

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE D. HOSPITAL DISTRICTS

CHAPTER 298D. LUBBOCK COUNTY HOSPITAL DISTRICT OF LUBBOCK COUNTY,
TEXAS: HEALTH CARE PROVIDER PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 298D.001. PURPOSE. The purpose of this chapter is to authorize the district to administer a health care provider participation program to provide additional compensation to nonpublic hospitals by collecting mandatory payments from each nonpublic hospital in the district to be used to provide the nonfederal share of a Medicaid supplemental payment program and for other purposes as authorized under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. 2448), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(56), eff. September 1, 2021.

Sec. 298D.002. DEFINITIONS. In this chapter:

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

(2) "District" means the Lubbock County Hospital District of Lubbock County, Texas.

(3) "Institutional health care provider" means a nonpublic hospital located in the district that provides inpatient hospital services.

(4) "Paying hospital" 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.

Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. 2448), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(56), eff. September 1, 2021.

Sec. 298D.003. APPLICABILITY. This chapter applies only to the Lubbock County Hospital District of Lubbock County, Texas. Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. 2448), Sec. 1, eff. June 4, 2019. Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(56), eff. September 1, 2021.

Sec. 298D.004. HEALTH CARE PROVIDER PARTICIPATION PROGRAM; PARTICIPATION IN PROGRAM. The board may authorize the district to participate in a health care provider participation program on the affirmative vote of a majority of the board, subject to the provisions of this chapter. Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. 2448), Sec. 1, eff. June 4, 2019. Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(56), eff. September 1, 2021.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD

Sec. 298D.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT. The board may require a mandatory payment authorized under this chapter from an institutional health care provider in the district only in the manner provided by this chapter. Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. 2448), Sec. 1, eff. June 4, 2019. Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(56), eff. September 1, 2021.

Sec. 298D.052. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING. If the board authorizes the district to participate in a program under this chapter, the board shall require each institutional health care provider to submit to the district a copy of any financial and utilization data required by and reported to the Department of State Health Services under Sections 311.032 and 311.033 and any rules adopted by the executive commissioner of the Health and Human Services Commission to implement those sections.

Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. [2448](#)), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 21.001(56), eff. September 1, 2021.

Sec. 298D.053. RULES AND PROCEDURES. The board may adopt rules relating to the administration of the health care provider participation program, including collection of the mandatory payments, expenditures, audits, and any other administrative aspects of the program.

Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. [2448](#)), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 21.001(56), eff. September 1, 2021.

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 298D.101. HEARING. (a) In each 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 the chief operating officer of each institutional health care provider in the district.

(c) The board's determination of the amount of mandatory payments to be collected during the year must be shown to be based on reasonable estimates of the amount of revenue necessary to fund intergovernmental transfers from the district to the state providing the nonfederal share of payments described by Section [298D.103\(b\)\(1\)](#) that is otherwise unfunded.

Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. [2448](#)), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)),

Sec. 21.001(56), eff. September 1, 2021.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.002(13), eff. September 1, 2021.

Sec. 298D.102. LOCAL PROVIDER PARTICIPATION FUND; DEPOSITORY. (a) If the board collects a mandatory payment authorized under this chapter, the board shall create a local provider participation fund in one or more banks located in the district that are designated by the district as a depository for public funds.

(b) All money received by the district under this chapter, including the amount of revenue from mandatory payments remaining after deducting any discounts and fees for assessing and collecting the payments, shall be deposited with a depository designated under Subsection (a).

(c) The board may withdraw or use money in the fund only for a purpose authorized under this chapter.

(d) All funds collected under this chapter shall be secured in the manner provided by Chapter 1053, Special District Local Laws Code, for securing public funds of the district.

Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. 2448), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(56), eff. September 1, 2021.

Sec. 298D.103. DEPOSITS TO FUND; AUTHORIZED USES OF MONEY.

(a) The local provider participation fund established under Section 298D.102 consists of:

(1) all mandatory payments authorized under this chapter and received by the district;

(2) money received from the Health and Human Services Commission as a refund of an intergovernmental transfer from the district to the state as the nonfederal share of Medicaid supplemental payment program payments, provided that the intergovernmental transfer does not receive a federal matching payment; and

(3) the earnings of the fund.

(b) Money deposited to the local provider participation fund may be used only to:

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

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

(B) uniform rate enhancements for nonpublic hospitals in the Medicaid managed care service area in which the district is located;

(C) payments available to nonpublic hospitals under another waiver program authorizing payments that are substantially similar to Medicaid payments to nonpublic hospitals described by Paragraph (A) or (B); or

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

(2) subject to Section [298D.151\(d\)](#), pay the administrative expenses of the district in administering the program, including collateralization of deposits;

(3) refund a portion of a mandatory payment collected in error from a paying hospital; and

(4) refund to paying hospitals a proportionate share of the money that the district:

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

(B) determines cannot be used to fund the nonfederal share of Medicaid supplemental payment program payments described by Subdivision (1).

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

(d) An intergovernmental transfer of funds described by

Subsection (b)(1) and any funds received by the district as a result of an intergovernmental transfer described by that subsection may not be used by the district or any other entity to expand Medicaid eligibility 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).

Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. [2448](#)), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 21.001(56), eff. September 1, 2021.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 21.002(14), eff. September 1, 2021.

SUBCHAPTER D. MANDATORY PAYMENTS

Sec. 298D.151. MANDATORY PAYMENTS. (a) If the board authorizes a program under this chapter, the board shall require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider located in the district. The board may provide that the mandatory payment is to be collected at least annually, but not more often than quarterly. In the first year in which the mandatory payment is required, the mandatory payment is assessed on the net patient revenue of an institutional health care provider as determined by the data reported to the Department of State Health Services under Sections [311.032](#) and [311.033](#) in the most recent fiscal year for which that data was reported. If the institutional health care provider did not report any data under those sections, the provider's net patient revenue is the amount of that revenue as contained in the provider's Medicare cost report submitted for the previous fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report. The district shall update the amount of the mandatory payment on an annual basis and may update the amount on a more frequent basis.

(b) The amount of a mandatory payment authorized under this chapter must be a uniform percentage of the amount of net patient

revenue generated by each paying hospital in the district. A mandatory payment authorized under this chapter may not hold harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).

(c) The aggregate amount of the mandatory payments required of all paying hospitals in the district may not exceed six percent of the aggregate net patient revenue of all paying hospitals in the district.

(d) Subject to the maximum amount prescribed by Subsection (c) and this subsection, the board shall set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the district for activities under this chapter, fund an intergovernmental transfer described by Section 298D.103(b)(1), or make other payments authorized under this chapter. The amount of the mandatory payments must be based on reasonable estimates of the amount of revenue necessary to cover the administrative expenses, intergovernmental transfers, and other payments described by this subsection as authorized under this chapter. The amount of revenue from mandatory payments that may be used for administrative expenses by the district in a year may not exceed \$25,000, plus the cost of collateralization of deposits. If the board demonstrates to the paying hospitals that the costs of administering the program under this chapter, excluding those costs associated with the collateralization of deposits, exceed \$25,000 in any year, on consent of all of the paying hospitals, the district may use additional revenue from mandatory payments received under this chapter to compensate the district for its administrative expenses. A paying hospital may not unreasonably withhold consent to compensate the district for administrative expenses.

(e) A paying hospital may not add a mandatory payment required under this section as a surcharge to a patient or insurer.

(f) A mandatory payment under this chapter is not a tax for purposes of Section 9, Article IX, Texas Constitution, or Chapter 1053, Special District Local Laws Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. 2448), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(56), eff. September 1, 2021.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.002(15), eff. September 1, 2021.

Sec. 298D.152. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS. The district may collect or contract for the assessment and collection of mandatory payments authorized under this chapter. Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. 2448), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(56), eff. September 1, 2021.

Sec. 298D.153. CORRECTION OF INVALID PROVISION OR PROCEDURE. To the extent any provision or procedure under this chapter causes a mandatory payment authorized under this chapter to be ineligible for federal matching funds, the board may provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services. A rule adopted under this section may not create, impose, or materially expand the legal or financial liability or responsibility of the district or an institutional health care provider in the district beyond the provisions of this chapter. This section does not require the board to adopt a rule. Added by Acts 2019, 86th Leg., R.S., Ch. 454 (S.B. 2448), Sec. 1, eff. June 4, 2019.

Redesignated by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(56), eff. September 1, 2021.