

1-1 By: Kolkhorst, et al. (Senate Sponsor - Nelson) H.B. No. 15
 1-2 (In the Senate - Received from the House April 18, 2013;
 1-3 April 22, 2013, read first time and referred to Committee on Health
 1-4 and Human Services; May 9, 2013, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 7,
 1-6 Nays 0; May 9, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15			X	
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 15 By: Nelson

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to level of care designations for hospitals that provide
 1-22 neonatal and maternal services.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Chapter 241, Health and Safety Code, is amended
 1-25 by adding Subchapter H to read as follows:

1-26 SUBCHAPTER H. HOSPITAL LEVEL OF CARE DESIGNATIONS FOR NEONATAL AND
 1-27 MATERNAL CARE

1-28 Sec. 241.181. DEFINITIONS. In this subchapter:

1-29 (1) "Department" means the Department of State Health
 1-30 Services.

1-31 (2) "Executive commissioner" means the executive
 1-32 commissioner of the Health and Human Services Commission.

1-33 Sec. 241.182. LEVEL OF CARE DESIGNATIONS. (a) The
 1-34 executive commissioner, in accordance with the rules adopted under
 1-35 Section 241.183, shall assign level of care designations to each
 1-36 hospital based on the neonatal and maternal services provided at
 1-37 the hospital.

1-38 (b) A hospital may receive different level designations for
 1-39 neonatal and maternal care, respectively.

1-40 Sec. 241.183. RULES. (a) The executive commissioner, in
 1-41 consultation with the department, shall adopt rules:

1-42 (1) establishing the levels of care for neonatal and
 1-43 maternal care to be assigned to hospitals;

1-44 (2) prescribing criteria for designating levels of
 1-45 neonatal and maternal care, respectively, including specifying the
 1-46 minimum requirements to qualify for each level designation;

1-47 (3) establishing a process for the assignment of
 1-48 levels of care to a hospital for neonatal and maternal care,
 1-49 respectively;

1-50 (4) establishing a process for amending the level of
 1-51 care designation requirements, including a process for assisting
 1-52 facilities in implementing any changes made necessary by the
 1-53 amendments;

1-54 (5) dividing the state into neonatal and maternal care
 1-55 regions;

1-56 (6) facilitating transfer agreements through regional
 1-57 coordination;

1-58 (7) requiring payment, other than quality or
 1-59 outcome-based funding, to be based on services provided by the
 1-60 facility, regardless of the facility's level of care designation;

2-1 and

2-2 (8) prohibiting the denial of a neonatal or maternal
 2-3 level of care designation to a hospital that meets the minimum
 2-4 requirements for that level of care designation.

2-5 (b) The criteria for levels one through three of neonatal
 2-6 and maternal care adopted under Subsection (a)(2) may not include
 2-7 requirements related to the number of patients treated at a
 2-8 hospital.

2-9 (c) The Health and Human Services Commission shall study
 2-10 patient transfers that are not medically necessary but would be
 2-11 cost-effective. Based on the study under this subsection, if the
 2-12 executive commissioner determines that the transfers are feasible
 2-13 and desirable, the executive commissioner may adopt rules
 2-14 addressing those transfers.

2-15 (d) Each level of care designation must require a hospital
 2-16 to regularly submit outcome and other data to the department as
 2-17 required or requested.

2-18 (e) The criteria a hospital must achieve to receive each
 2-19 level of care designation must be posted on the department's
 2-20 Internet website.

2-21 Sec. 241.184. CONFIDENTIALITY; PRIVILEGE. (a) All
 2-22 information and materials submitted by a hospital to the department
 2-23 under Section 241.183(d) are confidential and:

2-24 (1) are not subject to disclosure under Chapter 552,
 2-25 Government Code, or discovery, subpoena, or other means of legal
 2-26 compulsion for release to any person; and

2-27 (2) may not be admitted as evidence or otherwise
 2-28 disclosed in any civil, criminal, or administrative proceeding.

2-29 (b) The confidentiality protections under Subsection (a)
 2-30 apply without regard to whether the information or materials are
 2-31 submitted by a hospital or an entity that has an ownership or
 2-32 management interest in a hospital.

2-33 (c) A state employee or officer may not be examined in a
 2-34 civil, criminal, or special proceeding, or any other proceeding,
 2-35 regarding the existence or contents of information or materials
 2-36 submitted to the department under Section 241.183(d).

2-37 (d) The submission of information or materials under
 2-38 Section 241.183(d) is not a waiver of a privilege or protection
 2-39 granted under law.

2-40 (e) The provisions of this section regarding the
 2-41 confidentiality of information or materials submitted by a hospital
 2-42 in compliance with Section 241.183(d) do not restrict access, to
 2-43 the extent authorized by law, by the patient or the patient's
 2-44 legally authorized representative to records of the patient's
 2-45 medical diagnosis or treatment or to other primary health records.

2-46 (f) A department summary or disclosure, including an
 2-47 assignment of a level of care designation, may not contain
 2-48 information identifying a patient, employee, contractor,
 2-49 volunteer, consultant, health care practitioner, student, or
 2-50 trainee.

2-51 Sec. 241.185. ASSIGNMENT OF LEVEL OF CARE DESIGNATION.

2-52 (a) The executive commissioner, in consultation with the
 2-53 department, shall assign the appropriate level of care designation
 2-54 to each hospital that meets the minimum standards for that level of
 2-55 care. The executive commissioner shall evaluate separately the
 2-56 neonatal and maternal services provided at the hospital and assign
 2-57 the respective level of care designations accordingly.

2-58 (b) Every three years, the executive commissioner and the
 2-59 department shall review the level of care designations assigned to
 2-60 each hospital and, as necessary, assign a hospital a different
 2-61 level of care designation or remove the hospital's level of care
 2-62 designation.

2-63 (c) A hospital may request a change of designation at any
 2-64 time. On request under this subsection, the executive commissioner
 2-65 and the department shall review the hospital's request and, as
 2-66 necessary, change the hospital's level of care designation.

2-67 Sec. 241.186. HOSPITAL NOT DESIGNATED. A hospital that
 2-68 does not meet the minimum requirements for any level of care
 2-69 designation for neonatal or maternal services:

3-1 (1) may not receive a level of care designation for
3-2 those services; and

3-3 (2) is not eligible to receive reimbursement through
3-4 the Medicaid program for neonatal or maternal services, as
3-5 applicable, except emergency services required to be provided or
3-6 reimbursed under state or federal law.

3-7 Sec. 241.187. PERINATAL ADVISORY COUNCIL. (a) In this
3-8 section, "advisory council" means the Perinatal Advisory Council
3-9 established under this section.

3-10 (b) The advisory council consists of 17 members appointed by
3-11 the executive commissioner as follows:

3-12 (1) four physicians licensed to practice medicine
3-13 under Subtitle B, Title 3, Occupations Code, specializing in
3-14 neonatology:

3-15 (A) at least two of whom practice in a Level III
3-16 or IV neonatal intensive care unit; and

3-17 (B) at least one of whom practices in a neonatal
3-18 intensive care unit of a hospital located in a rural area;

3-19 (2) one physician licensed to practice medicine under
3-20 Subtitle B, Title 3, Occupations Code, specializing in general
3-21 pediatrics;

3-22 (3) two physicians licensed to practice medicine under
3-23 Subtitle B, Title 3, Occupations Code, specializing in
3-24 obstetrics-gynecology;

3-25 (4) two physicians licensed to practice medicine under
3-26 Subtitle B, Title 3, Occupations Code, specializing in maternal
3-27 fetal medicine;

3-28 (5) one physician licensed to practice medicine under
3-29 Subtitle B, Title 3, Occupations Code, specializing in family
3-30 practice who provides obstetrical care in a rural community;

3-31 (6) one registered nurse licensed under Subtitle E,
3-32 Title 3, Occupations Code, with expertise in maternal health care
3-33 delivery;

3-34 (7) one registered nurse licensed under Subtitle E,
3-35 Title 3, Occupations Code, with expertise in perinatal health care
3-36 delivery;

3-37 (8) one representative from a children's hospital;

3-38 (9) one representative from a hospital with a Level II
3-39 neonatal intensive care unit;

3-40 (10) one representative from a rural hospital;

3-41 (11) one representative from a general hospital; and

3-42 (12) one ex officio representative from the office of
3-43 the medical director of the Health and Human Services Commission.

3-44 (c) To the extent possible, the executive commissioner
3-45 shall appoint members to the advisory council who previously served
3-46 on the Neonatal Intensive Care Unit Council established under
3-47 Chapter 818 (H.B. 2636), Acts of the 82nd Legislature, Regular
3-48 Session, 2011.

3-49 (d) Members of the advisory council described by
3-50 Subsections (b)(1)-(11) serve staggered three-year terms, with the
3-51 terms of five or six of those members expiring September 1 of each
3-52 year. A member may be reappointed to the advisory council.

3-53 (e) A member of the advisory council serves without
3-54 compensation but is entitled to reimbursement for actual and
3-55 necessary travel expenses related to the performance of advisory
3-56 council duties.

3-57 (f) The department, with recommendations from the advisory
3-58 council, shall develop a process for the designation and updates of
3-59 levels of neonatal and maternal care at hospitals in accordance
3-60 with this subchapter.

3-61 (g) The advisory council shall:

3-62 (1) develop and recommend criteria for designating
3-63 levels of neonatal and maternal care, respectively, including
3-64 specifying the minimum requirements to qualify for each level
3-65 designation;

3-66 (2) develop and recommend a process for the assignment
3-67 of levels of care to a hospital for neonatal and maternal care,
3-68 respectively;

3-69 (3) make recommendations for the division of the state

4-1 into neonatal and maternal care regions;

4-2 (4) examine utilization trends relating to neonatal
4-3 and maternal care; and

4-4 (5) make recommendations related to improving
4-5 neonatal and maternal outcomes.

4-6 (h) In developing the criteria for the levels of neonatal
4-7 and maternal care, the advisory council shall consider:

4-8 (1) any recommendations or publications of the
4-9 American Academy of Pediatrics and the American Congress of
4-10 Obstetricians and Gynecologists, including "Guidelines for
4-11 Perinatal Care";

4-12 (2) any guidelines developed by the Society of
4-13 Maternal-Fetal Medicine; and

4-14 (3) the geographic and varied needs of citizens of
4-15 this state.

4-16 (i) In developing the criteria for designating levels one
4-17 through three of neonatal and maternal care, the advisory council
4-18 may not consider the number of patients treated at a hospital.

4-19 (j) The advisory council shall submit a report detailing the
4-20 advisory council's determinations and recommendations to the
4-21 department and the executive commissioner not later than September
4-22 1, 2015.

4-23 (k) The advisory council shall continue to update its
4-24 recommendations based on any relevant scientific or medical
4-25 developments.

4-26 (l) The advisory council is subject to Chapter 325,
4-27 Government Code (Texas Sunset Act). Unless continued in existence
4-28 as provided by that chapter, the advisory council is abolished and
4-29 this section expires September 1, 2025.

4-30 SECTION 2. (a) Not later than December 1, 2013, the
4-31 executive commissioner of the Health and Human Services Commission
4-32 shall appoint the members of the Perinatal Advisory Council as
4-33 required by Section 241.187, Health and Safety Code, as added by
4-34 this Act. Notwithstanding Section 241.187(d), Health and Safety
4-35 Code, as added by this Act, the executive commissioner shall
4-36 appoint:

4-37 (1) two members described by Section 241.187(b)(1),
4-38 Health and Safety Code, one member described by Section
4-39 241.187(b)(3), Health and Safety Code, and the members described by
4-40 Sections 241.187(b)(6) and (9), Health and Safety Code, to an
4-41 initial term that expires September 1, 2017;

4-42 (2) one member described by Section 241.187(b)(1),
4-43 Health and Safety Code, one member described by Section
4-44 241.187(b)(3), Health and Safety Code, one member described by
4-45 Section 241.187(b)(4), Health and Safety Code, and the members
4-46 described by Sections 241.187(b)(2), (7), and (10), Health and
4-47 Safety Code, to an initial term that expires September 1, 2018; and

4-48 (3) one member described by Section 241.187(b)(1),
4-49 Health and Safety Code, one member described by Section
4-50 241.187(b)(4), Health and Safety Code, and the members described by
4-51 Sections 241.187(b)(5), (8), and (11), Health and Safety Code, to
4-52 an initial term that expires September 1, 2019.

4-53 (b) Not later than March 1, 2017, after consideration of the
4-54 report of the Perinatal Advisory Council, the executive
4-55 commissioner of the Health and Human Services Commission shall
4-56 adopt the initial rules required by Section 241.183, Health and
4-57 Safety Code, as added by this Act.

4-58 (c) The executive commissioner of the Health and Human
4-59 Services Commission shall complete for each hospital in this state:

4-60 (1) the neonatal level of care designation not later
4-61 than August 31, 2017; and

4-62 (2) the maternal level of care designation not later
4-63 than August 31, 2019.

4-64 (d) Notwithstanding Section 241.186, Health and Safety
4-65 Code, as added by this Act:

4-66 (1) a hospital is not required to have a neonatal level
4-67 of care designation as a condition of reimbursement for neonatal
4-68 services through the Medicaid program before September 1, 2017; and

4-69 (2) a hospital is not required to have a maternal level

5-1 of care designation as a condition of reimbursement for maternal
5-2 services through the Medicaid program before September 1, 2019.

5-3 SECTION 3. If before implementing any provision of this Act
5-4 a state agency determines that a waiver or authorization from a
5-5 federal agency is necessary for implementation of that provision,
5-6 the agency affected by the provision shall request the waiver or
5-7 authorization and may delay implementing that provision until the
5-8 waiver or authorization is granted.

5-9 SECTION 4. This Act takes effect September 1, 2013.

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