

By: Geren

H.B. No. 4330

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of a health care provider participation program by the Tarrant County Hospital District.

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

SECTION 1. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 298B to read as follows:

CHAPTER 298B. TARRANT COUNTY HOSPITAL DISTRICT HEALTH CARE PROVIDER

PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 298B.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of hospital managers of the district.

(2) "District" means the Tarrant County Hospital District.

(3) "Institutional health care provider" means a nonpublic hospital located in the district that provides inpatient hospital services.

(4) "Paying provider" means an institutional health care provider required to make a mandatory payment under this chapter.

(5) "Program" means the health care provider participation program authorized by this chapter.

Sec. 298B.002. APPLICABILITY. This chapter applies only to the Tarrant County Hospital District.

1       Sec. 298B.003. HEALTH CARE PROVIDER PARTICIPATION PROGRAM;  
2 PARTICIPATION IN PROGRAM. The board may authorize the district to  
3 participate in a health care provider participation program on the  
4 affirmative vote of a majority of the board, subject to the  
5 provisions of this chapter.

6       Sec. 298B.004. EXPIRATION OF AUTHORITY. (a) Subject to  
7 Sections 298B.153(d) and 298B.154, the authority of the district to  
8 administer and operate a program under this chapter expires  
9 December 31, 2019.

10       (b) Subsection (a) does not affect the authority of the  
11 district to require and collect a mandatory payment under Section  
12 298B.154 after December 31, 2019, if necessary.

13               SUBCHAPTER B. POWERS AND DUTIES OF BOARD

14       Sec. 298B.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY  
15 PAYMENT. The board may require a mandatory payment authorized  
16 under this chapter by an institutional health care provider in the  
17 district only in the manner provided by this chapter.

18       Sec. 298B.052. RULES AND PROCEDURES. The board may adopt  
19 rules relating to the administration of the program, including  
20 collection of the mandatory payments, expenditures, audits, and any  
21 other administrative aspects of the program.

22       Sec. 298B.053. INSTITUTIONAL HEALTH CARE PROVIDER  
23 REPORTING. If the board authorizes the district to participate in a  
24 program under this chapter, the board shall require each  
25 institutional health care provider to submit to the district a copy  
26 of any financial and utilization data required by and reported to  
27 the Department of State Health Services under Sections [311.032](#) and

1 311.033 and any rules adopted by the executive commissioner of the  
2 Health and Human Services Commission to implement those sections.

3 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

4 Sec. 298B.101. HEARING. (a) In each year that the board  
5 authorizes a program under this chapter, the board shall hold a  
6 public hearing on the amounts of any mandatory payments that the  
7 board intends to require during the year and how the revenue derived  
8 from those payments is to be spent.

9 (b) Not later than the fifth day before the date of the  
10 hearing required under Subsection (a), the board shall publish  
11 notice of the hearing in a newspaper of general circulation in the  
12 district and provide written notice of the hearing to each  
13 institutional health care provider in the district.

14 Sec. 298B.102. DEPOSITORY. (a) If the board requires a  
15 mandatory payment authorized under this chapter, the board shall  
16 designate one or more banks as a depository for the district's local  
17 provider participation fund.

18 (b) All funds collected under this chapter shall be secured  
19 in the manner provided for securing other district funds.

20 Sec. 298B.103. LOCAL PROVIDER PARTICIPATION FUND;  
21 AUTHORIZED USES OF MONEY. (a) If the district requires a mandatory  
22 payment authorized under this chapter, the district shall create a  
23 local provider participation fund.

24 (b) The local provider participation fund consists of:

25 (1) all revenue received by the district attributable  
26 to mandatory payments authorized under this chapter;

27 (2) money received from the Health and Human Services

1 Commission as a refund of an intergovernmental transfer under the  
2 program, provided that the intergovernmental transfer does not  
3 receive a federal matching payment; and

4 (3) the earnings of the fund.

5 (c) Money deposited to the local provider participation  
6 fund of the district may be used only to:

7 (1) fund intergovernmental transfers from the  
8 district to the state to provide the nonfederal share of Medicaid  
9 payments for:

10 (A) uncompensated care payments to nonpublic  
11 hospitals affiliated with the district, if those payments are  
12 authorized under the Texas Healthcare Transformation and Quality  
13 Improvement Program waiver issued under Section 1115 of the federal  
14 Social Security Act (42 U.S.C. Section 1315);

15 (B) uniform rate enhancements for nonpublic  
16 hospitals in the Medicaid managed care service area in which the  
17 district is located;

18 (C) payments available under another waiver  
19 program authorizing payments that are substantially similar to  
20 Medicaid payments to nonpublic hospitals described by Paragraph (A)  
21 or (B); or

22 (D) any reimbursement to nonpublic hospitals for  
23 which federal matching funds are available;

24 (2) subject to Section 298B.151(d), pay the  
25 administrative expenses of the district in administering the  
26 program, including collateralization of deposits;

27 (3) refund a mandatory payment collected in error from

1 a paying provider;

2 (4) refund to paying providers a proportionate share  
3 of the money that the district:

4 (A) receives from the Health and Human Services  
5 Commission that is not used to fund the nonfederal share of Medicaid  
6 supplemental payment program payments; or

7 (B) determines cannot be used to fund the  
8 nonfederal share of Medicaid supplemental payment program  
9 payments;

10 (5) transfer funds to the Health and Human Services  
11 Commission if the district is legally required to transfer the  
12 funds to address a disallowance of federal matching funds with  
13 respect to programs for which the district made intergovernmental  
14 transfers described by Subdivision (1); and

15 (6) reimburse the district if the district is required  
16 by the rules governing the uniform rate enhancement program  
17 described by Subdivision (1)(B) to incur an expense or forego  
18 Medicaid reimbursements from the state because the balance of the  
19 local provider participation fund is not sufficient to fund that  
20 rate enhancement program.

21 (d) Money in the local provider participation fund may not  
22 be commingled with other district funds.

23 (e) Notwithstanding any other provision of this chapter,  
24 with respect to an intergovernmental transfer of funds described by  
25 Subsection (c)(1) made by the district, any funds received by the  
26 state, district, or other entity as a result of that transfer may  
27 not be used by the state, district, or any other entity to:

1           (1) expand Medicaid eligibility under the Patient  
2 Protection and Affordable Care Act (Pub. L. No. 111-148) as amended  
3 by the Health Care and Education Reconciliation Act of 2010 (Pub. L.  
4 No. 111-152); or

5           (2) fund the nonfederal share of payments to nonpublic  
6 hospitals available through the Medicaid disproportionate share  
7 hospital program or the delivery system reform incentive payment  
8 program.

9                           SUBCHAPTER D. MANDATORY PAYMENTS

10           Sec. 298B.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER  
11 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), if  
12 the board authorizes a health care provider participation program  
13 under this chapter, the board may require an annual mandatory  
14 payment to be assessed on the net patient revenue of each  
15 institutional health care provider located in the district. The  
16 board may provide for the mandatory payment to be assessed  
17 quarterly. In the first year in which the mandatory payment is  
18 required, the mandatory payment is assessed on the net patient  
19 revenue of an institutional health care provider as determined by  
20 the data reported to the Department of State Health Services under  
21 Sections 311.032 and 311.033 in the most recent fiscal year for  
22 which that data was reported. If the institutional health care  
23 provider did not report any data under those sections, the  
24 provider's net patient revenue is the amount of that revenue as  
25 contained in the provider's Medicare cost report submitted for the  
26 previous fiscal year or for the closest subsequent fiscal year for  
27 which the provider submitted the Medicare cost report. If the

1 mandatory payment is required, the district shall update the amount  
2 of the mandatory payment on an annual basis.

3 (b) The amount of a mandatory payment authorized under this  
4 chapter must be uniformly proportionate with the amount of net  
5 patient revenue generated by each paying provider in the district  
6 as permitted under federal law. A health care provider  
7 participation program authorized under this chapter may not hold  
8 harmless any institutional health care provider, as required under  
9 42 U.S.C. Section 1396b(w).

10 (c) If the board requires a mandatory payment authorized  
11 under this chapter, the board shall set the amount of the mandatory  
12 payment, subject to the limitations of this chapter. The aggregate  
13 amount of the mandatory payments required of all paying providers  
14 in the district may not exceed six percent of the aggregate net  
15 patient revenue from hospital services provided by all paying  
16 providers in the district.

17 (d) Subject to Subsection (c), if the board requires a  
18 mandatory payment authorized under this chapter, the board shall  
19 set the mandatory payments in amounts that in the aggregate will  
20 generate sufficient revenue to cover the administrative expenses of  
21 the district for activities under this chapter and to fund an  
22 intergovernmental transfer described by Section 298B.103(c)(1).  
23 The annual amount of revenue from mandatory payments that shall be  
24 paid for administrative expenses by the district is \$150,000, plus  
25 the cost of collateralization of deposits, regardless of actual  
26 expenses.

27 (e) A paying provider may not add a mandatory payment

1 required under this section as a surcharge to a patient.

2 (f) A mandatory payment assessed under this chapter is not a  
3 tax for hospital purposes for purposes of Section 4, Article IX,  
4 Texas Constitution, or Section 281.045.

5 Sec. 298B.152. ASSESSMENT AND COLLECTION OF MANDATORY  
6 PAYMENTS. (a) The district may designate an official of the  
7 district or contract with another person to assess and collect the  
8 mandatory payments authorized under this chapter.

9 (b) The person charged by the district with the assessment  
10 and collection of mandatory payments shall charge and deduct from  
11 the mandatory payments collected for the district a collection fee  
12 in an amount not to exceed the person's usual and customary charges  
13 for like services.

14 (c) If the person charged with the assessment and collection  
15 of mandatory payments is an official of the district, any revenue  
16 from a collection fee charged under Subsection (b) shall be  
17 deposited in the district general fund and, if appropriate, shall  
18 be reported as fees of the district.

19 Sec. 298B.153. PURPOSE; CORRECTION OF INVALID PROVISION OR  
20 PROCEDURE; LIMITATION OF AUTHORITY. (a) The purpose of this chapter  
21 is to authorize the district to establish a program to enable the  
22 district to collect mandatory payments from institutional health  
23 care providers to fund the nonfederal share of a Medicaid  
24 supplemental payment program or the Medicaid managed care rate  
25 enhancements for nonpublic hospitals to support the provision of  
26 health care by institutional health care providers to district  
27 residents in need of health care.



1       (b) This chapter does not authorize the district to collect  
2 mandatory payments for the purpose of raising general revenue or  
3 any amount in excess of the amount reasonably necessary to fund the  
4 nonfederal share of a Medicaid supplemental payment program or  
5 Medicaid managed care rate enhancements for nonpublic hospitals and  
6 to cover the administrative expenses of the district associated  
7 with activities under this chapter.

8       (c) To the extent any provision or procedure under this  
9 chapter causes a mandatory payment authorized under this chapter to  
10 be ineligible for federal matching funds, the board may provide by  
11 rule for an alternative provision or procedure that conforms to the  
12 requirements of the federal Centers for Medicare and Medicaid  
13 Services. A rule adopted under this section may not create, impose,  
14 or materially expand the legal or financial liability or  
15 responsibility of the district or an institutional health care  
16 provider in the district beyond the provisions of this chapter.  
17 This section does not require the board to adopt a rule.

18       (d) The district may only assess and collect a mandatory  
19 payment authorized under this chapter if a waiver program, uniform  
20 rate enhancement, or reimbursement described by Section  
21 298B.103(c)(1) is available to the district.

22       Sec. 298B.154. FEDERAL DISALLOWANCE. Notwithstanding any  
23 other provision of this chapter, if the Centers for Medicare and  
24 Medicaid Services issues a disallowance of federal matching funds  
25 for a purpose for which intergovernmental transfers described by  
26 Section 298B.103(c)(1) were made and the Health and Human Services  
27 Commission demands repayment from the district of federal funds

1 paid to the district for that purpose, the district may require and  
2 collect mandatory payments from each paying provider that received  
3 those federal funds in an amount sufficient to satisfy the  
4 repayment demand made by the commission. The percentage limitation  
5 prescribed by Section 298B.151(c) does not apply to a mandatory  
6 payment required under this section.

7 SECTION 2. As soon as practicable after the expiration of  
8 the authority of the Tarrant County Hospital District to administer  
9 and operate a health care provider participation program under  
10 Chapter 298B, Health and Safety Code, as added by this Act, the  
11 board of hospital managers of the Tarrant County Hospital District  
12 shall transfer to each institutional health care provider in the  
13 district that provider's proportionate share of any remaining funds  
14 in any local provider participation fund created by the district  
15 under Section 298B.103, Health and Safety Code, as added by this  
16 Act.

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

23 SECTION 4. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2017.