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H.B. No. 15

A BILL TO BE ENTITLED

AN ACT

relating to level of care designations for hospitals that provide
neonatal and maternal services.

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

SECTION 1. Chapter 241, Health and Safety Code, is amended
by adding Subchapter H to read as follows:

SUBCHAPTER H. HOSPITAL LEVEL OF CARE DESIGNATIONS FOR NEONATAL AND

MATERNAL CARE

Sec. 241.181. DEFINITIONS. In this subchapter:

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

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

Sec. 241.182. LEVEL OF CARE DESIGNATIONS. (a) The
executive commissioner, in accordance with the rules adopted under
Section 241.183, shall assign level of care designations to each
hospital based on the neonatal and maternal services provided at
the hospital.

(b) A hospital may receive different level designations for
neonatal and maternal care, respectively.

Sec. 241.183. RULES. (a) The executive commissioner, in
consultation with the department, shall adopt rules:

(1) establishing the levels of care for neonatal and
maternal care to be assigned to hospitals;

1 (2) prescribing criteria for designating levels of
2 neonatal and maternal care, respectively, including specifying the
3 minimum requirements to qualify for each level designation;

4 (3) establishing a process for the assignment of
5 levels of care to a hospital for neonatal and maternal care,
6 respectively;

7 (4) establishing a process for amending the level of
8 care designation requirements, including a process for assisting
9 facilities in implementing any changes made necessary by the
10 amendments;

11 (5) dividing the state into neonatal and maternal care
12 regions;

13 (6) facilitating transfer agreements through regional
14 coordination;

15 (7) requiring payment, other than quality or
16 outcome-based funding, to be based on services provided by the
17 facility, regardless of the facility's level of care designation;
18 and

19 (8) prohibiting the denial of a neonatal or maternal
20 level of care designation to a hospital that meets the minimum
21 requirements for that level of care designation.

22 (b) The Health and Human Services Commission shall study
23 patient transfers that are not medically necessary but would be
24 cost-effective. Based on the study under this subsection, if the
25 executive commissioner determines that the transfers are feasible
26 and desirable, the executive commissioner may adopt rules
27 addressing those transfers.

1 (c) Each level of care designation must require a hospital
2 to regularly submit outcome and other data to the department as
3 required or requested.

4 (d) The criteria a hospital must achieve to receive each
5 level of care designation must be posted on the department's
6 Internet website.

7 Sec. 241.184. ASSIGNMENT OF LEVEL OF CARE DESIGNATION. (a)
8 The executive commissioner, in consultation with the department,
9 shall assign the appropriate level of care designation to each
10 hospital that meets the minimum standards for that level of care.
11 The executive commissioner shall evaluate separately the neonatal
12 and maternal services provided at the hospital and assign the
13 respective level of care designations accordingly.

14 (b) Every three years, the executive commissioner and the
15 department shall review the level of care designations assigned to
16 each hospital and, as necessary, assign a hospital a different
17 level of care designation or remove the hospital's level of care
18 designation.

19 (c) A hospital may request a change of designation at any
20 time. On request under this subsection, the executive commissioner
21 and the department shall review the hospital's request and, as
22 necessary, change the hospital's level of care designation.

23 Sec. 241.185. HOSPITAL FAILING TO ACHIEVE MINIMUM LEVELS OF
24 CARE. A hospital that does not meet the minimum requirements for
25 any level of care designation for neonatal or maternal services:

26 (1) may not receive a level of care designation for
27 those services; and

1 (2) is not eligible to receive reimbursement through
2 the Medicaid program for neonatal or maternal services, as
3 applicable, except emergency services required to be provided or
4 reimbursed under state or federal law.

5 Sec. 241.186. PERINATAL ADVISORY COUNCIL. (a) In this
6 section, "advisory council" means the Perinatal Advisory Council
7 established under this section.

8 (b) The advisory council consists of 17 members appointed by
9 the executive commissioner as follows:

10 (1) four physicians licensed to practice medicine
11 under Subtitle B, Title 3, Occupations Code, specializing in
12 neonatology:

13 (A) at least two of whom practice in a Level III
14 or IV neonatal intensive care unit; and

15 (B) at least one of whom practices in a neonatal
16 intensive care unit of a hospital located in a rural area;

17 (2) one physician licensed to practice medicine under
18 Subtitle B, Title 3, Occupations Code, specializing in general
19 pediatrics;

20 (3) two physicians licensed to practice medicine under
21 Subtitle B, Title 3, Occupations Code, specializing in
22 obstetrics-gynecology;

23 (4) two physicians licensed to practice medicine under
24 Subtitle B, Title 3, Occupations Code, specializing in maternal
25 fetal medicine;

26 (5) one physician licensed to practice medicine under
27 Subtitle B, Title 3, Occupations Code, specializing in family

1 practice who provides obstetrical care in a rural community;

2 (6) one registered nurse licensed under Subtitle E,
3 Title 3, Occupations Code, with expertise in maternal health care
4 delivery;

5 (7) one registered nurse licensed under Subtitle E,
6 Title 3, Occupations Code, with expertise in perinatal health care
7 delivery;

8 (8) one representative from a children's hospital;

9 (9) one representative from a hospital with a Level II
10 neonatal intensive care unit;

11 (10) one representative from a rural hospital;

12 (11) one representative from a general hospital; and

13 (12) one ex officio representative from the office of
14 the medical director of the Health and Human Services Commission.

15 (c) To the extent possible, the executive commissioner
16 shall appoint members to the advisory council who previously served
17 on the Neonatal Intensive Care Unit Council established under
18 Chapter 818 (H.B. 2636), Acts of the 82nd Legislature, Regular
19 Session, 2011.

20 (d) Members of the advisory council described by
21 Subsections (b)(1)-(11) serve staggered three-year terms, with the
22 terms of five or six of those members expiring September 1 of each
23 year. A member may be reappointed to the advisory council.

24 (e) A member of the advisory council serves without
25 compensation but is entitled to reimbursement for actual and
26 necessary travel expenses related to the performance of advisory
27 council duties.

1 (f) The department, with recommendations from the advisory
2 council, shall develop a process for the designation and updates of
3 levels of neonatal and maternal care at hospitals in accordance
4 with this subchapter.

5 (g) The advisory council shall:

6 (1) develop and recommend criteria for designating
7 levels of neonatal and maternal care, respectively, including
8 specifying the minimum requirements to qualify for each level
9 designation;

10 (2) develop and recommend a process for the assignment
11 of levels of care to a hospital for neonatal and maternal care,
12 respectively;

13 (3) make recommendations for the division of the state
14 into neonatal and maternal care regions;

15 (4) examine utilization trends relating to neonatal
16 and maternal care; and

17 (5) make recommendations related to improving
18 neonatal and maternal outcomes.

19 (h) In developing the criteria for the levels of neonatal
20 and maternal care, the advisory council shall consider:

21 (1) any recommendations or publications of the
22 American Academy of Pediatrics and the American Congress of
23 Obstetricians and Gynecologists, including "Guidelines for
24 Perinatal Care";

25 (2) any guidelines developed by the Society of
26 Maternal-Fetal Medicine; and

27 (3) the geographic and varied needs of citizens of

1 this state.

2 (i) The advisory council shall submit a report detailing the
3 advisory council's determinations and recommendations to the
4 department and the executive commissioner not later than September
5 1, 2015.

6 (j) The advisory council shall continue to update its
7 recommendations based on any relevant scientific or medical
8 developments.

9 (k) The advisory council is subject to Chapter 325,
10 Government Code (Texas Sunset Act). Unless continued in existence
11 as provided by that chapter, the advisory council is abolished and
12 this section expires September 1, 2025.

13 SECTION 2. (a) Not later than December 1, 2013, the
14 executive commissioner of the Health and Human Services Commission
15 shall appoint the members of the Perinatal Advisory Council as
16 required by Section 241.186, Health and Safety Code, as added by
17 this Act. Notwithstanding Section 241.186(d), Health and Safety
18 Code, as added by this Act, the executive commissioner shall
19 appoint:

20 (1) two members described by Section 241.186(b)(1),
21 Health and Safety Code, one member described by Section
22 241.186(b)(3), Health and Safety Code, and the members described by
23 Sections 241.186(b)(6) and (9), Health and Safety Code, to an
24 initial term that expires September 1, 2017;

25 (2) one member described by Section 241.186(b)(1),
26 Health and Safety Code, one member described by Section
27 241.186(b)(3), Health and Safety Code, one member described by

1 Section 241.186(b)(4), Health and Safety Code, and the members
2 described by Sections 241.186(b)(2), (7), and (10), Health and
3 Safety Code, to an initial term that expires September 1, 2018; and

4 (3) one member described by Section 241.186(b)(1),
5 Health and Safety Code, one member described by Section
6 241.186(b)(4), Health and Safety Code, and the members described by
7 Sections 241.186(b)(5), (8), and (11), Health and Safety Code, to
8 an initial term that expires September 1, 2019.

9 (b) Not later than March 1, 2017, after consideration of the
10 report of the Perinatal Advisory Council, the executive
11 commissioner of the Health and Human Services Commission shall
12 adopt the initial rules required by Section 241.183, Health and
13 Safety Code, as added by this Act.

14 (c) The executive commissioner of the Health and Human
15 Services Commission shall complete for each hospital in this state:

16 (1) the neonatal level of care designation not later
17 than August 31, 2017; and

18 (2) the maternal level of care designation not later
19 than August 31, 2019.

20 (d) Notwithstanding Section 241.185, Health and Safety
21 Code, as added by this Act:

22 (1) a hospital is not required to have a neonatal level
23 of care designation as a condition of reimbursement through the
24 Medicaid program before September 1, 2017; and

25 (2) a hospital is not required to have a maternal level
26 of care designation as a condition of reimbursement through the
27 Medicaid program before September 1, 2019.

1 SECTION 3. If before implementing any provision of this Act
2 a state agency determines that a waiver or authorization from a
3 federal agency is necessary for implementation of that provision,
4 the agency affected by the provision shall request the waiver or
5 authorization and may delay implementing that provision until the
6 waiver or authorization is granted.

7 SECTION 4. This Act takes effect September 1, 2013.