

By: Perry
(Burrows)

S.B. No. 2448

A BILL TO BE ENTITLED

AN ACT

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

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 298C to read as follows:

CHAPTER 298C. LUBBOCK COUNTY HOSPITAL DISTRICT OF LUBBOCK COUNTY, TEXAS: HEALTH CARE PROVIDER PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 298C.001. PURPOSE. The purpose of this chapter is to authorize the district to administer a health care provider participation program to provide additional compensation to nonpublic hospitals by collecting mandatory payments from each nonpublic hospital in the district to be used to provide the nonfederal share of a Medicaid supplemental payment program and for other purposes as authorized under this chapter.

Sec. 298C.002. DEFINITIONS. In this chapter:

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

(2) "District" means the Lubbock County Hospital District of Lubbock County, Texas.

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

1 hospital services.

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

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

7 Sec. 298C.003. APPLICABILITY. This chapter applies only to
8 the Lubbock County Hospital District of Lubbock County, Texas.

9 Sec. 298C.004. HEALTH CARE PROVIDER PARTICIPATION PROGRAM;
10 PARTICIPATION IN PROGRAM. The board may authorize the district to
11 participate in a health care provider participation program on the
12 affirmative vote of a majority of the board, subject to the
13 provisions of this chapter.

14 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

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

19 Sec. 298C.052. INSTITUTIONAL HEALTH CARE PROVIDER
20 REPORTING. If the board authorizes the district to participate in a
21 program under this chapter, the board shall require each
22 institutional health care provider to submit to the district a copy
23 of any financial and utilization data required by and reported to
24 the Department of State Health Services under Sections [311.032](#) and
25 [311.033](#) and any rules adopted by the executive commissioner of the
26 Health and Human Services Commission to implement those sections.

27 Sec. 298C.053. RULES AND PROCEDURES. The board may adopt

1 rules relating to the administration of the health care provider
2 participation program, including collection of the mandatory
3 payments, expenditures, audits, and any other administrative
4 aspects of the program.

5 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

17 (c) The board's determination of the amount of mandatory
18 payments to be collected during the year must be shown to be based
19 on reasonable estimates of the amount of revenue necessary to fund
20 intergovernmental transfers from the district to the state
21 providing the nonfederal share of payments described by Section
22 298C.103(b)(1) that is otherwise unfunded.

23 Sec. 298C.102. LOCAL PROVIDER PARTICIPATION FUND;
24 DEPOSITORY. (a) If the board collects a mandatory payment
25 authorized under this chapter, the board shall create a local
26 provider participation fund in one or more banks located in the
27 district that are designated by the district as a depository for

1 public funds.

2 (b) All money received by the district under this chapter,
3 including the amount of revenue from mandatory payments remaining
4 after deducting any discounts and fees for assessing and collecting
5 the payments, shall be deposited with a depository designated under
6 Subsection (a).

7 (c) The board may withdraw or use money in the fund only for
8 a purpose authorized under this chapter.

9 (d) All funds collected under this chapter shall be secured
10 in the manner provided by Chapter 1053, Special District Local Laws
11 Code, for securing public funds of the district.

12 Sec. 298C.103. DEPOSITS TO FUND; AUTHORIZED USES OF MONEY.

13 (a) The local provider participation fund established under
14 Section 298C.102 consists of:

15 (1) all mandatory payments authorized under this
16 chapter and received by the district;

17 (2) money received from the Health and Human Services
18 Commission as a refund of an intergovernmental transfer from the
19 district to the state as the nonfederal share of Medicaid
20 supplemental payment program payments, provided that the
21 intergovernmental transfer does not receive a federal matching
22 payment; and

23 (3) the earnings of the fund.

24 (b) Money deposited to the local provider participation
25 fund may be used only to:

26 (1) fund intergovernmental transfers from the
27 district to the state to provide the nonfederal share of Medicaid

1 payments for:

2 (A) uncompensated care and delivery system
3 reform incentive payments to nonpublic hospitals, if those payments
4 are authorized under the Texas Healthcare Transformation and
5 Quality Improvement Program waiver issued under Section 1115 of the
6 federal Social Security Act (42 U.S.C. Section 1315);

7 (B) uniform rate enhancements for nonpublic
8 hospitals in the Medicaid managed care service area in which the
9 district is located;

10 (C) payments available to nonpublic hospitals
11 under another waiver program authorizing payments that are
12 substantially similar to Medicaid payments to nonpublic hospitals
13 described by Paragraph (A) or (B); or

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

16 (2) subject to Section 298C.151(d), pay the
17 administrative expenses of the district in administering the
18 program, including collateralization of deposits;

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

21 (4) refund to paying hospitals a proportionate share
22 of the money that the district:

23 (A) receives from the Health and Human Services
24 Commission that is not used to fund the nonfederal share of Medicaid
25 supplemental payment program payments described by Subdivision
26 (1); or

27 (B) determines cannot be used to fund the

1 nonfederal share of Medicaid supplemental payment program payments
2 described by Subdivision (1).

3 (c) Money in the local provider participation fund may not
4 be commingled with other district funds.

5 (d) An intergovernmental transfer of funds described by
6 Subsection (b)(1) and any funds received by the district as a result
7 of an intergovernmental transfer described by that subsection may
8 not be used by the district or any other entity to expand Medicaid
9 eligibility under the Patient Protection and Affordable Care Act
10 (Pub. L. No. 111-148) as amended by the Health Care and Education
11 Reconciliation Act of 2010 (Pub. L. No. 111-152).

12 SUBCHAPTER D. MANDATORY PAYMENTS

13 Sec. 298C.151. MANDATORY PAYMENTS. (a) If the board
14 authorizes a program under this chapter, the board shall require an
15 annual mandatory payment to be assessed on the net patient revenue
16 of each institutional health care provider located in the district.
17 The board may provide that the mandatory payment is to be collected
18 at least annually, but not more often than quarterly. In the first
19 year in which the mandatory payment is required, the mandatory
20 payment is assessed on the net patient revenue of an institutional
21 health care provider as determined by the data reported to the
22 Department of State Health Services under Sections [311.032](#) and
23 [311.033](#) in the most recent fiscal year for which that data was
24 reported. If the institutional health care provider did not report
25 any data under those sections, the provider's net patient revenue
26 is the amount of that revenue as contained in the provider's
27 Medicare cost report submitted for the previous fiscal year or for

1 the closest subsequent fiscal year for which the provider submitted
2 the Medicare cost report. The district shall update the amount of
3 the mandatory payment on an annual basis and may update the amount
4 on a more frequent basis.

5 (b) The amount of a mandatory payment authorized under this
6 chapter must be a uniform percentage of the amount of net patient
7 revenue generated by each paying hospital in the district. A
8 mandatory payment authorized under this chapter may not hold
9 harmless any institutional health care provider, as required under
10 42 U.S.C. Section 1396b(w).

11 (c) The aggregate amount of the mandatory payments required
12 of all paying hospitals in the district may not exceed six percent
13 of the aggregate net patient revenue of all paying hospitals in the
14 district.

15 (d) Subject to the maximum amount prescribed by Subsection
16 (c) and this subsection, the board shall set the mandatory payments
17 in amounts that in the aggregate will generate sufficient revenue
18 to cover the administrative expenses of the district for activities
19 under this chapter, fund an intergovernmental transfer described by
20 Section 298C.103(b)(1), or make other payments authorized under
21 this chapter. The amount of the mandatory payments must be based on
22 reasonable estimates of the amount of revenue necessary to cover
23 the administrative expenses, intergovernmental transfers, and
24 other payments described by this subsection as authorized under
25 this chapter. The amount of revenue from mandatory payments that
26 may be used for administrative expenses by the district in a year
27 may not exceed \$25,000, plus the cost of collateralization of

1 deposits. If the board demonstrates to the paying hospitals that
2 the costs of administering the program under this chapter,
3 excluding those costs associated with the collateralization of
4 deposits, exceed \$25,000 in any year, on consent of all of the
5 paying hospitals, the district may use additional revenue from
6 mandatory payments received under this chapter to compensate the
7 district for its administrative expenses. A paying hospital may
8 not unreasonably withhold consent to compensate the district for
9 administrative expenses.

10 (e) A paying hospital may not add a mandatory payment
11 required under this section as a surcharge to a patient or insurer.

12 (f) A mandatory payment under this chapter is not a tax for
13 purposes of Section 9, Article IX, Texas Constitution, or Chapter
14 1053, Special District Local Laws Code.

15 Sec. 298C.152. ASSESSMENT AND COLLECTION OF MANDATORY
16 PAYMENTS. The district may collect or contract for the assessment
17 and collection of mandatory payments authorized under this chapter.

18 Sec. 298C.153. CORRECTION OF INVALID PROVISION OR
19 PROCEDURE. To the extent any provision or procedure under this
20 chapter causes a mandatory payment authorized under this chapter to
21 be ineligible for federal matching funds, the board may provide by
22 rule for an alternative provision or procedure that conforms to the
23 requirements of the federal Centers for Medicare and Medicaid
24 Services. A rule adopted under this section may not create, impose,
25 or materially expand the legal or financial liability or
26 responsibility of the district or an institutional health care
27 provider in the district beyond the provisions of this chapter.

1 This section does not require the board to adopt a rule.

2 SECTION 2. If before implementing any provision of this Act
3 a state agency determines that a waiver or authorization from a
4 federal agency is necessary for implementation of that provision,
5 the agency affected by the provision shall request the waiver or
6 authorization and may delay implementing that provision until the
7 waiver or authorization is granted.

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