

By: Frank

H.B. No. 3679

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of health care provider participation programs in certain counties.

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 292C to read as follows:

CHAPTER 292C. COUNTY HEALTH CARE PROVIDER PARTICIPATION PROGRAM IN CERTAIN COUNTIES WITH HOSPITAL DISTRICT BORDERING OKLAHOMA

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 292C.001. DEFINITIONS. In this chapter:

(1) "Institutional health care provider" means a nonpublic hospital that provides inpatient hospital services and that is not located within the boundaries of a hospital district.

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

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

Sec. 292C.002. APPLICABILITY. This chapter applies only to a county that:

(1) contains a hospital district that is not countywide;

(2) has a population of more than 125,000; and

(3) borders Oklahoma.

1 Sec. 292C.003. COUNTY HEALTH CARE PROVIDER PARTICIPATION
2 PROGRAM; PARTICIPATION IN PROGRAM. (a) A county health care
3 provider participation program authorizes a county to collect a
4 mandatory payment from each institutional health care provider
5 located in the county to be deposited in a local provider
6 participation fund established by the county. Money in the fund may
7 be used by the county to fund certain intergovernmental transfers
8 as provided by this chapter.

9 (b) The commissioners court of a county may adopt an order
10 authorizing the county to participate in the program, subject to
11 the limitations provided by this chapter, only if the commissioners
12 court obtains the written consent of each institutional health care
13 provider located in the county stating the provider's intent to
14 participate in the program.

15 Sec. 292C.004. EXPIRATION. (a) The authority of the
16 district to administer and operate a program under this chapter
17 expires on the earlier of:

18 (1) December 31, 2025; or

19 (2) at the end of the program year during which the
20 district:

21 (A) receives any written notice from a paying
22 hospital that the hospital no longer wishes to participate in the
23 program; or

24 (B) does not receive the written consent of each
25 paying hospital located in the county as required by Section
26 292C.154.

27 (b) This chapter expires December 31, 2025.

1 SUBCHAPTER B. POWERS AND DUTIES OF COMMISSIONERS COURT

2 Sec. 292C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
3 PAYMENT. The commissioners court of a county may require a
4 mandatory payment authorized under this chapter by an institutional
5 health care provider in the county only in the manner provided by
6 this chapter.

7 Sec. 292C.052. MAJORITY VOTE REQUIRED. The commissioners
8 court of a county may not authorize the county to collect a
9 mandatory payment authorized under this chapter without an
10 affirmative vote of a majority of the members of the commissioners
11 court.

12 Sec. 292C.053. RULES AND PROCEDURES. After the
13 commissioners court of a county has voted to require a mandatory
14 payment authorized under this chapter, the commissioners court may
15 adopt rules relating to the administration of the mandatory
16 payment.

17 Sec. 292C.054. INSTITUTIONAL HEALTH CARE PROVIDER
18 REPORTING; INSPECTION OF RECORDS. (a) The commissioners court of a
19 county that collects a mandatory payment authorized under this
20 chapter shall require each institutional health care provider
21 located in the county to submit to the county a copy of any
22 financial and utilization data required by and reported to the
23 Department of State Health Services under Sections [311.032](#) and
24 [311.033](#) and any rules adopted by the executive commissioner of the
25 Health and Human Services Commission to implement those sections.

26 (b) The commissioners court of a county that collects a
27 mandatory payment authorized under this chapter may inspect the

1 records of an institutional health care provider to the extent
2 necessary to ensure compliance with the requirements of Subsection
3 (a).

4 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

5 Sec. 292C.101. HEARING. (a) Each year, the commissioners
6 court of a county that collects a mandatory payment authorized
7 under this chapter shall hold a public hearing on the amounts of any
8 mandatory payments that the commissioners court intends to require
9 during the year.

10 (b) Not later than the fifth day before the date of the
11 hearing required under Subsection (a), the commissioners court of
12 the county shall publish notice of the hearing in a newspaper of
13 general circulation in the county.

14 (c) A representative of a paying hospital is entitled to
15 appear at the time and place designated in the public notice and to
16 be heard regarding any matter related to the mandatory payments
17 authorized under this chapter.

18 Sec. 292C.102. DEPOSITORY. (a) The commissioners court of
19 each county that collects a mandatory payment authorized under this
20 chapter by resolution shall designate one or more banks located in
21 the county as the depository for mandatory payments received by the
22 county.

23 (b) All income received by a county under this chapter,
24 including the revenue from mandatory payments remaining after
25 discounts and fees for assessing and collecting the payments are
26 deducted, shall be deposited with the county depository in the
27 county's local provider participation fund and may be withdrawn

1 only as provided by this chapter.

2 (c) All funds under this chapter shall be secured in the
3 manner provided for securing county funds.

4 Sec. 292C.103. LOCAL PROVIDER PARTICIPATION FUND;
5 AUTHORIZED USES OF MONEY. (a) Each county that collects a
6 mandatory payment authorized under this chapter shall create a
7 local provider participation fund.

8 (b) The local provider participation fund of a county
9 consists of:

10 (1) all revenue received by the county attributable to
11 mandatory payments authorized under this chapter, including any
12 penalties and interest attributable to delinquent payments;

13 (2) money received from the Health and Human Services
14 Commission as a refund of an intergovernmental transfer from the
15 county to the state for the purpose of providing the nonfederal
16 share of Medicaid supplemental payment program payments, provided
17 that the intergovernmental transfer does not receive a federal
18 matching payment; and

19 (3) the earnings of the fund.

20 (c) Money deposited to the local provider participation
21 fund may be used only to:

22 (1) fund intergovernmental transfers from the county
23 to the state to provide:

24 (A) the nonfederal share of a Medicaid
25 supplemental payment program authorized under the state Medicaid
26 plan, the Texas Healthcare Transformation and Quality Improvement
27 Program waiver issued under Section 1115 of the federal Social

1 Security Act (42 U.S.C. Section 1315), or a successor waiver
2 program authorizing similar Medicaid supplemental payment
3 programs; or

4 (B) payments to Medicaid managed care
5 organizations that are dedicated for payment to hospitals;

6 (2) pay the administrative expenses of the county
7 solely for activities under this chapter;

8 (3) refund a portion of a mandatory payment collected
9 in error from a paying hospital; and

10 (4) refund to paying hospitals the proportionate share
11 of money received by the county that is not used to fund the
12 nonfederal share of Medicaid supplemental payment program
13 payments.

14 (d) Money deposited to the local provider participation
15 fund may not be used to pay for the services of a consultant or a
16 person required to register under Chapter 305, Government Code.

17 (e) Money in the local provider participation fund may not
18 be commingled with other county funds.

19 (f) An intergovernmental transfer of funds described by
20 Subsection (c)(1) and any funds received by the county as a result
21 of an intergovernmental transfer described by that subsection may
22 not be used by the county or any other entity to expand Medicaid
23 eligibility under the Patient Protection and Affordable Care Act
24 (Pub. L. No. 111-148) as amended by the Health Care and Education
25 Reconciliation Act of 2010 (Pub. L. No. 111-152).

26 SUBCHAPTER D. MANDATORY PAYMENTS

27 Sec. 292C.151. MANDATORY PAYMENTS BASED ON PAYING HOSPITAL

1 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), the
2 commissioners court of a county that collects a mandatory payment
3 authorized under this chapter may require an annual mandatory
4 payment to be assessed on the net patient revenue of each
5 institutional health care provider located in the county. The
6 commissioners court may provide for the mandatory payment to be
7 assessed quarterly. In the first year in which the mandatory
8 payment is required, the mandatory payment is assessed on the net
9 patient revenue of an institutional health care provider as
10 determined by the data reported to the Department of State Health
11 Services under Sections [311.032](#) and [311.033](#) in the fiscal year
12 ending in 2017 or, if the institutional health care provider did not
13 report any data under those sections in that fiscal year, as
14 determined by the institutional health care provider's Medicare
15 cost report submitted for the 2017 fiscal year or for the closest
16 subsequent fiscal year for which the provider submitted the
17 Medicare cost report. The county shall update the amount of the
18 mandatory payment on an annual basis.

19 (b) The amount of a mandatory payment authorized under this
20 chapter must be uniformly proportionate with the amount of net
21 patient revenue generated by each paying hospital in the county. A
22 mandatory payment authorized under this chapter may not hold
23 harmless any institutional health care provider, as required under
24 42 U.S.C. Section 1396b(w).

25 (c) The commissioners court of a county that collects a
26 mandatory payment authorized under this chapter shall set the
27 amount of the mandatory payment. The amount of the mandatory

1 payment required of each paying hospital may not exceed six percent
2 of the paying hospital's net patient revenue.

3 (d) Subject to the maximum amount prescribed by Subsection
4 (c), the commissioners court of a county that collects a mandatory
5 payment authorized under this chapter shall set the mandatory
6 payments in amounts that in the aggregate will generate sufficient
7 revenue to cover the administrative expenses of the county for
8 activities under this chapter and to fund an intergovernmental
9 transfer described by Section 292C.103(c)(1), except that the
10 amount of revenue from mandatory payments used for administrative
11 expenses of the county for activities under this chapter in a year
12 may not exceed eight percent of the total revenue generated from the
13 mandatory payment.

14 (e) A paying hospital may not add a mandatory payment
15 required under this section as a surcharge to a patient.

16 Sec. 292C.152. ASSESSMENT AND COLLECTION OF MANDATORY
17 PAYMENTS. The county may collect or contract for the assessment and
18 collection of mandatory payments authorized under this chapter.

19 Sec. 292C.153. INTEREST, PENALTIES, AND DISCOUNTS.
20 Interest, penalties, and discounts on mandatory payments required
21 under this chapter are governed by the law applicable to county ad
22 valorem taxes.

23 Sec. 292C.154. ANNUAL CONSENT OF PAYING PROVIDERS. For
24 each year in which the commissioners court of a county intends to
25 require a mandatory payment under the program and before the date of
26 the hearing required under Section 292C.101, the commissioners
27 court of the county must obtain the written consent of each paying

1 hospital stating the paying hospital's intent to continue to
2 participate in the program.

3 Sec. 292C.155. PURPOSE; CORRECTION OF INVALID PROVISION OR
4 PROCEDURE. (a) The purpose of this chapter is to generate revenue
5 by collecting from institutional health care providers a mandatory
6 payment to be used to provide the nonfederal share of a Medicaid
7 supplemental payment program.

8 (b) 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 county 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.

14 SECTION 2. As soon as practicable after the expiration of
15 the authority of a county to administer and operate a health care
16 provider participation program under Chapter 292C, Health and
17 Safety Code, as added by this Act, the commissioners court of the
18 county shall transfer to each institutional health care provider in
19 the county that provider's proportionate share of any remaining
20 funds in any local provider participation fund created by the
21 county under Section 292C.103, Health and Safety Code, as added by
22 this Act.

23 SECTION 3. If before implementing any provision of this Act
24 a state agency determines that a waiver or authorization from a
25 federal agency is necessary for implementation of that provision,
26 the agency affected by the provision shall request the waiver or
27 authorization and may delay implementing that provision until the

1 waiver or authorization is granted.

2 SECTION 4. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2019.