

Chapter 694

S.B. No. 2315

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 hospital that is not owned and operated by a federal or state government and 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 located  
14 in the 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 located in the district to  
23 submit to the district a copy of any financial and utilization data  
24 required by and reported to the Department of State Health Services  
25 under Sections 311.032 and 311.033 and any rules adopted by the  
26 executive commissioner of the Health and Human Services Commission  
27 to implement those sections.

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

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

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

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

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

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

(b) The local provider participation fund consists of:

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

(2) money received from the Health and Human Services Commission as a refund of an intergovernmental transfer under the program, provided that the intergovernmental transfer does not

1 receive a federal matching payment; and

2 (3) the earnings of the fund.

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

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

8 (A) uncompensated care payments to hospitals in  
9 the Medicaid managed care service area in which the district is  
10 located, if those payments are authorized under the Texas  
11 Healthcare Transformation and Quality Improvement Program waiver  
12 issued under Section 1115 of the federal Social Security Act (42  
13 U.S.C. Section 1315);

14 (B) delivery system reform incentive payments,  
15 if those payments are authorized under the Texas Healthcare  
16 Transformation and Quality Improvement Program waiver issued under  
17 Section 1115 of the federal Social Security Act (42 U.S.C. Section  
18 1315);

19 (C) uniform rate enhancements for hospitals in  
20 the Medicaid managed care service area in which the district is  
21 located;

22 (D) payments available under another waiver  
23 program authorizing payments that are substantially similar to  
24 Medicaid payments to hospitals described by Paragraph (A), (B), or  
25 (C); or

26 (E) any reimbursement to hospitals for which  
27 federal matching funds are available;

1           (2) subject to Section 298C.151(d), pay the  
2 administrative expenses of the district in administering the  
3 program, including collateralization of deposits;

4           (3) refund a mandatory payment collected in error from  
5 a paying provider;

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

8                 (A) receives from the Health and Human Services  
9 Commission that is not used to fund the nonfederal share of Medicaid  
10 supplemental payment program payments or uniform rate enhancements  
11 described by Subdivision (1)(C); or

12                 (B) determines cannot be used to fund the  
13 nonfederal share of Medicaid supplemental payment program payments  
14 or uniform rate enhancements described by Subdivision (1)(C);

15           (5) transfer funds to the Health and Human Services  
16 Commission if the district is legally required to transfer the  
17 funds to address a disallowance of federal matching funds with  
18 respect to programs for which the district made intergovernmental  
19 transfers described by Subdivision (1); and

20           (6) reimburse the district if the district is required  
21 by the rules governing the uniform rate enhancement program  
22 described by Subdivision (1)(C) to incur an expense or forego  
23 Medicaid reimbursements from the state because the balance of the  
24 local provider participation fund is not sufficient to fund that  
25 rate enhancement program.

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

1       (e) Notwithstanding any other provision of this chapter,  
2 with respect to an intergovernmental transfer of funds described by  
3 Subsection (c)(1) made by the district, any funds received by the  
4 state, district, or other entity as a result of that transfer may  
5 not be used by the state, district, or any other entity to expand  
6 Medicaid eligibility under the Patient Protection and Affordable  
7 Care Act (Pub. L. No. 111-148) as amended by the Health Care and  
8 Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

9                   SUBCHAPTER D. MANDATORY PAYMENTS

10       Sec. 298C.151. MANDATORY PAYMENTS BASED ON PAYING PROVIDER  
11 NET PATIENT REVENUE. (a) Except as provided by Subsection (e), if  
12 the board authorizes a health care provider participation program  
13 under this chapter, the board may require a mandatory payment to be  
14 assessed, either annually or periodically throughout the fiscal  
15 year at the discretion of the board, on the net patient revenue of  
16 each institutional health care provider located in the district.  
17 The board shall provide an institutional health care provider  
18 written notice of each assessment under this subsection, and the  
19 provider has 30 calendar days following the date of receipt of the  
20 notice to pay the assessment. In the first fiscal year in which the  
21 mandatory payment is required, the mandatory payment is assessed on  
22 the net patient revenue of an institutional health care provider as  
23 determined by the data reported to the Department of State Health  
24 Services under Sections 311.032 and 311.033 in the most recent  
25 fiscal year for which that data was reported. If the institutional  
26 health care provider did not report any data under those sections,  
27 the provider's net patient revenue is the amount of that revenue as

1 contained in the provider's Medicare cost report submitted for the  
2 previous fiscal year or for the closest subsequent fiscal year for  
3 which the provider submitted the Medicare cost report. If the  
4 mandatory payment is required, the district shall update the amount  
5 of the mandatory payment on an annual basis.

6 (b) The amount of a mandatory payment assessed under this  
7 chapter by the board must be uniformly proportionate with the  
8 amount of net patient revenue generated by each paying provider in  
9 the district as permitted under federal law. A health care provider  
10 participation program authorized under this chapter may not hold  
11 harmless any institutional health care provider, as required under  
12 42 U.S.C. Section 1396b(w).

13 (c) If the board requires a mandatory payment authorized  
14 under this chapter, the board shall set the amount of the mandatory  
15 payment, subject to the limitations of this chapter. The aggregate  
16 amount of the mandatory payments required of all paying providers  
17 in the district may not exceed six percent of the aggregate net  
18 patient revenue from hospital services provided by all paying  
19 providers in the district.

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

1 the cost of collateralization of deposits, regardless of actual  
2 expenses.

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

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

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

12 (b) The person charged by the district with the assessment  
13 and collection of mandatory payments shall charge and deduct from  
14 the mandatory payments collected for the district a collection fee  
15 in an amount not to exceed the person's usual and customary charges  
16 for like services.

17 (c) If the person charged with the assessment and collection  
18 of mandatory payments is an official of the district, any revenue  
19 from a collection fee charged under Subsection (b) shall be  
20 deposited in the district general fund and, if appropriate, shall  
21 be reported as fees of the district.

22 Sec. 298C.153. PURPOSE; CORRECTION OF INVALID PROVISION OR  
23 PROCEDURE; LIMITATION OF AUTHORITY. (a) The purpose of this  
24 chapter is to authorize the district to establish a program to  
25 enable the district to collect mandatory payments from  
26 institutional health care providers to fund the nonfederal share of  
27 a Medicaid supplemental payment program or the Medicaid managed



1 care rate enhancements for hospitals to support the provision of  
2 health care by institutional health care providers located in the  
3 district.

4 (b) This chapter does not authorize the district to collect  
5 mandatory payments for the purpose of raising general revenue or  
6 any amount in excess of the amount reasonably necessary to fund the  
7 nonfederal share of a Medicaid supplemental payment program or  
8 Medicaid managed care rate enhancements for hospitals and to cover  
9 the administrative expenses of the district associated with  
10 activities under this chapter.

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

21 (d) The district may only assess and collect a mandatory  
22 payment authorized under this chapter if a waiver program, uniform  
23 rate enhancement, or reimbursement described by Section  
24 298C.103(c)(1) is available to at least one institutional health  
25 care provider located in the district.

26 SECTION 2. As soon as practicable after the expiration of  
27 the authority of the Nueces County Hospital District to administer

1 and operate a health care provider participation program under  
2 Chapter 298C, Health and Safety Code, as added by this Act, the  
3 board of hospital managers of the Nueces County Hospital District  
4 shall transfer to each institutional health care provider in the  
5 district that provider's proportionate share of any remaining funds  
6 in any local provider participation fund created by the district  
7 under Section 298C.103, Health and Safety Code, as added by this  
8 Act.

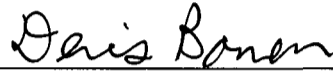
9         SECTION 3. If before implementing any provision of this Act  
10 a state agency determines that a waiver or authorization from a  
11 federal agency is necessary for implementation of that provision,  
12 the agency affected by the provision shall request the waiver or  
13 authorization and may delay implementing that provision until the  
14 waiver or authorization is granted.

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

Wes  
P.L.L.

S.B. No. 2315

  
President of the Senate

  
Speaker of the House

I hereby certify that S.B. No. 2315 passed the Senate on April 17, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 23, 2019, by the following vote: Yeas 31, Nays 0. \_\_\_\_\_


  
Secretary of the Senate

I hereby certify that S.B. No. 2315 passed the House, with amendment, on May 17, 2019, by the following vote: Yeas 127, Nays 20, two present not voting. \_\_\_\_\_

  
Chief Clerk of the House

Approved:

6-9-2019  
Date

  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
6:00 pm O'CLOCK

JUN 10 2019

  
Secretary of State