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By:  Price H.B. No. 3269

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1.  Section 241.183, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a)  The executive commissioner, in consultation with the commission [~~department~~], shall adopt rules:

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

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

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

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

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

(6)  facilitating transfer agreements through regional coordination;

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

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

(9)  establishing a process through which a hospital may appeal to an independent third party regarding the level of care designation assigned to the hospital;

(10)  permitting a health care provider who provides care at a hospital assigned a Level I or II level of care designation to provide each health care service for which the provider is licensed if the hospital demonstrates a need for the service; and

(11)  specifying the situations in which a hospital can receive off-site medical consulting or services to meet the requirements for a level of care designation.

(f)  In adopting rules under Subsection (a), the executive commissioner shall ensure that any requirement for a level of care designation related to care for patients of a particular gestational age or for a specified number of patients of a particular gestational age provides flexibility based on the geographic area in which the hospital is located and the hospital's capabilities for providing care.

SECTION 2.  Subchapter H, Chapter 241, Health and Safety Code, is amended by adding Sections 241.1835 and 241.1865 to read as follows:

Sec. 241.1835.  USE OF TELEHEALTH SERVICES AND TELEMEDICINE MEDICAL SERVICES AT CERTAIN HOSPITALS. (a) In this section, "telehealth service" and "telemedicine medical service" have the meanings assigned by Section 111.001, Occupations Code.

(b)  In adopting rules under Section 241.183, the executive commissioner may not exclude or prohibit the use of telehealth services or telemedicine medical services by a physician providing on-call services at a hospital located in a rural area of this state, as defined by executive commissioner rule, that is assigned a Level I, II, or III level of care designation. This section applies only to on-call services provided:

(1)  at a hospital with a local medical staff consisting of not more than four physicians; and

(2)  for a hospital assigned a Level II or III level of care designation, by a physician licensed to practice medicine under Subtitle B, Title 3, Occupations Code, and board certified in obstetrics or gynecology.

(c)  This section does not waive the requirements for a level of care designation.

Sec. 241.1865.  WAIVER FROM LEVEL OF CARE DESIGNATION REQUIREMENTS. (a) The executive commissioner by rule shall develop and implement a process through which a hospital may enter into an agreement with the commission to waive one or more requirements for a level of care designation.

(b)  The executive commissioner by rule shall adopt requirements to enter into a waiver agreement under Subsection (a) and specify the type of designation requirements that may be waived.

(c)  A waiver agreement entered into under Subsection (a):

(1)  must expire at the end of each designation cycle but may be renewed by the commission under the same or different terms; and

(2)  may require a hospital to meet the requirements for a level of care designation within the period specified under the agreement.

(d)  A hospital that enters into a waiver agreement under Subsection (a) is required to satisfy all other requirements for a level of care designation that are not waived in the agreement.

SECTION 3.  Section 241.187, Health and Safety Code, is amended by amending Subsection (l) and adding Subsection (m) to read as follows:

(l)  The advisory council is subject to Chapter 325, Government Code (Texas Sunset Act). The advisory council shall be reviewed during the period in which the Department of State Health Services is reviewed [~~Unless continued in existence as provided by that chapter, the advisory council is abolished and this section expires September 1, 2025~~].

(m)  The executive commissioner, in consultation with the commission and the advisory council, shall:

(1)  conduct a strategic review of the practical implementation of rules adopted by the executive commissioner under this subchapter that at a minimum identifies:

(A)  barriers to a hospital obtaining the hospital's preferred level of care designation; and

(B)  whether the barriers identified under Paragraph (A) are appropriate;

(2)  based on the review conducted under Subdivision (1), modify rules adopted under this subchapter, as appropriate, to improve the process and methodology of assigning level of care designations; and

(3)  prepare and submit to the legislature each biennium a written report that summarizes:

(A)  the review conducted under Subdivision (1); and

(B)  actions taken by the executive commissioner based on the review.

SECTION 4.  As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules as necessary to implement the changes in law made by this Act.

SECTION 5.  This Act takes effect September 1, 2019.