

By: Thompson, et al.

H.B. No. 1809

Substitute the following for H.B. No. 1809:

By: Kuempel

C.S.H.B. No. 1809

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

(2) "Diagnostic imaging equipment" means a machine or equipment used to provide a diagnostic imaging service to a patient.

(3) "Diagnostic imaging facility" means any facility, office, clinic, imaging center, hospital, or other location where a diagnostic imaging service is provided to a patient for a fee.

(4) "Diagnostic imaging provider" means a health care provider who performs a diagnostic imaging service on a patient for a fee at a diagnostic imaging facility.

(5) "Diagnostic imaging service" means magnetic resonance imaging, computed tomography, positron emission tomography, or any hybrid technology that combines any of those

1 imaging modalities.

2 (6) "Health care provider" means a physician licensed  
3 under Subtitle B, Title 3, or a nurse licensed under Subtitle E,  
4 Title 3.

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

8 (8) "Referral" means a health care provider's request  
9 for or ordering of a diagnostic imaging service for a patient. The  
10 term does not include a request for or ordering of nondiagnostic  
11 imaging obtained for the sole purpose of direct incorporation into  
12 treatment planning systems in the delivery of radiation therapy.

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

18 Sec. 113.003. SAFETY STANDARDS. Notwithstanding any other  
19 law, a person who operates a diagnostic imaging facility that is  
20 registered under this chapter or is exempt from registration under  
21 this chapter may adopt and enforce safety standards that conform to  
22 the recommendations of the American College of Radiology's ACR  
23 Guidance Document for Safe MR Practices as the document existed on  
24 January 1, 2011, or a more current version of the document approved  
25 by the department.

26 [Sections 113.004-113.050 reserved for expansion]

1           SUBCHAPTER B. REGISTRATION OF FACILITIES

2           Sec. 113.051. REGISTRATION REQUIRED. Except as provided by  
3 Section 113.052, a person may not operate a diagnostic imaging  
4 facility in this state without a diagnostic imaging facility  
5 certificate of registration issued under this subchapter.

6           Sec. 113.052. EXEMPTIONS FROM REGISTRATION REQUIREMENT.  
7 The following facilities are not required to be registered under  
8 this chapter:

9           (1) a birthing center licensed under Chapter 244,  
10 Health and Safety Code;

11           (2) a hospital licensed under Chapter 241, Health and  
12 Safety Code;

13           (3) a hospital owned and operated by this state;

14           (4) a diagnostic imaging facility located within or  
15 connected to a hospital described by Subdivision (2) or (3);

16           (5) a diagnostic imaging facility owned or operated by  
17 a hospital described by Subdivision (2) or (3) that is:

18                   (A) surveyed as a service of the hospital by an  
19 organization that has been granted deeming authority as a national  
20 accreditation program for hospitals by the Centers for Medicare and  
21 Medicaid Services; or

22                   (B) granted provider-based status by the Centers  
23 for Medicare and Medicaid Services; and

24           (6) a diagnostic imaging facility that uses only  
25 dedicated dental diagnostic technology, which may include  
26 cone-beam computed tomography used only to obtain images of the  
27 maxillofacial region.

1       Sec. 113.053. APPLICATION; ISSUANCE. (a) An applicant for  
2 a diagnostic imaging facility certificate of registration shall  
3 submit to the department an application on the form prescribed by  
4 the department.

5       (b) The department shall issue a diagnostic imaging  
6 facility certificate of registration to an applicant if:

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

8           (2) the department determines the applicant's facility  
9 meets the accreditation requirements under Section 113.054 and  
10 department rule.

11       Sec. 113.054. ACCREDITATION OF FACILITIES. (a) The  
12 department may not issue a diagnostic imaging facility certificate  
13 of registration to a person unless the person's diagnostic imaging  
14 facility has been accredited by a nationally recognized  
15 accreditation organization approved by the department.

16       (b) In approving accreditation organizations, the  
17 department shall consider:

18           (1) the ability of the organization to conduct timely  
19 reviews of accreditation applications;

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

22           (3) whether the organization's criteria for  
23 accreditation of diagnostic imaging facilities includes all of the  
24 following:

25                   (A) qualifications for health care providers and  
26 medical personnel providing health care services at the facility;

27                   (B) qualifications for and responsibilities of

1 medical directors, supervising health care providers, and  
2 interpreting health care providers providing services at the  
3 facility;

4 (C) procedures for ensuring that diagnostic  
5 imaging equipment complies with established performance  
6 specifications, such as an independent assessment of image quality  
7 and dose and an annual survey by a medical physicist that includes  
8 dose measurements;

9 (D) procedures for ensuring that the images  
10 produced by the equipment are of diagnostic quality, including  
11 through direct visual evaluation of representative images by a  
12 physician trained in medical imaging;

13 (E) procedures for ensuring patient safety; and

14 (F) quality assurance reporting; and

15 (4) any other factors the department considers  
16 necessary to protect the health and safety of facility patients and  
17 the public.

18 (c) Notwithstanding Subsections (a) and (b), the department  
19 shall issue a diagnostic imaging facility certificate of  
20 registration to a person who operates a diagnostic imaging facility  
21 accredited by a nationally recognized accreditation organization  
22 accepted by the Centers for Medicare and Medicaid Services if the  
23 department determines the organization's accreditation criteria  
24 meet all department requirements.

25 Sec. 113.055. TERM; RENEWAL. (a) A diagnostic imaging  
26 facility certificate of registration expires on the second  
27 anniversary of the date of issuance.

1       (b) A person may renew a diagnostic imaging facility  
2 certificate of registration by submitting to the department on the  
3 form prescribed by the department a renewal application and any fee  
4 required by the department.

5           [Sections 113.056-113.070 reserved for expansion]

6       SUBCHAPTER B-1. REPORTING AND DISCLOSURE OF HEALTH CARE PROVIDER

7                   REFERRALS

8       Sec. 113.071. DEFINITIONS. In this subchapter:

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

12           (2) "Investment interest" means:

13                   (A) an equity or debt security issued by a  
14 person, including:

15                                   (i) shares of stock in a corporation;

16                                   (ii) membership or other interest in a  
17 company, including a limited liability company;

18                                   (iii) units or other interests in a  
19 partnership, including a limited liability partnership; and

20                                   (iv) bonds, debentures, notes, or other  
21 equity interests or debt instruments; and

22                   (B) the rental or time sharing of imaging  
23 equipment and office space in which a referring health care  
24 provider receives a portion of the billing revenue.

25           (3) "Investor" means a person who directly or  
26 indirectly holds a legal, beneficial ownership, or investment  
27 interest, including an interest held through an immediate family

1 member, a trust, or another person related to the investor within  
2 the meaning of "related to the provider" as defined by 42 C.F.R.  
3 Section 413.17.

4 (4) "Licensing authority" means a department, board,  
5 office, or other agency of this state that regulates a health care  
6 provider subject to this chapter.

7 Sec. 113.072. REPORTING AND DISCLOSURE OF REFERRALS. A  
8 health care provider making a referral for diagnostic imaging  
9 services must:

10 (1) disclose in writing to the provider's patients the  
11 provider's investment interest in the diagnostic imaging facility;

12 (2) advise the provider's patients that the patient  
13 may choose to have another diagnostic imaging facility provide the  
14 diagnostic imaging services; and

15 (3) obtain and record the patient's written consent  
16 after the disclosure and before the diagnostic imaging services are  
17 provided.

18 [Sections 113.073-113.100 reserved for expansion]

19 SUBCHAPTER C. CIVIL PENALTY

20 Sec. 113.101. CIVIL PENALTY. (a) A person who operates a  
21 diagnostic imaging facility or a diagnostic imaging provider that  
22 violates this chapter or rules adopted under this chapter is  
23 subject to a civil penalty of not more than \$1,000 for each  
24 violation.

25 (b) The attorney general at the request of the department  
26 shall bring an action to collect penalties under this section. In  
27 the suit, the department and the attorney general each may recover

1 reasonable expenses incurred in obtaining the penalty, including:  
2 (1) investigation and court costs; and  
3 (2) reasonable attorney's fees, witness fees, and  
4 deposition expenses.

5 (c) Expenses recovered by the department under this section  
6 shall be deposited in a separate account outside the state treasury  
7 to be used by the department in the enforcement of this chapter.

8 SECTION 2. (a) Not later than January 1, 2012, the  
9 executive commissioner of the Health and Human Services Commission  
10 shall adopt the rules necessary to implement Chapter 113,  
11 Occupations Code, as added by this Act.

12 (b) Notwithstanding Chapter 113, Occupations Code, as added  
13 by this Act, a person is not required to hold a diagnostic imaging  
14 facility certificate of registration to operate a diagnostic  
15 imaging facility until March 1, 2012.

16 SECTION 3. Subchapter B-1, Chapter 113, Occupations Code,  
17 as added by this Act, applies only to a referral or diagnostic  
18 imaging service that occurs on or after the effective date of this  
19 Act. A referral or service that occurs before the effective date of  
20 this Act is governed by the law as it existed immediately before the  
21 effective date of this Act, and that law is continued in effect for  
22 that purpose.

23 SECTION 4. This Act takes effect September 1, 2011.