

By: Perry

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.

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 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) "Commissioners court" means the Commissioners Court of Lubbock County.

(3) "County" means Lubbock County.

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

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

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

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

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

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

16 SUBCHAPTER B. POWERS AND DUTIES

17 Sec. 298C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
18 PAYMENT. The board may authorize the collection of a mandatory
19 payment authorized under this chapter from an institutional health
20 care provider located in the district only in the manner provided by
21 this chapter.

22 Sec. 298C.052. 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 Sec. 298C.053. PROGRAM ADMINISTRATION. (a) The board,
4 subject to the approval of the commissioners court, shall delegate
5 all administrative responsibilities of the program, including
6 collection of mandatory payments, expenditures, and audits, to the
7 county.

8 (b) The commissioners court may adopt rules relating to the
9 administration of the program.

10 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

22 (c) Determination of the amount of any mandatory payments to
23 be collected during the year shall be shown to be based on
24 reasonable estimates of the amount of revenue necessary to meet and
25 cover the nonfederal share of payments described by Section
26 298C.103(b)(1) that is otherwise unfunded, and is subject to the
27 final approval of the commissioners court.

1 Sec. 298C.102. LOCAL PROVIDER PARTICIPATION FUND;
2 DEPOSITORY. (a) If the board authorizes the collection of a
3 mandatory payment authorized under this chapter, and the
4 commissioners court approves such collection, the commissioners
5 court shall by resolution create a local provider participation
6 fund in one or more banks located in the district that are
7 designated by the commissioners court to serve as the depository
8 for mandatory payments received by the county.

9 (b) All income received by the county under this chapter,
10 including the revenue from mandatory payments remaining after
11 discounts and fees for assessing and collecting the payments are
12 deducted, shall be deposited with the county depository in the
13 county's local provider participation fund and may be withdrawn
14 only as provided by this chapter.

15 (c) All funds collected under this chapter shall be secured
16 in the manner provided by law for securing county funds.

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

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

20 (1) all mandatory payments authorized under this
21 chapter and received by the county;

22 (2) money received from the Health and Human Services
23 Commission as a refund of an intergovernmental transfer from the
24 local provider participation fund to the state as the nonfederal
25 share of Medicaid supplemental payment program payments, provided
26 that the intergovernmental transfer does not receive a federal
27 matching payment; and

1 (3) the earnings of the fund.

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

4 (1) fund intergovernmental transfers from the county
5 to the state to provide the nonfederal share of:

6 (A) uncompensated care payments for nonpublic
7 hospitals and delivery system reform incentive payments for
8 nonpublic hospitals, if those payments are authorized under the
9 Texas Healthcare Transformation and Quality Improvement Program
10 waiver issued under Section 1115 of the federal Social Security Act
11 (42 U.S.C. Section 1315);

12 (B) uniform rate enhancements for nonpublic
13 hospitals in the Medicaid managed care service area in which the
14 district is located;

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

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

21 (2) subject to Section 298C.151(d), pay the
22 administrative expenses of the county in administering the program,
23 including collateralization of deposits;

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

26 (4) refund to paying hospitals a proportionate share
27 of the money that the county:

1 (A) receives from the Health and Human Services
2 Commission that is not used to fund the nonfederal share of payments
3 described by Subdivision (1); or

4 (B) determines cannot be used to fund the
5 nonfederal share of payments described by Subdivision (1).

6 (c) Money in the local provider participation fund may not
7 be commingled with other county funds.

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

15 SUBCHAPTER D. MANDATORY PAYMENTS

16 Sec. 298C.151. MANDATORY PAYMENTS. (a) If the board
17 authorizes a program under this chapter, the board, subject to the
18 approval of the commissioners court, may require an annual
19 mandatory payment to be assessed on the net patient revenue of each
20 institutional health care provider located in the district. The
21 commissioners court may provide that the mandatory payment is to be
22 collected at least annually, but not more often than quarterly. In
23 the first year in which the mandatory payment is required, the
24 mandatory payment is assessed on the net patient revenue of an
25 institutional health care provider as determined by the data
26 reported to the Department of State Health Services under Sections
27 311.032 and 311.033 in the most recent fiscal year for which that

1 data was reported. If the institutional health care provider did
2 not report any data under those sections, the provider's net
3 patient revenue is the amount of that revenue as contained in the
4 provider's Medicare cost report submitted for the previous fiscal
5 year or for the closest subsequent fiscal year for which the
6 provider submitted the Medicare cost report.

7 (b) The amount of a mandatory payment authorized under this
8 chapter must be a uniform percentage of the amount of net patient
9 revenue generated by each paying hospital in the district. A
10 mandatory payment authorized under this chapter may not hold
11 harmless any institutional health care provider, as required under
12 42 U.S.C. Section 1396b(w).

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

17 (d) Subject to the maximum amount prescribed by Subsection
18 (c), the board, with the approval of the commissioners court, 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 county for activities under this chapter, fund an
22 intergovernmental transfer described by Section 298C.103(b)(1), or
23 make other payments authorized under this chapter. The mandatory
24 payment amounts must be set based on reasonable estimates of the
25 amount of revenue necessary to fully meet and cover authorized
26 expenses under this chapter. The amount of revenue from mandatory
27 payments that may be used for administrative expenses by the county

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

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

13 (f) A mandatory payment under this chapter is not a tax for
14 purposes of Section 4, Article IX, Texas Constitution, or Chapter
15 1053, Special District Local Laws Code.

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

1 provider in the district beyond the provisions of this chapter.

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

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

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