

1 AN ACT

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

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

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

7 SUBCHAPTER H. HOSPITAL LEVEL OF CARE DESIGNATIONS FOR NEONATAL AND
8 MATERNAL CARE

9 Sec. 241.181. DEFINITIONS. In this subchapter:

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

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

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

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

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

23 (1) establishing the levels of care for neonatal and
24 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 criteria for levels one through three of neonatal
23 and maternal care adopted under Subsection (a)(2) may not include
24 requirements related to the number of patients treated at a
25 hospital.

26 (c) The Health and Human Services Commission shall study
27 patient transfers that are not medically necessary but would be

1 cost-effective. Based on the study under this subsection, if the
2 executive commissioner determines that the transfers are feasible
3 and desirable, the executive commissioner may adopt rules
4 addressing those transfers.

5 (d) Each level of care designation must require a hospital
6 to regularly submit outcome and other data to the department as
7 required or requested.

8 (e) The criteria a hospital must achieve to receive each
9 level of care designation must be posted on the department's
10 Internet website.

11 Sec. 241.184. CONFIDENTIALITY; PRIVILEGE. (a) All
12 information and materials submitted by a hospital to the department
13 under Section 241.183(d) are confidential and:

14 (1) are not subject to disclosure under Chapter 552,
15 Government Code, or discovery, subpoena, or other means of legal
16 compulsion for release to any person; and

17 (2) may not be admitted as evidence or otherwise
18 disclosed in any civil, criminal, or administrative proceeding.

19 (b) The confidentiality protections under Subsection (a)
20 apply without regard to whether the information or materials are
21 submitted by a hospital or an entity that has an ownership or
22 management interest in a hospital.

23 (c) A state employee or officer may not be examined in a
24 civil, criminal, or special proceeding, or any other proceeding,
25 regarding the existence or contents of information or materials
26 submitted to the department under Section 241.183(d).

27 (d) The submission of information or materials under

1 Section 241.183(d) is not a waiver of a privilege or protection
2 granted under law.

3 (e) The provisions of this section regarding the
4 confidentiality of information or materials submitted by a hospital
5 in compliance with Section 241.183(d) do not restrict access, to
6 the extent authorized by law, by the patient or the patient's
7 legally authorized representative to records of the patient's
8 medical diagnosis or treatment or to other primary health records.

9 (f) A department summary or disclosure, including an
10 assignment of a level of care designation, may not contain
11 information identifying a patient, employee, contractor,
12 volunteer, consultant, health care practitioner, student, or
13 trainee.

14 Sec. 241.185. ASSIGNMENT OF LEVEL OF CARE DESIGNATION. (a)
15 The executive commissioner, in consultation with the department,
16 shall assign the appropriate level of care designation to each
17 hospital that meets the minimum standards for that level of care.
18 The executive commissioner shall evaluate separately the neonatal
19 and maternal services provided at the hospital and assign the
20 respective level of care designations accordingly.

21 (b) Every three years, the executive commissioner and the
22 department shall review the level of care designations assigned to
23 each hospital and, as necessary, assign a hospital a different
24 level of care designation or remove the hospital's level of care
25 designation.

26 (c) A hospital may request a change of designation at any
27 time. On request under this subsection, the executive commissioner

1 and the department shall review the hospital's request and, as
2 necessary, change the hospital's level of care designation.

3 Sec. 241.186. HOSPITAL NOT DESIGNATED. A hospital that
4 does not meet the minimum requirements for any level of care
5 designation for neonatal or maternal services:

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

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

12 Sec. 241.187. PERINATAL ADVISORY COUNCIL. (a) In this
13 section, "advisory council" means the Perinatal Advisory Council
14 established under this section.

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

17 (1) four physicians licensed to practice medicine
18 under Subtitle B, Title 3, Occupations Code, specializing in
19 neonatology:

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

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

24 (2) one physician licensed to practice medicine under
25 Subtitle B, Title 3, Occupations Code, specializing in general
26 pediatrics;

27 (3) two physicians licensed to practice medicine under

1 Subtitle B, Title 3, Occupations Code, specializing in
2 obstetrics-gynecology;

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

6 (5) one physician licensed to practice medicine under
7 Subtitle B, Title 3, Occupations Code, specializing in family
8 practice who provides obstetrical care in a rural community;

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

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

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

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

18 (10) one representative from a rural hospital;

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

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

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

27 (d) Members of the advisory council described by

1 Subsections (b)(1)-(11) serve staggered three-year terms, with the
2 terms of five or six of those members expiring September 1 of each
3 year. A member may be reappointed to the advisory council.

4 (e) A member of the advisory council serves without
5 compensation but is entitled to reimbursement for actual and
6 necessary travel expenses related to the performance of advisory
7 council duties.

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

12 (g) The advisory council shall:

13 (1) develop and recommend criteria for designating
14 levels of neonatal and maternal care, respectively, including
15 specifying the minimum requirements to qualify for each level
16 designation;

17 (2) develop and recommend a process for the assignment
18 of levels of care to a hospital for neonatal and maternal care,
19 respectively;

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

22 (4) examine utilization trends relating to neonatal
23 and maternal care; and

24 (5) make recommendations related to improving
25 neonatal and maternal outcomes.

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

1 (1) any recommendations or publications of the
2 American Academy of Pediatrics and the American Congress of
3 Obstetricians and Gynecologists, including "Guidelines for
4 Perinatal Care";

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

7 (3) the geographic and varied needs of citizens of
8 this state.

9 (i) In developing the criteria for designating levels one
10 through three of neonatal and maternal care, the advisory council
11 may not consider the number of patients treated at a hospital.

12 (j) The advisory council shall submit a report detailing the
13 advisory council's determinations and recommendations to the
14 department and the executive commissioner not later than September
15 1, 2015.

16 (k) The advisory council shall continue to update its
17 recommendations based on any relevant scientific or medical
18 developments.

19 (l) The advisory council is subject to Chapter 325,
20 Government Code (Texas Sunset Act). Unless continued in existence
21 as provided by that chapter, the advisory council is abolished and
22 this section expires September 1, 2025.

23 SECTION 2. (a) Not later than December 1, 2013, the
24 executive commissioner of the Health and Human Services Commission
25 shall appoint the members of the Perinatal Advisory Council as
26 required by Section 241.187, Health and Safety Code, as added by
27 this Act. Notwithstanding Section 241.187(d), Health and Safety

1 Code, as added by this Act, the executive commissioner shall
2 appoint:

3 (1) two members described by Section 241.187(b)(1),
4 Health and Safety Code, one member described by Section
5 241.187(b)(3), Health and Safety Code, and the members described by
6 Sections 241.187(b)(6) and (9), Health and Safety Code, to an
7 initial term that expires September 1, 2017;

8 (2) one member described by Section 241.187(b)(1),
9 Health and Safety Code, one member described by Section
10 241.187(b)(3), Health and Safety Code, one member described by
11 Section 241.187(b)(4), Health and Safety Code, and the members
12 described by Sections 241.187(b)(2), (7), and (10), Health and
13 Safety Code, to an initial term that expires September 1, 2018; and

14 (3) one member described by Section 241.187(b)(1),
15 Health and Safety Code, one member described by Section
16 241.187(b)(4), Health and Safety Code, and the members described by
17 Sections 241.187(b)(5), (8), and (11), Health and Safety Code, to
18 an initial term that expires September 1, 2019.

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

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

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

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

3 (d) Notwithstanding Section 241.186, Health and Safety
4 Code, as added by this Act:

5 (1) a hospital is not required to have a neonatal level
6 of care designation as a condition of reimbursement for neonatal
7 services through the Medicaid program before September 1, 2017; and

8 (2) a hospital is not required to have a maternal level
9 of care designation as a condition of reimbursement for maternal
10 services through the Medicaid program before September 1, 2019.

11 SECTION 3. If before implementing any provision of this Act
12 a state agency determines that a waiver or authorization from a
13 federal agency is necessary for implementation of that provision,
14 the agency affected by the provision shall request the waiver or
15 authorization and may delay implementing that provision until the
16 waiver or authorization is granted.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 15 was passed by the House on April 17, 2013, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 15 on May 16, 2013, by the following vote: Yeas 137, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 15 was passed by the Senate, with amendments, on May 15, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor