

By: Hinojosa

S.B. No. 2315

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of a health care provider participation program by the Nueces 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. NUECES COUNTY HOSPITAL DISTRICT HEALTH CARE PROVIDER

PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

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

(1) "Board" means the board of hospital managers of the district.

(2) "District" means the Nueces 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. 298C.002. APPLICABILITY. This chapter applies only to the Nueces County Hospital District.

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

6 Sec. 298C.004. EXPIRATION. (a) Subject to Section
7 298C.153(d), the authority of the district to administer and
8 operate a program under this chapter expires December 31, 2021.

9 (b) This chapter expires December 31, 2021.

10 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

11 Sec. 298C.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
12 PAYMENT. The board may require a mandatory payment authorized
13 under this chapter by an institutional health care provider in the
14 district only in the manner provided by this chapter.

15 Sec. 298C.052. RULES AND PROCEDURES. The board may adopt
16 rules relating to the administration of the program, including
17 collection of the mandatory payments, expenditures, audits, and any
18 other administrative aspects of the program.

19 Sec. 298C.053. INSTITUTIONAL HEALTH CARE PROVIDER
20 REPORTING. If the board authorizes the district to participate in a
21 program under this chapter, the board shall require each
22 institutional health care provider to submit to the district a copy
23 of any financial and utilization data required by and reported to
24 the Department of State Health Services under Sections [311.032](#) and
25 [311.033](#) and any rules adopted by the executive commissioner of the
26 Health and Human Services Commission to implement those sections.

27 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

6 (b) Not later than the fifth day before the date of the
7 hearing required under Subsection (a), the board shall publish
8 notice of the hearing in a newspaper of general circulation in the
9 district and provide written notice of the hearing to each
10 institutional health care provider in the district.

11 Sec. 298C.102. DEPOSITORY. (a) If the board requires a
12 mandatory payment authorized under this chapter, the board shall
13 designate one or more banks as a depository for the district's local
14 provider participation fund.

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

17 Sec. 298C.103. LOCAL PROVIDER PARTICIPATION FUND;
18 AUTHORIZED USES OF MONEY. (a) If the district requires a mandatory
19 payment authorized under this chapter, the district shall create a
20 local provider participation fund.

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

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

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

1 (3) the earnings of the fund.

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

4 (1) fund intergovernmental transfers from the
5 district to the state to provide the nonfederal share of Medicaid
6 payments for:

7 (A) uncompensated care payments to nonpublic
8 hospitals affiliated with the district, if those payments are
9 authorized under the Texas Healthcare Transformation and Quality
10 Improvement Program waiver issued under Section 1115 of the federal
11 Social Security Act (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 under another waiver
16 program authorizing payments that are substantially similar to
17 Medicaid payments to nonpublic hospitals described by Subdivision
18 (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 district in administering the
23 program, including collateralization of deposits;

24 (3) refund a mandatory payment collected in error from
25 a paying provider;

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

1 (A) receives from the Health and Human Services
2 Commission that is not used to fund the nonfederal share of Medicaid
3 supplemental payment program payments; or

4 (B) determines cannot be used to fund the
5 nonfederal share of Medicaid supplemental payment program
6 payments;

7 (5) transfer funds to the Health and Human Services
8 Commission if the district is legally required to transfer the
9 funds to address a disallowance of federal matching funds with
10 respect to programs for which the district made intergovernmental
11 transfers described by Subdivision (1); and

12 (6) reimburse the district if the district is required
13 by the rules governing the uniform rate enhancement program
14 described by Subdivision (1)(B) to incur an expense or forego
15 Medicaid reimbursements from the state because the balance of the
16 local provider participation fund is not sufficient to fund that
17 rate enhancement program.

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

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

25 (1) expand Medicaid eligibility under the Patient
26 Protection and Affordable Care Act (Pub. L. No. 111-148) as amended
27 by the Health Care and Education Reconciliation Act of 2010 (Pub. L.

1 No. 111-152); or

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

6 SUBCHAPTER D. MANDATORY PAYMENTS

7 Sec. 298C.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER
8 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), if
9 the board authorizes a health care provider participation program
10 under this chapter, the board may require an annual mandatory
11 payment to be assessed on the net patient revenue of each
12 institutional health care provider located in the district. The
13 board may provide for the mandatory payment to be assessed
14 quarterly. In the first year in which the mandatory payment is
15 required, the mandatory payment is assessed on the net patient
16 revenue of an institutional health care provider as determined by
17 the data reported to the Department of State Health Services under
18 Sections 311.032 and 311.033 in the most recent fiscal year for
19 which that data was reported. If the institutional health care
20 provider did not report any data under those sections, the
21 provider's net patient revenue is the amount of that revenue as
22 contained in the provider's Medicare cost report submitted for the
23 previous fiscal year or for the closest subsequent fiscal year for
24 which the provider submitted the Medicare cost report. If the
25 mandatory payment is required, the district shall update the amount
26 of the mandatory payment on an annual basis.

27 (b) The amount of a mandatory payment authorized under this

1 chapter must be uniformly proportionate with the amount of net
2 patient revenue generated by each paying provider in the district
3 as permitted under federal law. A health care provider
4 participation program authorized under this chapter may not hold
5 harmless any institutional health care provider, as required under
6 42 U.S.C. Section 1396b(w).

7 (c) If the board requires a mandatory payment authorized
8 under this chapter, the board shall set the amount of the mandatory
9 payment, subject to the limitations of this chapter. The aggregate
10 amount of the mandatory payments required of all paying providers
11 in the district may not exceed six percent of the aggregate net
12 patient revenue from hospital services provided by all paying
13 providers in the district.

14 (d) Subject to Subsection (c), if the board requires a
15 mandatory payment authorized under this chapter, the board shall
16 set the mandatory payments in amounts that in the aggregate will
17 generate sufficient revenue to cover the administrative expenses of
18 the district for activities under this chapter and to fund an
19 intergovernmental transfer described by Section 298C.103(c)(1).
20 The annual amount of revenue from mandatory payments that shall be
21 paid for administrative expenses by the district is \$150,000, plus
22 the cost of collateralization of deposits, regardless of actual
23 expenses.

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

26 (f) A mandatory payment assessed under this chapter is not a
27 tax for hospital purposes for purposes of Section 4, Article IX,

1 Texas Constitution, or Section 281.045.

2 Sec. 298C.152. ASSESSMENT AND COLLECTION OF MANDATORY
3 PAYMENTS. (a) The district may designate an official of the
4 district or contract with another person to assess and collect the
5 mandatory payments authorized under this chapter.

6 (b) The person charged by the district with the assessment
7 and collection of mandatory payments shall charge and deduct from
8 the mandatory payments collected for the district a collection fee
9 in an amount not to exceed the person's usual and customary charges
10 for like services.

11 (c) If the person charged with the assessment and collection
12 of mandatory payments is an official of the district, any revenue
13 from a collection fee charged under Subsection (b) shall be
14 deposited in the district general fund and, if appropriate, shall
15 be reported as fees of the district.

16 Sec. 298C.153. PURPOSE; CORRECTION OF INVALID PROVISION OR
17 PROCEDURE; LIMITATION OF AUTHORITY. (a) The purpose of this chapter
18 is to authorize the district to establish a program to enable the
19 district to collect mandatory payments from institutional health
20 care providers to fund the nonfederal share of a Medicaid
21 supplemental payment program or the Medicaid managed care rate
22 enhancements for nonpublic hospitals to support the provision of
23 health care by institutional health care providers to district
24 residents in need of health care.

25 (b) This chapter does not authorize the district to collect
26 mandatory payments for the purpose of raising general revenue or
27 any amount in excess of the amount reasonably necessary to fund the

1 nonfederal share of a Medicaid supplemental payment program or
2 Medicaid managed care rate enhancements for nonpublic hospitals and
3 to cover the administrative expenses of the district associated
4 with activities under this chapter.

5 (c) To the extent any provision or procedure under this
6 chapter causes a mandatory payment authorized under this chapter to
7 be ineligible for federal matching funds, the board may provide by
8 rule for an alternative provision or procedure that conforms to the
9 requirements of the federal Centers for Medicare and Medicaid
10 Services. A rule adopted under this section may not create, impose,
11 or materially expand the legal or financial liability or
12 responsibility of the district or an institutional health care
13 provider in the district beyond the provisions of this chapter.
14 This section does not require the board to adopt a rule.

15 (d) The district may only assess and collect a mandatory
16 payment authorized under this chapter if a waiver program, uniform
17 rate enhancement, or reimbursement described by Section
18 298C.103(c)(1) is available to the district.

19 SECTION 2. As soon as practicable after the expiration of
20 the authority of the Nueces County Hospital District to administer
21 and operate a health care provider participation program under
22 Chapter 298C, Health and Safety Code, as added by this Act, the
23 board of hospital managers of the Nueces County Hospital District
24 shall transfer to each institutional health care provider in the
25 district that provider's proportionate share of any remaining funds
26 in any local provider participation fund created by the district
27 under Section 298C.103, Health and Safety Code, as added by this

1 Act.

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

8 SECTION 4. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2019.