

By: Sheffield

H.B. No. 3433

A BILL TO BE ENTITLED

1 AN ACT

2 relating to level of care designations for hospitals that provide
3 neonatal intensive care 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-NEONATAL INTENSIVE CARE UNITS

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~~ neonatal intensive care
18 services provided at the hospital.

19 (b) A hospital may receive different level designations for
20 neonatal intensive care services. ~~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
24 intensive care services. ~~and maternal care to be assigned to~~

1 ~~hospitals;~~

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

6 (3) establishing a process for the assignment of
7 levels of care to a hospital for neonatal intensive care. ~~and~~
8 ~~maternal care, respectively;~~

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

13 (5) dividing the state into recommended neonatal ~~and~~
14 ~~maternal~~ care regions.

15 (6) facilitating transfer agreements through regional
16 coordination for hospitals without transferring agreements in a
17 manner that preserves historic or existing patient referral
18 patterns;

19 (7) requiring payment, other than quality or
20 outcome-based funding, to be based on services provided by the
21 facility, regardless of the facility's level of care designation;
22 and

23 (8) prohibiting the denial of a neonatal intensive
24 care ~~or maternal level of care~~ designation to a hospital that meets
25 the minimum requirements for that level of care designation.

26 (b) The criteria for levels one through three of neonatal
27 intensive ~~and maternal~~ care adopted under Subsection (a)(2) may not

1 include requirements related to the number of patients treated at a
2 hospital.

3 (c) The Health and Human Services Commission shall study
4 patient transfers that are not medically necessary but would be
5 cost-effective. Based on the study under this subsection, if the
6 executive commissioner determines that the transfers are feasible
7 and desirable, the executive commissioner may adopt rules
8 addressing those transfers.

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

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

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

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

27 (c) A hospital may request a change of designation at any

1 time. On request under this subsection, the executive commissioner
2 and the department shall review the hospital's request and, as
3 necessary, change the hospital's level of care designation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (10) one representative from a rural hospital;

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

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

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

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

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

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

13 (g) The advisory council shall:

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

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

21 (3) make recommendations for the division of the state
22 into neonatal intensive ~~and maternal~~ care regions incorporating
23 existing patient transfer patterns and agreements;

24 (4) examine utilization trends relating to neonatal
25 intensive ~~and maternal~~ care; and

26 (5) make recommendations related to improving
27 neonatal intensive care ~~and maternal~~ outcomes.

1 (h) In developing the criteria for the levels of neonatal
2 intensive ~~and maternal~~ care, the advisory council shall consider:

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

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

9 (3) the geographic and varied needs of citizens of
10 this state.

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

15 (j) The advisory council shall submit a report detailing the
16 advisory council's determinations and recommendations to the
17 department and the executive commissioner not later than September
18 1, ~~2015~~ 2016.

19 (k) The advisory council shall continue to update its
20 recommendations based on any relevant scientific or medical
21 developments.

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

26 SECTION 2. (a) Not later than December 1, 2013, the
27 executive commissioner of the Health and Human Services Commission

1 shall appoint the members of the Perinatal Advisory Council as
2 required by Section 241.187, Health and Safety Code, as added by
3 this Act. Notwithstanding Section 241.187(d), Health and Safety
4 Code, as added by this Act, the executive commissioner shall
5 appoint:

6 (1) two members described by Section 241.187(b)(1),
7 Health and Safety Code, one member described by Section
8 241.187(b)(3), Health and Safety Code, and the members described by
9 Sections 241.187(b)(6) and (9), Health and Safety Code, to an
10 initial term that expires September 1, 2017;

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

17 (3) one member described by Section 241.187(b)(1),
18 Health and Safety Code, one member described by Section
19 241.187(b)(4), Health and Safety Code, and the members described by
20 Sections 241.187(b)(5), (8), and (11), Health and Safety Code, to
21 an initial term that expires September 1, 2019.

22 (b) Not later than March 1, ~~2017~~2018, after consideration
23 of the report of the Perinatal Advisory Council, the executive
24 commissioner of the Health and Human Services Commission shall
25 adopt the initial rules required by Section 241.183, Health and
26 Safety Code, as added by this Act.

27 (c) The executive commissioner of the Health and Human

1 Services Commission shall complete for each hospital in this state:

2 (1) the neonatal level of care designation not later
3 than August 31, ~~2017-2018.~~, and

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

6 (d) Notwithstanding Section [241.186](#), Health and Safety
7 Code, as added by this Act:

8 (1) a hospital is not required to have a neonatal level
9 of care designation as a condition of reimbursement for neonatal
10 services through the Medicaid program before September 1, ~~2017~~
11 2018. ~~and~~

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

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

21 SECTION 4. This Act takes effect September 1, 2015.