

By: Thompson

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 person licensed as  
3 a health care professional or authorized to practice in health care  
4 under Subtitle B, C, or E.

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.

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

15 [Sections 113.003-113.050 reserved for expansion]

16 SUBCHAPTER B. REGISTRATION OF FACILITIES

17 Sec. 113.051. REGISTRATION REQUIRED. Except as provided by  
18 Section 113.052, a person may not operate a diagnostic imaging  
19 facility in this state unless the person holds a diagnostic imaging  
20 facility certificate of registration issued under this subchapter.

21 Sec. 113.052. EXEMPTIONS FROM REGISTRATION REQUIREMENT.  
22 The following facilities are not required to be registered under  
23 this chapter:

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

26 (2) a hospital licensed under Chapter 241, Health and  
27 Safety Code.

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

21 (b) A person may renew a diagnostic imaging facility  
22 certificate of registration by submitting to the department on the  
23 form prescribed by the department a renewal application and any fee  
24 required by the department.

1 [Sections 113.056-113.070 reserved for expansion]

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

3 REFERRALS

4 Sec. 113.071. DEFINITIONS. In this subchapter:

5 (1) "Immediate family member" means a person's spouse,  
6 child, child's spouse, grandchild, grandchild's spouse, parent,  
7 parent-in-law, or sibling.

8 (2) "Investment interest" means:

9 (A) an equity or debt security issued by a  
10 person, including:

11 (i) shares of stock in a corporation;

12 (ii) membership or other interest in a  
13 company, including a limited liability company;

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

16 (iv) bonds, debentures, notes, or other  
17 equity interests or debt instruments; and

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

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

27 (4) "Licensing authority" means a department, board,

1 office, or other agency of this state that regulates a health care  
2 provider subject to this chapter.

3 Sec. 113.072. REPORTING AND DISCLOSURE OF REFERRALS. (a)

4 In this section, "third party payor" means:

5 (1) a person authorized to engage in business  
6 involving the payment of money or another thing of value in the  
7 event of loss resulting from disability incurred as a result of  
8 accident or sickness, as described in the Insurance Code;

9 (2) a health plan offered by an employer under the  
10 provisions of the Employee Retirement Income Security Act of 1974  
11 (29 U.S.C. Section 1001 et seq.);

12 (3) a publicly funded program of health care services,  
13 including Medicaid or the state child health plan; or

14 (4) any person, other than a patient, that pays a  
15 health care provider to provide designated health services or  
16 supplies, including an insurance company or a health maintenance  
17 organization.

18 (b) The owner or operator of a diagnostic imaging facility  
19 that provides a diagnostic imaging service for a referring health  
20 care provider shall report to the department:

21 (1) the identity of the referring health care  
22 provider;

23 (2) whether the referring health care provider is an  
24 investor in the diagnostic imaging facility and the exact nature of  
25 any legal, beneficial ownership, or investment interest the  
26 referring health care provider has in the diagnostic imaging  
27 facility;

1           (3) the total number of patients who received  
2 diagnostic imaging services at the diagnostic imaging facility and  
3 who were referred by the health care provider; and

4           (4) the additional claims data required by the  
5 department.

6           (c) A health care provider making a referral for diagnostic  
7 imaging services as described by this section must:

8           (1) disclose in writing to the provider's patients and  
9 any third party payor for a patient the provider's investment  
10 interest in the diagnostic imaging facility;

11           (2) advise the provider's patients and any third party  
12 payor for the patient that the patient may choose to have another  
13 diagnostic imaging facility provide the diagnostic imaging  
14 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           (d) The report required under Subsection (b) may be in the  
19 form of a bill for services provided by the diagnostic imaging  
20 facility in accordance with rules for filing a clean claim adopted  
21 by the Texas Department of Insurance (28 T.A.C. Section 21.2803),  
22 as those rules existed on September 1, 2011.

23           (e) A report required by this section must be submitted to  
24 the department in the format or method required by the department.

25           Sec. 113.073. PUBLIC INFORMATION. Information collected  
26 under Section 113.072(b) shall be made available to the public.

27           Sec. 113.074. DISCIPLINARY ACTION. A diagnostic imaging

1 facility's failure to report information required by this  
2 subchapter is grounds for disciplinary action, including the  
3 imposition of an administrative penalty, by the department.

4 [Sections 113.075-113.100 reserved for expansion]

5 SUBCHAPTER C. CIVIL PENALTY

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

11 (b) The attorney general at the request of the department  
12 shall bring an action to collect penalties under this section. In  
13 the suit, the department and the attorney general each may recover  
14 reasonable expenses incurred in obtaining the penalty, including:

15 (1) investigation and court costs; and

16 (2) reasonable attorney's fees, witness fees, and  
17 deposition expenses.

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

21 SECTION 2. (a) The Department of State Health Services  
22 shall conduct a study of the information required to be submitted to  
23 the department under Subchapter B-1, Chapter 113, Occupations Code,  
24 as added by this Act.

25 (b) In conducting the study, the department shall compare  
26 the rates at which diagnostic imaging services were prescribed by  
27 health care providers of the same specialty who have legal,



1 beneficial ownership, or investment interest in the diagnostic  
2 imaging services prescribed for the patient's care and those who do  
3 not have a legal, beneficial ownership, or investment interest in  
4 the prescribed diagnostic imaging services.

5 (c) Not later than January 1, 2013, the department shall  
6 submit a report regarding the study to the lieutenant governor and  
7 the speaker of the house of representatives.

8 SECTION 3. (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 4. 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 5. This Act takes effect September 1, 2011.