

By: Miles, Alvarado, Taylor

S.B. No. 2022

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation and operations of health care provider
3 participation programs in Harris County Hospital District.

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

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

7 CHAPTER ___. HARRIS COUNTY HOSPITAL DISTRICT HEALTH CARE PROVIDER
8 PARTICIPATION PROGRAM.

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. ___.001 DEFINITIONS. In this chapter:

11 (1) "Board" means the board of trustees of the
12 district.

13 (2) "District" means the Harris County Hospital
14 District.

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

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

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

23 Sec. ___.002 APPLICABILITY. This chapter applies only to the
24 Harris County Hospital District.

1 Sec. ____ .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 the majority of the board, subject to the
5 provisions of this chapter.

6 Sec. ____ .004 EXPIRATION.

7 (a) The authority of the district to administer and operate
8 a program under this chapter expires December 31, 2021.

9 (b) This chapter expires December 31, 2021.

10 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

11 Sec. ____ .051 LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
12 PAYMENT. The board may require a mandatory payment authorized
13 under this chapter by an institutional health care provider in the
14 district only in the manner provided by this chapter.

15 Sec. ____ .052 RULES AND PROCEDURES. The board may adopt rules
16 relating to the administration of the program, including collection
17 of the mandatory payments, expenditures, audits, and any other
18 administrative aspects of the program.

19 Sec. ____ .053 PAYING PROVIDER REPORTING. If the board
20 authorizes the district to participate in a program under this
21 chapter, the board shall require each paying provider to submit to
22 the district a copy of any financial and utilization data as
23 reported in the paying provider's Medicare cost report for the
24 previous fiscal year or for the closest subsequent fiscal year for
25 which the paying provider submitted the Medicare cost report.

26 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

27 Sec. ____ .101 HEARING.

1 (a) In each year that the board authorizes a program under
2 this chapter, the board shall hold a public hearing on the amounts
3 of any mandatory payments that the board intends to require during
4 the year and how the revenue derived from those payments is to be
5 spent.

6 (b) Not later than the fifth day before the date of the
7 hearing required under Subsection (a), the board shall publish
8 notice of the hearing in a newspaper of general circulation in the
9 district and provide written notice.

10 (c) A representative of a paying provider is entitled to
11 appear at the public hearing and to be heard regarding any matter
12 related to the mandatory payments authorized under this chapter.

13 Sec. ____ .102 DEPOSITORY.

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

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

19 Sec. ____ .103 LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED
20 USES OF MONEY.

21 (a) If the district requires a mandatory payment authorized
22 under this chapter, the district shall create a local provider
23 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, if those payments are authorized under the Texas
12 Healthcare Transformation and Quality Improvement Program waiver
13 issued under Section 1115 of the federal Social Security Act (42
14 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 Subdivision
21 (A) or (B); or

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

24 (2) subject to Section ____.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 a mandatory payment 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; and

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

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

17 (e) Notwithstanding any other provision of this chapter,
18 with respect to an intergovernmental transfer of funds described by
19 Subsection (c)(1) made by the district, any funds received by the
20 state, district, or other entity as a result of the transfer may not
21 be used by the state, district, or any other entity to:

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

26 (2) fund the nonfederal share of payments to nonpublic
27 hospitals available through the Medicaid disproportionate share

1 hospital program or the delivery system reform incentive payment
2 program.

3 SUBCHAPTER D. MANDATORY PAYMENTS

4 Sec. ____ .151 MANDATORY PAYMENTS BASED ON PAYING PROVIDER NET
5 PATIENT REVENUE.

6 (a) If the board authorizes a health care provider
7 participation program under this chapter, the board may require a
8 mandatory payment to be assessed on the net patient revenue of each
9 paying provider located in the district. The board may provide for
10 the mandatory payment to be assessed incrementally throughout the
11 year; provided, however, that paying providers shall have thirty
12 (30) calendar days upon receipt of written notice from the district
13 to make any mandatory payment. In the first year in which the
14 mandatory payment is required, the mandatory payment is assessed on
15 the net patient revenue of a paying provider as determined by the
16 paying provider's copy of its Medicare cost report for the previous
17 fiscal year or for the closest subsequent fiscal year for which the
18 paying provider submitted the Medicare cost report.

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 provider in the district
22 as permitted under federal law. A health care provider
23 participation program authorized under this chapter may not hold
24 harmless any institutional health care provider, as required under
25 42 U.S.C. Section 1396b(w).

26 (c) If the board requires a mandatory payment authorized
27 under this chapter, the board shall set the amount of the mandatory

1 payment, subject to the limitations of this chapter. The aggregate
2 amount of the mandatory payments required of all paying providers
3 in the district may not exceed four percent of the aggregate net
4 patient revenue from hospital services provided by all paying
5 providers in the district.

6 (d) Subject to Subsection (c), if the board requires a
7 mandatory payment authorized under this chapter, the board shall
8 set the mandatory payments in amounts that in the aggregate will
9 generate sufficient revenue to cover the administrative expenses of
10 the district for activities under this chapter and to fund an
11 intergovernmental transfer described by Section ____103(c)(1). Of
12 the annual amount of revenue received by the district attributable
13 to mandatory payments authorized under this chapter, 0.25% shall be
14 paid to the district for administrative expenses.

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

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

20 Sec. ____152 ASSESSMENT AND COLLECTION OF MANDATORY
21 PAYMENTS.

22 (a) The district may designate an official of the district
23 or contract with another person to assess and collect the mandatory
24 payments authorized under this chapter.

25 (b) The person charged by the district with the assessment
26 and collection of mandatory payments shall charge and deduct from
27 the mandatory payments collected for the district a collection fee

1 in an amount not to exceed the person's usual and customary charges
2 for like services.

3 (c) If the person charged with the assessment and collection
4 of mandatory payments is an official of the district, any revenue
5 from a collection fee charged under Subsection (b) shall be
6 deposited in the district general fund and, if appropriate, shall
7 be reported as fees of the district.

8 Sec. ____ .153 PURPOSE; CORRECTION OF INVALID PROVISION OR
9 PROCEDURE; LIMITATION OF AUTHORITY.

10 (a) The purpose of this chapter is to authorize the district
11 to establish a program to enable the district to collect mandatory
12 payments from institutional health care providers to fund the
13 nonfederal share of a Medicaid supplemental payment program or the
14 Medicaid managed care rate enhancements for nonpublic hospitals to
15 support the provision of health care by institutional health care
16 providers to district residents in need of health care.

17 (b) This chapter does not authorize the district to collect
18 mandatory payments for the purpose of raising general revenue or
19 any amount in excess of the amount reasonably necessary to fund the
20 uses described in Section ____ .103(c) to cover the administrative
21 expenses of the district associated with activities under this
22 chapter.

23 (c) To the extent any provision or procedure under this
24 chapter causes a mandatory payment authorized under this chapter to
25 be ineligible for federal matching funds, the board may provide by
26 rule for an alternative provision or procedure that conforms to the
27 requirements of the federal Centers for Medicare and Medicaid

1 Services. A rule adopted under this section may not create, impose,
2 or materially expand the legal or financial liability or
3 responsibility of the district or an institutional health care
4 provider in the district beyond the provisions of this chapter.
5 This section does not require the board to adopt a rule.

6 (d) The district may only assess and collect a mandatory
7 payment authorized under this chapter if a waiver program, uniform
8 rate enhancement, or reimbursement described by Section
9 _____.103(c)(1) is available to the district.