

By _____

__B. No. ____

1 AN ACT
2 relating to the creation and operations of health care provider
3 participation programs in Nueces County Hospital District.

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

5 SECTION 1. Subtitle D, Title 4, Health and Safety Code, is
6 amended by adding Chapter ____ to read as follows:

7 CHAPTER ____ . NUECES COUNTY HOSPITAL DISTRICT HEALTH CARE PROVIDER
8 PARTICIPATION PROGRAM

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. ____ .001. DEFINITIONS. In this chapter:

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

12 (2) "District" means the Nueces County Hospital
13 District.

14 (3) "Institutional health care provider" means a
15 hospital located in Nueces County that provides inpatient hospital
16 services.

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

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

21 (6) "Year" means the state fiscal year.

22 Sec. ____ .002. APPLICABILITY. This chapter applies to the
23 Nueces County Hospital District.

1 Sec. ____003. HEALTH CARE PROVIDER PARTICIPATION PROGRAM;
2 PARTICIPATION IN PROGRAM. The board may authorize the district to
3 participate in a program on the affirmative vote of the majority of
4 the board, subject to the provisions of this chapter.

5 Sec. ____004. EXPIRATION. (a) The authority of the district
6 to administer and operate a program under this chapter expires
7 December 31, 2023.

8 (b) This chapter expires December 31, 2023.

9 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

10 Sec. ____051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
11 PAYMENT. The board may require a mandatory payment authorized
12 under this chapter by an institutional health care provider in the
13 manner provided by this chapter.

14 Sec. ____052. RULES AND PROCEDURES. The board may adopt
15 rules relating to the administration of the program, including
16 collection of the mandatory payments, expenditures, audits, and any
17 other administrative aspects of the program.

18 Sec. ____053. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING.
19 If the board authorizes the district to participate in a program
20 under this chapter, the board shall require each institutional
21 health care provider to submit to the district a copy of any
22 financial and utilization data required by and reported to the
23 Department of State Health Services under Sections 311.032 and
24 311.033 and any rules adopted by the executive commissioner of the

1 Health and Human Services Commission to implement those sections.

2 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

3 Sec. ____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
7 derived 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
11 Nueces County and give written notice of the hearing to each paying
12 provider.

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

17 Sec. ____102. DEPOSITORY. (a) If the board requires a
18 mandatory payment authorized under this chapter, the board shall
19 designate one or more banks as a depository for the district's
20 local provider participation fund.

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

23 Sec. ____103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED
24 USES OF MONEY. (a) If the district requires a mandatory payment

1 authorized under this chapter, the district shall create a local
2 provider participation fund.

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

4 (1) all revenue received by the district attributable to
5 mandatory payments authorized under this chapter, including any
6 penalties and interest collected pursuant to Section __.153;

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

11 (3) the earnings of the fund.

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

14 (1) fund intergovernmental transfers from the district
15 to the state to provide the nonfederal share of Medicaid payments
16 for:

17 (A) uncompensated care payments and delivery system
18 incentive reform payments to hospitals affiliated with the
19 district, if those payments are authorized under the Texas
20 Healthcare Transformation and Quality Improvement Program waiver
21 issued under Section 1115 of the federal Social Security Act (42
22 U.S.C. Section 1315);

23 (B) uniform rate enhancements for hospitals in the
24 Medicaid managed care service area in which the district is

1 located;

2 (C) payments available under another waiver program
3 authorizing payments that are substantially similar to Medicaid
4 payments to hospitals described by Subdivision (A) or (B); or

5 (D) any reimbursement to hospitals for which
6 federal matching funds are available;

7 (2) subject to Section __.151(d), pay the
8 administrative expenses of the district in administering the
9 program, including collateralization of deposits;

10 (3) refund a mandatory payment collected in error from a
11 paying provider;

12 (4) refund to paying providers a proportionate share of
13 a mandatory payment that the district:

14 (A) receives from the Health and Human Services
15 Commission that is not used to fund the nonfederal share of any
16 Medicaid program payments as permitted by Subdivision (1); or

17 (B) determines cannot be used to fund the
18 nonfederal share of any Medicaid program payments as permitted by
19 Subdivision (1); and

20 (5) transfer funds to the Health and Human Services
21 Commission if the district is legally required to transfer funds to
22 address a disallowance of federal matching funds with respect to
23 programs for which the district made intergovernmental transfers
24 described by Subdivision (1).

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

3 (e) Notwithstanding any other provision of this chapter, with
4 respect to an intergovernmental transfer of funds described by
5 Subsection (c)(1) made by the district, any funds received by the
6 state, district, or other entity as a result of the transfer may
7 not be used by the state, district, or any other entity to:

8 (1) expand Medicaid eligibility under the Patient
9 Protection and Affordable Care Act (Pub. L. No. 111-148) as amended
10 by the Health Care and Education Reconciliation Act of 2010 (Pub.
11 L. No. 111-152); or

12 (2) fund the nonfederal share of payments to hospitals
13 available through the Medicaid disproportionate share hospital
14 program.

15 SUBCHAPTER D. MANDATORY PAYMENTS

16 Sec. ____.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER NET
17 PATIENT REVENUE. (a) If the board authorizes a program under this
18 chapter, the board may require a mandatory payment to be assessed
19 on the net patient revenue of each institutional health care
20 provider located in Nueces County. The board may provide for the
21 mandatory payment to be assessed from time to time during the year
22 in amounts determined by the board in accordance with Subsection
23 (c); provided, however, that institutional health care providers
24 shall have thirty (30) calendar days upon receipt of written notice

1 from the district to make any mandatory payment. In any year in
2 which the mandatory payment is required, the mandatory payment is
3 assessed on the net patient revenue of a paying provider as
4 determined by the data reported to the Department of State Health
5 Services under Sections 311.032 and 311.033 in the most recent
6 fiscal year of the paying provider for which that data was
7 reported. If the paying provider did not report any data under
8 those sections, the provider's net patient revenue is the amount of
9 that revenue as contained in the paying provider's Medicare cost
10 report submitted for the paying provider's previous fiscal year or
11 for the closest subsequent fiscal year for which the paying
12 provider submitted the Medicare cost report. The district shall be
13 entitled to rely on the accuracy of any data or other information
14 provided by a paying provider under this Subsection (a) and shall
15 have no duty to audit or verify the accuracy of the data or other
16 information.

17 (b) The amount of a mandatory payment authorized under this
18 chapter must be uniformly proportionate with the amount of net
19 patient revenue generated by each paying provider in the district
20 as permitted under federal law. A health care provider
21 participation program authorized under this chapter may not hold
22 harmless any institutional health care provider, as required under
23 42 U.S.C. Section 1396b(w).

24 (c) If the board requires a mandatory payment authorized

1 under this chapter, the board shall set the amount of the mandatory
2 payment, subject to the limitations of this chapter. The district
3 shall update the amount of the mandatory payment each year or at
4 such times as the district deems appropriate, provided the
5 aggregate amount of the mandatory payments required of all paying
6 providers may not exceed six percent of the aggregate net patient
7 revenue from hospital services provided by all paying providers
8 during such year.

9 (d) Subject to Subsection (c), if the board requires a
10 mandatory payment authorized under this chapter, the board shall
11 set the mandatory payments in amounts that in the aggregate will
12 generate sufficient revenue to cover the administrative expenses of
13 the district for activities under this chapter and to fund an
14 intergovernmental transfer described by Section ____103(c)(1). The
15 annual amount of revenue from mandatory payments that shall be paid
16 for administrative expenses by the district is capped at \$150,000.

17 (e) A paying provider may not add a mandatory payment
18 required under this chapter as a surcharge to a patient.

19 (f) A mandatory payment assessed under this chapter is not a
20 tax for hospital purposes for purposes of Section 4, Article IX,
21 Texas Constitution, or Section 281.045.

22 Sec. ____152. ASSESSMENT AND COLLECTION OF MANDATORY
23 PAYMENTS. (a) The district may designate an official of the
24 district or contract with another person to assess and collect the

1 mandatory payments authorized under this chapter.

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

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

12 Sec. ____.153. INTEREST AND PENALTIES. The district shall
13 impose and collect interest charges and penalties on delinquent
14 mandatory payments imposed under this chapter in amounts up to the
15 maximum authorized for any other delinquent payment required to be
16 made to the district.

17 Sec. ____.154. PURPOSE; CORRECTION OF INVALID PROVISION OR
18 PROCEDURE; LIMITATION OF AUTHORITY. (a) The purpose of this
19 chapter is to authorize the district to establish a program to
20 enable the district to collect mandatory payments from
21 institutional health care providers to fund the nonfederal share of
22 a Medicaid payment program permitted by Section ____.103(c) to
23 support the provision of health care by institutional health care
24 providers and other providers to Nueces County residents and others

1 in need of health care.

2 (b) This chapter does not authorize the district to collect
3 mandatory payments for the purpose of raising general revenue or
4 any amount in excess of the amount reasonably necessary to fund the
5 uses described in Section ____ .103(c) and to cover the
6 administrative expenses of the district associated with activities
7 under this chapter.

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

18 (d) The district may only assess and collect a mandatory
19 payment authorized under this chapter if a Medicaid payment program
20 described by Section ____ .103(c)(1) is available to at least one
21 institutional health care provider, provided that nothing in this
22 chapter shall prohibit the district from funding intergovernmental
23 transfers for both institutional health care providers and other
24 providers located outside Nueces County in accordance with Section

1 281.094(b).