

# Nueces County Hospital District

## 88<sup>th</sup> Texas Legislative Priorities

Draft – November 17, 2022

### Local Priorities

#### **L1. Support Establishment of Authority for Individual Commissioners to Appoint Board of Managers Members**

Under current statutes, the full local Commissioners Court appoints members to the Nueces County Hospital District's Board of Managers; Commissioners do not have the authority to make individual appointments to the Board.

NCHD Supports:

- [Option 1] Adoption of local statutes allowing for each of the five Commissioners Court members to make an appointment to the Board of Managers and for the full court to make the remaining two appointments.
- [Option 2] Adoption of local statutes allowing Commissioners Court members to rotate making appointments to the Board of Managers.

#### **L2. Support Establishment of Qualifications for Board of Managers Appointments**

There are no statutes governing the qualifications of office for individuals to be appointed by Commissioners Court to the Nueces County Hospital District's Board of Managers.

NCHD Supports:

- Adoption of local statutes establishing qualifications for appointment to the Board of Managers. The statutes should provide that Commissioners Court may not appoint a person to the Board if the person is: (1) not a County resident; (2) an employee of the Hospital District; (3) an employee of Nueces County; (4) an employee of any town, municipality, or City located within the District's boundaries; (5) employee of any institutional health care provider located in the District, as such provider is defined in Chapter 298C, Texas Health and Safety Code; and (6) related within the third degree of consanguinity or affinity, as determined under Subchapter B, Chapter 573, Government Code, to a member of the Commissioners Court or to a person described in (1), (2), or (3) above.

#### **L3. Support Issuance of Certificates of Appointment for Board of Managers**

Currently, when persons are appointed by Commissioners Court to the Nueces County Hospital District's Board of Managers they receive an appointment letter from the County Judge. Conclusive evidence of an appointment to the Board of Managers should be established.

NCHD Supports:

- Adoption of local statutes providing for conclusive evidence of Commissioners Court's appointment of a person to the Board of Managers. Conclusive evidence of the appointment of a Board of Managers member should state on a Certificate of Appointment the appointee's (1) legal name; (2) physical address; (3) effective date of appointment; (4) term of appointment; (5) ending date of appointment; (6) conditions of the appointment or removal; and (7) Commissioners Court's place number. The Certificate of Appointment should be signed by the entire Commissioners Court, sealed to authenticate the Court's act, and filed with the County Clerk

#### **L4. Support Establishment of Conditions for Board of Manager's Member Removal**

There are no statutes governing the removal of individuals appointed to the Nueces County Hospital District's Board of Managers.

NCHD Supports:

- Adoption of local statutes establishing conditions for removal of existing Board of Managers members. The statutes should provide that members of the Board are considered to have resigned the member's position if the member: (1) is absent from all the regularly scheduled Board and Committee meetings that the member is eligible to attend during a 90-day period; (2) is absent from more than half of the regularly scheduled Board and Committee meetings that the member is eligible to attend during a 12-month period; or (3) fails to pay County ad valorem taxes.

#### **L5. Support Expansion of Use of Hospital District Funds to Provide for Capital Projects**

Currently, with the approval of Commissioners Court, the Nueces County Hospital District's Board of Managers may use non-tax funds to fund health care services, including public health services, mental health and mental retardation services, emergency medical services, health services provided to persons confined to jail facilities, and for other health related purposes. Additionally, the Hospital District may use funds from any source to fund indigent healthcare and intergovernmental transfers for Medicaid supplemental payment programs. However, the statute does not provide for use of Hospital District funds for capital project purposes.

NCHD Supports:

- Expansion of Section 281.094, Health and Safety Code, to provide for use of any Hospital District funds for (1) acquisition of land, buildings, and equipment; (2) construction and equipping District facilities; and (3) payment of outstanding bond, refunding bonds, and certificates of obligation indebtedness.

## **L6. Support Identification of State Resources or Local Methods for Services Funded by Hospital District**

The Hospital District provides funding for non-indigent health care expenses, including public health, mental health and substance abuse treatment programs, emergency medical services, and health services provided to persons in jail facilities.

NCHD Supports:

- Identification of state resources or local methods which may require voter approval that provide funding for non-indigent health care expenses, including public health, mental health and substance abuse treatment programs, emergency medical services, and health services provided to persons in jail facilities.

## **L7. No Support of Unfunded or Underfunded Mandates and Policies Contrary to Hospital District and Local Hospital Provider's Interests**

Occasionally, unfunded and underfunded mandates and policies contrary to the Hospital District's interests are passed down from higher levels of government to lower levels.

NCHD Does Not Support:

- Unfunded or underfunded mandates.
- Policies contrary to the Hospital District and local hospital provider's interests.

## **Statewide Priorities**

### **S1. Support Access to Behavioral Health Services**

While the 87<sup>th</sup> Legislature appropriated additional funding for behavioral health services and facilities, timely access to these services continues to be a barrier for some individuals, including children and adolescents.

NCHD Supports:

- Continuing investments in the state's mental health workforce.
- Ongoing initiatives to increase psychiatric beds, including additional community, forensic, and state hospital beds.
- Maintaining funding to ensure access to inpatient and outpatient behavioral health services.
- Creating proof of concept funding for adult behavioral healthcare resources similar to Child Psychiatry Access Network and Texas Child Health Access Telemedicine.

### **S2. Safeguard Local Health Care Systems and Public Health Response**

Safeguard the ability of hospital districts to meet current, known healthcare needs and to plan for and invest in responsiveness to unexpected needs.

NCHD Supports:

- Upholding the Special Taxing Unit exemption for hospital districts at the current eight percent rollback rate.
- Preserving hospital districts' current bond and certificate of obligation authority.
- Preserving hospital district's eminent domain authority.

### **S3. Safeguard Ability to Use Local Provider Participation Funds (LPPFs)**

Safeguard the ability of hospital districts to generate Local Provider Participation Funds (LPPFs) for support of Health and Human Service Commission-sponsored Medicaid supplemental and directed payment programs.

NCHD Supports:

- Preserving the authority of local hospital districts to require Local Provider Participation Funds for intergovernmental transfers from inpatient hospital providers in their jurisdictions to provide matching funds for state-sponsored Medicaid supplemental and directed payment programs.
- Initiatives to increase transparency of sources for funds used for intergovernmental transfers.

#### **S4. Safeguard Trauma Center Funding and Emergency Preparedness**

The Texas trauma system provides critical infrastructure to respond to mass casualty events, significant weather events, and pandemics as well as heart attacks, strokes, and other individual accidents and injuries, such as motor vehicle crashes. Level I-designated trauma centers provide the highest level of trauma care, have 24/7 responsiveness and are central to a coordinated, statewide trauma response. Additionally, Level-II-designated trauma centers provide decisive care for all injured patients and offers immediate coverage by many specialists including general surgeons, orthopedic surgeons, neurosurgeons, and critical care.

NCHD Supports:

- Maintaining Texas trauma center funding at last biennium's level, at a minimum, including the trauma, rural, and safety-net hospital add-ons.

#### **S5. Stabilize and Strengthen Care Delivery and Innovation**

Ensuring the recovery and long-term stability of local hospital and health system's services, patient care, and community investments. Following three years of COVID-19 response and two years of uncertainty stemming from ongoing negotiations between the state and federal governments and changes in Texas' 1115 waiver and directed payment programs, Texas' hospitals and health systems are restabilizing and operating in a changed healthcare environment. Financing changes, increasing costs, inflationary pressures, ongoing workforce disruptions and shortages, along with the anticipated end of the public health emergency and continuous Medicaid enrollment will shift more Texans into indigent health care systems.

NCHD Supports:

- Preserving state general revenue to ensure stability for the Medicaid program.
- Continuing transparency in Medicaid hospital payments and policies.
- Investing in Medicaid funding to achieve funding parity among hospital types and to target funding for critical safety net system priorities and services.
- Continuing provider-enabled innovation and value-based adaptations to improve access and outcomes, including telehealth/telemedicine, audio only for non-behavioral health services, and the hospital at home program.
- Supporting equity in local financing solutions, such as local provider participation funds to support Medicaid payments.
- Protecting 340B participating hospitals from differential contracting and reimbursement practices by third-party payers.

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**Sample Bill Text**

**L5. Support Expansion of Use of District Funds to Provide for  
Capital Projects**

A BILL TO BE ENTITLED

AN ACT

relating to use of district funds by the Nueces County Hospital District.

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

SECTION 1. Section 281.094, Health and Safety Code, is amended to read as follows:

USE OF ~~CERTAIN~~ FUNDS BY THE NUECES COUNTY HOSPITAL DISTRICT.

(a) With the approval of the Nueces County Commissioners Court, the board of the Nueces County Hospital District may use funds made available to the district from sources other than a tax levy to fund health care services for residents of the district, including public health services, mental health ~~and mental retardation~~ services, emergency medical services, health services provided to persons confined in county-owned jail and juvenile detention facilities, and for other health related purposes.

(b) The board of the Nueces County Hospital District may use funds made available to the district from any source to fund:

(1) indigent health care; ~~and~~

(2) intergovernmental transfers from the district to the state for use as the nonfederal share of Medicaid supplemental payment program or waiver program payments for eligible health care providers located inside or outside the district's boundaries, including, but not limited to, any payments available

through a waiver granted under Section 1115, Social Security Act (42 U.S.C. Section 1315), or other similar payment programs, subject to the limitation prescribed by Subsection (c) ~~÷~~ i

(3) acquisition of land, buildings, and equipment for district purposes;

(4) construction and equipping of district facilities;

(5) outstanding indebtedness of bonds, refunding bonds, and certificates of obligation of the district;

(6) operation and maintenance of district facilities;  
and

(7) operations of the district.

(c) Neither the funds comprising an intergovernmental transfer described by Subsection (b)(2) nor any federal funds obtained from any such transfer may be used by the board of the Nueces County Hospital District or any entity to expand eligibility for medical assistance (Medicaid) under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

(d) The local provider participation funds held by the district pursuant to Chapter 298C, Health and Safety Code, may not be used by the District to fund the provisions of Subsections (a) and (b).



SECTION 2. 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, 2023.

**Sample Bill Text**

**S3. Safeguard Ability to Use Local Provider Participation Funds  
(LPPFs)**

By: \_\_\_\_\_

.B. No. \_\_\_\_\_

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 health care funding district established under Chapter 288, a health care provider participation district created under Chapter 300A, or a county, a municipality, or a hospital district, and to which this chapter applies under Section 300B.0002.

Sec. 300B.0002. APPLICABILITY. (a) This chapter applies only to a qualifying local government that is participating in a health care provider participation program authorized by another chapter of this subtitle.

(b) A qualifying local government may elect to use the provisions of this chapter, only for the health care provider participation program which the qualifying local government

administers, but is not required to do so.

(c) All changes made by a qualifying local government under this chapter, before taking effect, must be approved using the processes established by the specific subchapter of the Texas Health and Safety Code authorizing the qualifying local government's health care provider participation fund to set a mandatory payment rate, including any corresponding local notice and hearing requirements concerning such rate settings.

Sec. 300B.0003. POPULATION REQUIREMENTS. Population references in chapters of the Texas Health and Safety Code that authorized qualifying local governments to create a health care provider participation program refer to the authority to create a health care provider participation program and not the authority to administer and operate a health care provider participation program. If the population of a qualifying local government based on a subsequent federal decennial census exceeds limits in the chapter authorizing the qualifying local government to create a health care provider participation program, the authority of the qualifying local government to continue to administer and operate a previously created health care provider participation program is unchanged.

Sec. 300B.0004. ASSESSMENT BASIS. (a) The governing body of a qualifying local government may require mandatory payments to be assessed against each institutional health care provider located in the qualifying local government on the basis of either:

(1) the mandatory payment basis that is expressly established by the specific subchapter of the Texas Health and Safety Code authorizing the qualifying local government's health care provider participation fund to set a mandatory payment rate; or

(2) any other basis permitted by 42 U.S.C. Section 1396b(w)(3), except that nothing in this section authorizes a bed

tax or any other tax under Texas law.

(b) This section does not otherwise alter or expand the authority of a qualifying local government to assess or use mandatory payments.

(c) The aggregate amount of the mandatory payments required of all paying providers in the qualifying local government's health care provider participation program may not exceed six percent of the aggregate net patient revenue from hospital services provided in the qualifying local government's jurisdiction..

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

Sec. 300B.0006. REQUEST FOR CERTAIN RELIEF. (a) The governing body of a qualifying local government may request that the Health and Human Services Commission submit a request to the Centers for Medicare and Medicaid Services for relief under 42 C.F.R. Section 433.72 to assure efficient administration, transparency, and federal compliance.

(b) If the request for relief is granted by the Centers for Medicare and Medicaid Services, the governing body of the qualifying local government may act in compliance with the terms of such relief, notwithstanding provisions of this subtitle or other law that otherwise would require mandatory payments be uniform and broad based.

Sec. 300B.0007. EXTENSION OF EXPIRATION DATE. (a) All references to "2023" are hereby changed to "2025" in the following sections of the Health and Safety Code:

(1) Section 292C.004;

(2) Section 298E.004; and

(3) Section 299.004.

(b) All references to "2023" are hereby changed to "2027" in the following sections of the Health and Safety Code:

(1) Section 298F.004; and

(2) Section 298G.

Sec. 300B.0008. INTEREST AND PENALTIES. A qualifying local government may impose and collect interest charges and penalties on delinquent mandatory payments imposed under a health care provider participation program authorized by that qualifying local government in amounts up to the maximum authorized for any other delinquent payment required to be made to the qualifying local government.

SECTION 2. Subsection (2) of Section 300.0003, Health and Safety Code, is amended to strike paragraph (B).

SECTION 3. Section 300.0155, Health and Safety Code, is amended to read as follows:

Sec. 300.0155. EXPIRATION OF AUTHORITY. (a) The authority of a local government to administer and operate a program under this chapter expires on September 1 following the second anniversary of the date the governing body of the local government adopted the order or ordinance authorizing the local government to participate in the program as provided by Section 300.0004.

(b) Subsection (a) of this section applies only when a local government has the authority to create a health care provider participation program under another chapter of this subtitle, regardless of whether a local government has exercised such

authority.

SECTION 4. Chapter 300A, Health and Safety Code, is amended to strike Section 300A.0155.

SECTION 5. 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, 2023.