By: Hall S.B. No. 448

A BILL TO BE ENTITLED

AN ACT

relating to hospital reporting requirements regarding suspected child abuse, exploitation, or neglect; authorizing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 241, Health and Safety Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. CHILD ABUSE, EXPLOITATION, OR NEGLECT REPORTING REQUIREMENTS

Sec. 241.451. SUSPECTED CHILD ABUSE, EXPLOITATION, OR NEGLECT REPORTS. (a) In this section, "abuse," "exploitation," and "neglect" have the meanings assigned by Section 261.001, Family Code.

(b) Not later than the fifth day of each month, a hospital shall submit a report to the commission containing the following information:

(1) the number of reports made during the preceding month by the hospital or an agent or employee of the hospital to the Department of Family and Protective Services under Chapter 261, Family Code, regarding alleged or suspected abuse, exploitation, or neglect of a child;

(2) whether the hospital informed the parent, legal guardian, managing conservator, or possessory conservator of a child who is the subject of a report described by Subdivision (1)

that the parent, legal guardian, managing conservator, or possessory conservator may obtain an alternative opinion regarding the appropriate course of medical treatment for the child; and

(3) any code indicating alleged or suspected abuse, exploitation, or neglect that the hospital used for purposes of diagnosing or treating a child who is the subject of a report described by Subdivision (1), including, as applicable, the Current Procedural Terminology (CPT) code, the Diagnosis Related Group (DRG) code, the International Classification of Diseases (ICD) code, or another common identifier.

(c) A hospital shall attach to each report submitted under Subsection (b) a signed affidavit from each person who made a report regarding alleged or suspected abuse, exploitation, or neglect of a child during the period covered by the report. The affidavit must include the name of the person who made the report and a statement establishing whether the report was made based on the person's direct observation of the child, based on information provided to the person by an employee or agent of the hospital, or at the direction of an agent or employee of the hospital. The information contained in an affidavit required under this subsection is confidential and not subject to disclosure under Chapter 552, Government Code.

(d) If the information required to be included in the report under Subsection (b)(3) is not available at the time a report is submitted, the hospital shall include that information in the next report required to be submitted by the hospital after the date the information required by that subdivision becomes available and

attach to that next report any affidavit described by Subsection (c) related to that information.

(e) A hospital shall submit the report required under Subsection (b) in the form and manner prescribed by commission rule.

Sec. 241.452. ADMINISTRATIVE PENALTY. (a) The commission shall impose an administrative penalty on a hospital that violates Section 241.451.

(b) Before imposing an administrative penalty on a hospital under Subsection (a), the commission must provide written notice to the hospital that:

(1) the hospital is in violation of Section 241.451 because the hospital has failed to timely submit a report required under that section;

(2) the hospital has 15 days to submit the required report; and

(3) if the hospital does not submit the required report within 15 days of receiving notice of the violation, the hospital will be subject to an administrative penalty for each day the violation continues.

(c) The commission shall set an administrative penalty imposed under this section in an amount sufficient to ensure compliance by hospitals with Section 241.451, subject to the limitations prescribed by Subsection (d).

(d) For a hospital with one of the following total gross revenues as reported to the Centers for Medicare and Medicaid Services or to another entity designated by commission rule in the

year preceding the year in which an administrative penalty is imposed under this section, the penalty imposed by the commission may not exceed:

(1) $10 for each day the hospital violates Section 241.451, beginning on the 16th day after the date the hospital received notice from the commission, if the hospital's total gross revenue is less than $10 million;

(2) $100 for each day the hospital violates Section 241.451, beginning on the 16th day after the date the hospital received notice from the commission, if the hospital's total gross revenue is $10 million or more and less than $100 million; and

(3) $1,000 for each day the hospital violates Section 241.451, beginning on the 16th day after the date the hospital received notice from the commission, if the hospital's total gross revenue is $100 million or more.

(e) Each day a violation continues is considered a separate violation.

(f) Notwithstanding any other provision of this section, an administrative penalty ceases to be incurred on the date a violation is corrected.

(g) In determining the amount of an administrative penalty to impose on a hospital under this section, the commission shall consider:

(1) previous violations by the hospital;

(2) the seriousness of the violation;

(3) the demonstrated good faith of the hospital; and

(4) any other matters as justice may require.

(h) An administrative penalty collected under this section shall be deposited to the credit of an account in the general revenue fund administered by the commission. Money in the account may be appropriated only to the commission.

Sec. 241.453. SUMMARY REPORT. (a) The commission shall submit a written quarterly report to the legislature summarizing the content of the reports submitted to the commission under Section 241.451(b) during the preceding quarter.

(b) Subject to Subsection (c), the report submitted under Subsection (a) may not contain the personally identifying information of:

(1) a child who is the subject of a report submitted to the commission under Section 241.451(b);

(2) the parent, legal guardian, managing conservator, or possessory conservator of a child who is the subject of a report described by Subdivision (1); or

(3) the person who assigned or caused to be assigned a code described by Section 241.451(b)(3).

(c) A member of the legislature may request from the commission a copy of a report submitted under Subsection (a) that includes the information protected from disclosure under Subsection (b) if the member signs a confidentiality agreement regarding that information.

Sec. 241.454. RULES. The executive commissioner shall adopt rules necessary to implement this subchapter.

SECTION 2. (a) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human

Services Commission shall adopt the rules required under Section 241.454, Health and Safety Code, as added by this Act.

(b) A hospital to which Subchapter N, Chapter 241, Health and Safety Code, as added by this Act, applies is not required to comply with that subchapter until September 1, 2027.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.