

By: Hinojosa

S.B. No. 1328

A BILL TO BE ENTITLED

AN ACT

relating to the operation of certain health care provider participation programs in this state.

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 300B to read as follows:

CHAPTER 300B. PROVISIONS GENERALLY APPLICABLE TO HEALTH CARE PROVIDER PARTICIPATION PROGRAMS

Sec. 300B.0001. DEFINITION. In this chapter, "qualifying local government" means a county, municipality, hospital district, or county health care funding district established under Chapter 288 to which this chapter applies under Section 300B.0002.

Sec. 300B.0002. APPLICABILITY. This chapter applies only to:

(1) a hospital district that is participating in a health care provider participation program authorized by another chapter of this subtitle; and

(2) a county, municipality, or health care funding district established under Chapter 288 that is:

(A) participating in a health care provider participation program authorized by another chapter of this subtitle; and

(B) not served by a hospital district or a public hospital.

1 Sec. 300B.0003. CONFLICT OF LAWS. This chapter prevails
2 over another provision of this subtitle to the extent of any
3 conflict.

4 Sec. 300B.0004. ASSESSMENT BASIS. (a) The governing body
5 of a qualifying local government may require mandatory payments to
6 be assessed against each institutional health care provider located
7 in the qualifying local government on the basis of a health care
8 item, health care service, or other health care-related basis that
9 is consistent with the requirements of 42 U.S.C. Section 1396b(w)
10 and 42 C.F.R. Section 433.68.

11 (b) A qualifying local government that requires mandatory
12 payments to be assessed in the manner provided by this section is
13 not required to assess mandatory payments on the net patient
14 revenue of each institutional health care provider located in the
15 qualifying local government.

16 Sec. 300B.0005. ADDITIONAL REPORTING. The governing body
17 of a qualifying local government that is unable to assess mandatory
18 payments in a manner consistent with the requirements of 42 U.S.C.
19 Section 1396b(w) and 42 C.F.R. Section 433.68 using information
20 reported to the governing body by an institutional health care
21 provider may require the institutional health care provider to
22 submit additional information to the governing body if the
23 information is necessary to ensure mandatory payments are assessed
24 in a manner consistent with those requirements.

25 Sec. 300B.0006. WAIVER REQUEST. (a) Subject to Subsection
26 (b), the governing body of a qualifying local government may
27 request the Health and Human Services Commission to submit on the

1 governing body's behalf a request to the Centers for Medicare and
2 Medicaid Services for a waiver of any provision of federal law that:

3 (1) relates to the operation of a health care provider
4 participation program; and

5 (2) requires:

6 (A) mandatory payments to be assessed on each
7 institutional health care provider located in the qualifying local
8 government; or

9 (B) the amount of a mandatory payment to be
10 uniformly proportionate with the amount of net patient revenue of
11 the institutional health care provider against which the payment is
12 assessed.

13 (b) The governing body of a qualifying local government may
14 submit a request under Subsection (a) only if:

15 (1) federal law is amended by the United States
16 Congress or interpreted by the Centers for Medicare and Medicaid
17 Services in a manner that impedes the operation of the health care
18 provider participation program authorized by the qualifying local
19 government;

20 (2) the governing body of the qualifying local
21 government determines that the waiver would wholly or partly remove
22 the impediment described by Subdivision (1); and

23 (3) the Centers for Medicare and Medicaid Services are
24 authorized by law to grant the waiver.

25 (c) If the governing body of a qualifying local government
26 submits a request under Subsection (a) to the Health and Human
27 Services Commission, the commission shall submit a request for a

1 waiver on behalf of the qualifying local government to the Centers
2 for Medicare and Medicaid Services. The commission shall include
3 with the waiver request any supporting documentation provided by
4 the governing body of the qualifying local government.

5 (d) If the waiver is granted by the Centers for Medicare and
6 Medicaid Services, the governing body of the qualifying local
7 government is not required to comply with any provision of this
8 subtitle or other law that imposes a requirement that is
9 substantially equivalent to a requirement that is the subject of
10 the waiver during the period for which the waiver is in effect.

11 SECTION 2. Section 298C.004, Health and Safety Code, as
12 added by Chapter 694 (S.B. 2315), Acts of the 86th Legislature,
13 Regular Session, 2019, is amended to read as follows:

14 Sec. 298C.004. EXPIRATION. (a) Subject to Section
15 298C.153(d), the authority of the district to administer and
16 operate a program under this chapter expires December 31, 2023
17 [~~2021~~].

18 (b) This chapter expires December 31, 2023 [~~2021~~].

19 SECTION 3. Section 298E.103(e), Health and Safety Code, is
20 amended to read as follows:

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

26 (1) expand Medicaid eligibility under the Patient
27 Protection and Affordable Care Act (Pub. L. No. 111-148) as amended

1 by the Health Care and Education Reconciliation Act of 2010 (Pub. L.
2 No. 111-152); or

3 (2) fund the nonfederal share of payments to hospitals
4 available through [~~the Medicaid disproportionate share hospital~~
5 ~~program or~~] the delivery system reform incentive payment program.

6 SECTION 4. Section 299.004, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 299.004. EXPIRATION. (a) Subject to Section
9 299.153(d), the authority of the district to administer and operate
10 a program under this chapter expires December 31, 2023 [~~2021~~].

11 (b) This chapter expires December 31, 2023 [~~2021~~].

12 SECTION 5. Section 299.151(c), Health and Safety Code, is
13 amended to read as follows:

14 (c) If the board requires a mandatory payment authorized
15 under this chapter, the board shall set the amount of the mandatory
16 payment, subject to the limitations of this chapter. The aggregate
17 amount of the mandatory payments required of all paying providers
18 in the district may not exceed six [~~four~~] percent of the aggregate
19 net patient revenue from hospital services provided by all paying
20 providers in the district.

21 SECTION 6. Chapters 289 and 290, Health and Safety Code, are
22 repealed.

23 SECTION 7. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2021.