by the department.

8 (b) In approving accreditation organizations, the
9 department shall consider:

10 (1) the ability of the organization to conduct timely
11 reviews of accreditation applications;

12 (2) the organization's process for timely integration
13 of new technology into accreditation programs;

14 (3) whether the organization's criteria for
15 accreditation of diagnostic imaging facilities includes all of the
16 following:

17 (A) qualifications for non-physician medical
18 personnel;

19 (B) qualifications for and responsibilities of
20 medical directors, supervising physicians, and interpreting
21 physicians located at the facility;

22 (C) procedures for ensuring that diagnostic
23 imaging equipment meets performance specifications;

24 (D) procedures for ensuring patient safety; and

25 (E) quality assurance reporting; and

26 (4) other factors the department considers necessary
27 to protect the public health and safety.

1 (c) A report required by this section must be submitted to
2 the center in the format or method required by the Department of
3 State Health Services.

4 Sec. 113.072. PUBLIC INFORMATION. Information collected
5 under Section 113.071 shall be made available to the public.

6 Sec. 113.073. DISCIPLINARY ACTION. A diagnostic imaging
7 provider's failure to report information required by this
8 subchapter is grounds for disciplinary action, including the
9 imposition of an administrative penalty, by the licensing authority
10 that regulates the diagnostic imaging provider.

11 Sec. 113.074. EXPIRATION. This subchapter expires
12 September 1, 2010.

13 [Sections 113.075-113.150 reserved for expansion]

14 SUBCHAPTER C. CIVIL PENALTY

15 Sec. 113.151. CIVIL PENALTY. (a) A diagnostic imaging
16 provider that violates this chapter or rules adopted under this
17 chapter is subject to a civil penalty of not more than \$1,000 for
18 each violation.

19 (b) The attorney general at the request of the center shall
20 bring an action to collect penalties under this section. In the
21 suit, the center and the attorney general each may recover
22 reasonable expenses incurred in obtaining the penalty, including
23 investigation and court costs and reasonable attorney's fees.

24 (c) Expenses recovered by the center under this section
25 shall be deposited in a separate account outside the state treasury
26 to be used by the center in the enforcement of this chapter.

27 SECTION 2. (a) The Department of State Health Services

1 shall conduct a study of the information required to be submitted to
2 the department under Subchapter B-1, Chapter 113, Occupations Code,
3 as added by this Act.

4 (b) In conducting the study, the department shall compare
5 the rates at which diagnostic imaging services were used by
6 physicians of the same specialty who have a financial interest in
7 the diagnostic imaging services prescribed for the patient's care
8 and those who do not have a financial interest in the prescribed
9 diagnostic imaging services.

10 (c) Not later than January 1, 2011, the department shall
11 submit a report regarding the study to the lieutenant governor and
12 the speaker of the house of representatives.

13 SECTION 3. (a) Not later than January 1, 2010, the
14 executive commissioner of the Health and Human Services Commission
15 shall adopt the rules necessary to implement Chapter 113,
16 Occupations Code, as added by this Act.

17 (b) Notwithstanding Chapter 113, Occupations Code, as added
18 by this Act, a person is not required to hold a diagnostic imaging
19 facility certificate of registration to operate a diagnostic
20 imaging facility until March 1, 2010.

21 SECTION 4. Subchapter B-1, Chapter 113, Occupations Code,
22 as added by this Act, applies only to a referral or service that
23 occurs on or after the effective date of this Act. A referral or
24 service that occurs before the effective date of this Act is
25 governed by the law as it existed immediately before the effective
26 date of this Act, and that law is continued in effect for that
27 purpose.

1 SECTION 5. This Act takes effect September 1, 2009.