

AN ACT

relating to the creation and operations of a health care provider participation program by the Nacogdoches 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 298H to read as follows:

CHAPTER 298H. NACOGDOCHES COUNTY HOSPITAL DISTRICT HEALTH CARE PROVIDER PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 298H.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "District" means the Nacogdoches County Hospital District.

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

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

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

Sec. 298H.002. APPLICABILITY. This chapter applies only to the Nacogdoches County Hospital District.

1       Sec. 298H.003. HEALTH CARE PROVIDER PARTICIPATION PROGRAM;  
2 PARTICIPATION IN PROGRAM. (a) The board may authorize the district  
3 to participate in a health care provider participation program on  
4 the affirmative vote of a majority of the board, subject to the  
5 provisions of this chapter.

6       (b) The board may not authorize the district to participate  
7 in a health care provider participation program under Chapter 300  
8 or 300A.

9       Sec. 298H.004. EXPIRATION. (a) Subject to Section  
10 298H.153(d), the authority of the district to administer and  
11 operate a program under this chapter expires December 31, 2027.

12       (b) This chapter expires December 31, 2027.

13               SUBCHAPTER B. POWERS AND DUTIES OF BOARD

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

18       Sec. 298H.052. RULES AND PROCEDURES. The board may adopt  
19 rules relating to the administration of the program, including  
20 collection of the mandatory payments, expenditures, audits, and  
21 other administrative aspects of the program.

22       Sec. 298H.053. INSTITUTIONAL HEALTH CARE PROVIDER  
23 REPORTING. If the board authorizes the district to participate in a  
24 program under this chapter, the board may require each  
25 institutional health care provider to submit to the district a copy  
26 of any financial and utilization data reported in the provider's  
27 Medicare cost report submitted for the most recent fiscal year for

1 which the provider submitted the Medicare cost report.

2 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

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

15 Sec. 298H.102. DEPOSITORY. (a) If the board requires a  
16 mandatory payment authorized under this chapter, the board shall  
17 designate one or more banks as a depository for the district's local  
18 provider participation fund.

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

21 Sec. 298H.103. LOCAL PROVIDER PARTICIPATION FUND;  
22 AUTHORIZED USES OF MONEY. (a) If the district requires a  
23 mandatory payment authorized under this chapter, the district shall  
24 create a local provider participation fund.

25 (b) The local provider participation fund consists of:

26 (1) all revenue received by the district attributable  
27 to the mandatory payments authorized under this chapter;

1           (2) money received from the Health and Human Services  
2 Commission as a refund of an intergovernmental transfer under the  
3 program, provided that the intergovernmental transfer does not  
4 receive a federal matching payment; and

5           (3) the earnings of the fund.

6           (c) Money deposited to the local provider participation  
7 fund of the district may be used only to:

8           (1) fund intergovernmental transfers from the  
9 district to the state to provide the nonfederal share of Medicaid  
10 supplemental payments for:

11           (A) uncompensated care payments to nonpublic  
12 hospitals, if those payments are authorized under the Texas  
13 Healthcare Transformation and Quality Improvement Program waiver  
14 issued under Section 1115 of the federal Social Security Act (42  
15 U.S.C. Section 1315);

16           (B) rate enhancements for nonpublic hospitals in  
17 the Medicaid managed care service area in which the district is  
18 located;

19           (C) payments available under another waiver  
20 program authorizing payments that are substantially similar to  
21 Medicaid payments to nonpublic hospitals described by Paragraph (A)  
22 or (B); or

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

25           (2) subject to Section 298H.151(d), pay the  
26 administrative expenses of the district in administering the  
27 program, including collateralization of deposits;

1           (3) refund a mandatory payment collected in error from  
2 a paying provider;

3           (4) refund to paying providers a proportionate share  
4 of the money that the district:

5                 (A) receives from the Health and Human Services  
6 Commission that is not used to fund the nonfederal share of Medicaid  
7 supplemental payments or rate enhancements described by  
8 Subdivision (1); or

9                 (B) determines cannot be used to fund the  
10 nonfederal share of Medicaid supplemental payments or rate  
11 enhancements described by Subdivision (1); and

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

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

19           (e) Notwithstanding any other provision of this chapter,  
20 with respect to an intergovernmental transfer of funds described by  
21 Subsection (c)(1) made by the district, any funds received by the  
22 state, district, or other entity as a result of that transfer may  
23 not be used by the state, district, or other entity to expand  
24 Medicaid eligibility under the Patient Protection and Affordable  
25 Care Act (Pub. L. No. 111-148) as amended by the Health Care and  
26 Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

27           SUBCHAPTER D. MANDATORY PAYMENTS

1       Sec. 298H.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER  
2 NET PATIENT REVENUE. (a) If the board authorizes a health care  
3 provider participation program under this chapter, the board may  
4 require a mandatory payment to be assessed, either annually or  
5 periodically throughout the year at the discretion of the board, on  
6 the net patient revenue of each institutional health care provider  
7 located in the district. The board shall provide an institutional  
8 health care provider written notice of each assessment under this  
9 subsection, and the provider has 30 calendar days following the  
10 date of receipt of the notice to make the assessed mandatory  
11 payment. In the first year in which the mandatory payment is  
12 required, the mandatory payment is assessed on the net patient  
13 revenue of an institutional health care provider, as determined by  
14 the provider's Medicare cost report submitted for the most recent  
15 fiscal year for which the provider submitted the Medicare cost  
16 report. If the mandatory payment is required, the district shall  
17 periodically update the amount of the mandatory payment.

18       (b) The amount of a mandatory payment authorized under this  
19 chapter must be determined in a manner that ensures the revenue  
20 generated qualifies for federal matching funds under federal law,  
21 consistent with 42 U.S.C. Section 1396b(w).

22       (c) If the board requires a mandatory payment authorized  
23 under this chapter, the board shall set the amount of the mandatory  
24 payment, subject to the limitations of this chapter. The aggregate  
25 amount of the mandatory payments required of all paying providers  
26 in the district may not exceed six percent of the aggregate net  
27 patient revenue from hospital services provided in the district.

1       (d) Subject to Subsection (c), if the board requires a  
2 mandatory payment authorized under this chapter, the board shall  
3 set the mandatory payments in amounts that in the aggregate will  
4 generate sufficient revenue to cover the administrative expenses of  
5 the district for activities under this chapter and to fund an  
6 intergovernmental transfer described by Section 298H.103(c)(1).  
7 The annual amount of revenue from the mandatory payments used by the  
8 district may not exceed \$150,000, plus the cost of  
9 collateralization of deposits, regardless of actual expenses.

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

12       (f) A mandatory payment assessed under this chapter is not a  
13 tax for hospital purposes for purposes of Section 9, Article IX,  
14 Texas Constitution, or Section 1069.301, Special District Local  
15 Laws Code.

16       Sec. 298H.152. ASSESSMENT AND COLLECTION OF MANDATORY  
17 PAYMENTS. (a) The district may designate an official of the  
18 district or contract with another person to assess and collect the  
19 mandatory payments authorized under this chapter.

20       (b) The person charged by the district with the assessment  
21 and collection of the mandatory payments may not charge the  
22 district a fee for assessing and collecting the payments unless the  
23 district authorizes the fee in writing.

24       (c) If the person charged with the assessment and collection  
25 of the mandatory payments is an official of the district, any  
26 revenue from a fee authorized under Subsection (b) shall be  
27 deposited in the district general fund and, if appropriate, shall

1 be reported as fees of the district.

2 Sec. 298H.153. PURPOSE; CORRECTION OF INVALID PROVISION OR  
3 PROCEDURE; LIMITATION OF AUTHORITY. (a) The purpose of this  
4 chapter is to authorize the district to establish a program to  
5 enable the district to collect the mandatory payments from  
6 institutional health care providers to fund the nonfederal share of  
7 a Medicaid supplemental payment program or the Medicaid managed  
8 care rate enhancements for nonpublic hospitals to support the  
9 provision of health care by institutional health care providers to  
10 district residents in need of health care.

11 (b) This chapter does not authorize the district to collect  
12 the mandatory payments for the purpose of raising general revenue  
13 or any amount in excess of the amount reasonably necessary to:

14 (1) fund the nonfederal share of a Medicaid  
15 supplemental payment program or the Medicaid managed care rate  
16 enhancements for nonpublic hospitals; and

17 (2) cover the administrative expenses of the district  
18 associated with activities under this chapter and other uses of the  
19 fund described by Section 298H.103(c).

20 (c) 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,  
26 impose, 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  
2 chapter. This section does not require the board to adopt a rule.

3 (d) The district may only assess and collect a mandatory  
4 payment authorized under this chapter if a waiver program, rate  
5 enhancement, or reimbursement described by Section 298H.103(c)(1)  
6 is available for nonpublic hospitals located in the district.

7 SECTION 2. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2023.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 4700 was passed by the House on April 28, 2023, by the following vote: Yeas 117, Nays 26, 2 present, not voting.

\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 4700 was passed by the Senate on May 16, 2023, by the following vote: Yeas 30, Nays 1.

\_\_\_\_\_  
Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

\_\_\_\_\_  
Governor