

BILL ANALYSIS

C.S.H.B. 3708
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that under state and federal law, nonprofit hospitals are exempt from state and federal taxes as long as they give back to their communities by providing community benefit. According to the Lown Institute, the value of these tax exemptions nationally is estimated to be over \$25.7 billion. One of the community benefit requirements is setting forth a financial assistance policy, otherwise known as charity care. According to the Kaiser Family Foundation, based on income alone, over 9 million Texans could qualify for charity care. However, recent polling from WPA Intelligence found that 87 percent of Texans are unaware that non-profit hospitals are obligated to offer free or heavily discounted care through their financial assistance programs. A report published last December by the Texas Health and Human Services Commission (HHSC) suggests there is not adequate oversight to protect uninsured and low-income patients being sent to debt collections. C.S.H.B. 3708 seeks to maximize the number of Texans that can benefit from charity care by requiring nonprofit hospitals to screen every patient for its charity care policy, thus ensuring that fewer patients are mistakenly sent to debt collections.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 3708 amends the Health and Safety Code to require a nonprofit hospital that has not been designated as a disproportionate share hospital under the state Medicaid program or a facility in a hospital system that has not been designated as a disproportionate share hospital under the state Medicaid program to inform each patient of the existence of, and screen each patient for eligibility for, the hospital's or hospital system's charity program in accordance with the bill's provisions. The bill defines "charity program" as a hospital's or hospital system's financial assistance and charity care program.

C.S.H.B. 3708 prohibits such a nonprofit hospital or applicable hospital system from attempting to pursue collection of a patient's debt unless the hospital or hospital system verifies and documents that the patient is not eligible for the charity program. The bill requires the executive commissioner of the Health and Human Services Commission (HHSC) by rule to prescribe the process such a nonprofit hospital or hospital system must use to screen a patient for eligibility for a charity program and requires the rules to provide the following:

- that an applicable nonprofit hospital or hospital system:

- may not send a billing statement to a patient unless the hospital or hospital system has conducted the eligibility screening;
- must apply on the initial billing statement sent to a patient any charity care discount, health insurance coverage, or other health benefit to which the patient is entitled; and
- must include on each billing statement provided to a patient a notice stating:
 - that the hospital or hospital system has a charity program;
 - the contact information for the office or department of the hospital or hospital system that can provide information about the charity program; and
 - if applicable, the URL address of a website maintained by the hospital or hospital system where the patient can view the charity program.

C.S.H.B. 3708 authorizes a patient to apply to receive charity care from an applicable nonprofit hospital or hospital system regardless of whether the patient meets the following criteria:

- was screened for eligibility for the hospital's or hospital system's charity program and was determined to be ineligible for charity care; or
- disagrees with the amount of the charity care discount offered by the hospital or hospital system.

C.S.H.B. 3708 requires a nonprofit hospital or hospital system that becomes aware that the hospital or hospital system made an incorrect determination regarding the appropriate amount of a charity care discount to apply to a patient's account during the eligibility screening based on the information provided by the patient at the time of the initial determination to do the following:

- either:
 - refund to the patient the difference between the amount of the charity care discount the patient should have received and the amount of the charity care discount the patient actually received; or
 - if the patient has not made a payment to the hospital or hospital system, reduce the amount due on the patient's account by an amount equal to that amount; and
- reimburse the patient for any other associated reasonable costs, such as legal expenses and fees, incurred by the patient in securing charity care.

C.S.H.B. 3708 requires a hospital or hospital system, if the nonprofit hospital or hospital system sells a patient's debt to a collection agency or authorizes a collection agency to collect the patient's debt on behalf of the hospital or hospital system and later becomes aware that the amount of the patient's debt should be reduced, to notify the collection agency within a reasonable period of time of the hospital's or hospital system's determination and the correct amount of the debt.

C.S.H.B. 3708 provides for the following if HHSC determines that a nonprofit hospital or hospital system has failed to comply with a provision under the bill's provisions relating to charity care screenings:

- on the first violation, a requirement for HHSC to institute a corrective action plan for the hospital or hospital system and publish the plan on the commission's website;
- on the second violation, a requirement for HHSC to provide written notice to the hospital or hospital system that, if the hospital or hospital system fails to take action to correct the failure to comply within the 90-day period following the date on which the notice is provided, the commission may impose an administrative penalty of not less than \$250,000 on the hospital or hospital system; and
- on the third violation, a requirement for HHSC to notify the attorney general of the hospital's or hospital system's repeated failure to comply with the applicable requirements, after which the attorney general must investigate the matter and, if appropriate, bring an action to declare the hospital or hospital system ineligible for the

tax exemptions described under statutory provisions relating to the duty of nonprofit hospitals to provide community benefits.

C.S.H.B. 3708 requires the executive commissioner of HHSC to adopt the rules required by the bill's provisions relating to charity care screenings not later than December 1, 2025, and establishes that those provisions apply only to a patient that is screened for purposes under the bill's provisions on or after January 1, 2026.

C.S.H.B. 3708 requires a nonprofit hospital or hospital system, when calculating net patient revenue for charity care and community benefits, to include the revenue of each of its facilities and practices offering medical services that are located in Texas and under the common governance of a single corporate parent, regardless of the facility's or practice's distance from the corporate parent, excepting any facility or practice that has been designated as a disproportionate share hospital under the state Medicaid program. This provision applies only to a fiscal year of a hospital or hospital system that begins on or after the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3708 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced applied to a non-disproportionate share hospital, the substitute applies to nonprofit hospitals or facilities in a nonprofit hospital system that are not designated as disproportionate share hospitals under Medicaid.

Whereas the introduced required a hospital to screen all patients for eligibility of the hospital's financial assistance program and charity care policy, the substitute requires an applicable hospital or hospital system to inform each patient of the existence of, and screen each patient for eligibility for, the hospital or system's charity program. While both the introduced and substitute provide prohibitions against pursuing debt collections until the verification of a patient's ineligibility for the applicable charity program, the substitute also prohibits a hospital or hospital system from pursuing debt collection unless the hospital or hospital system documents that ineligibility.

The introduced included provisions that did the following:

- required the executive commissioner of HHSC to adopt by rule the process for screening a patient for eligibility for charity care;
- required those rules and process to require a hospital to do the following:
 - before sending a bill to the patient, to conduct the screening and apply any charity care discounts or full cost coverage for which the patient qualifies; and
 - include on each billing statement notice of:
 - the availability of financial assistance;
 - the contact information for the office or department of the hospital that can provide information about obtaining financial assistance; and
 - the direct Internet address for the financial assistance policy.

The substitute omits those provisions and instead includes provisions that do the following:

- require the executive commissioner of HHSC by rule to prescribe the process a nonprofit hospital or hospital system must use to screen a patient for eligibility for a charity program; and
- require those rules to provide that a nonprofit hospital or hospital system, as follows:
 - may not send a billing statement to a patient unless the hospital or hospital system has conducted the eligibility screening;

- must apply on the initial billing statement sent to a patient any charity care discount, health insurance coverage, or other health benefit to which the patient is entitled; and
- must include on each billing statement provided to a patient a notice stating:
 - that the hospital or hospital system has a charity program;
 - the contact information for the office or department of the hospital or hospital system that can provide information about the charity program; and
 - if applicable, the URL address of a website maintained by the hospital or hospital system where the patient can view the charity program.

Whereas the introduced required a hospital to take certain actions if the hospital makes an incorrect determination while screening a patient for eligibility of the charity care, including to refund the amount of charity care for which the patient qualified, the substitute requires the hospital or hospital system to take those actions if the hospital or system makes such a determination at the time of the initial screening, including refunding the patient the difference between the amount of the charity care discount the patient should have received and the amount of the charity care discount the patient actually received and to reduce the amount due on the patient's account by an amount equal to the amount of the refund, if the patient has not made a payment to the hospital or system.

Whereas the introduced required a hospital, if the hospital sold debt based on an incorrect determination to a collection agency or authorized a collection agency to collect the debt on behalf of the hospital, to notify the collection agency that the debt is invalid, the substitute requires a hospital or system, if the hospital or hospital system sells a patient's debt to a collection agency or authorizes a collection agency to collect the patient's debt on behalf of the hospital or hospital system and later becomes aware that the amount of the patient's debt should be reduced, notify the collection agency within a reasonable period of time of the hospital's or hospital system's determination and the correct amount of the debt.

Whereas the introduced required HHSC, upon a hospital's second violation of the bill's provisions, to apply an administrative penalty of not less than \$250,000 and apply a probationary period of not more than 90 days, after which HHSC is required to confirm that the hospital is in compliance, the substitute requires HHSC, on a hospital or hospital system's such second violation, to provide written notice to the hospital or system that, if the hospital or system fails to take action to correct the failure to comply within the 90-day period following the date on which the notice is provided, HHSC may impose an administrative penalty of not less than \$250,000 on the hospital or system. The bill includes a requirement absent from the introduced for the attorney general, on a hospital or hospital system's third violation, to investigate the repeated failure to comply with the bill's provisions.

The substitute includes provisions absent from the introduced that do the following:

- define "charity program," "commission," and "executive commissioner";
- require the executive commissioner of HHSC, not later than December 1, 2025, to adopt the rules required under bill's charity care screening provisions; and
- establish that those provisions apply only to a patient that is screened on or after January 1, 2026.

Whereas the introduced required a hospital or hospital system, when calculating net patient revenue, to include the revenue of each of its facilities and practices offering medical services that are located in Texas and under the common governance of a single corporate parent, regardless of the facility's or practice's distance from the corporate parent, the substitute requires a nonprofit hospital or hospital system, when calculating net patient revenue for charity care and community benefits, to include the revenue of each of its facilities and practices offering medical services that are located in Texas and under the common governance of a single corporate parent, regardless of the facility's or practice's distance from the corporate parent, excepting any

facility or practice that has been designated as a disproportionate share hospital under the state Medicaid program. The substitute omits a requirement from the introduced for all facilities required to include such revenue when calculating net patient revenue to comply with applicable charity care screening requirements. The substitute includes a corresponding procedural provision that was absent from the introduced.