

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE D. HOSPITAL DISTRICTS

CHAPTER 300. HEALTH CARE PROVIDER PARTICIPATION PROGRAMS IN CERTAIN  
POLITICAL SUBDIVISIONS IN THIS STATE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 300.0001. PURPOSE. The purpose of this chapter is to authorize a hospital district, county, or municipality in this state to administer a health care provider participation program to provide additional compensation to certain hospitals located in the hospital district, county, or municipality by collecting mandatory payments from each of those hospitals 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. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0002. DEFINITIONS. In this chapter:

(1) "Institutional health care provider" means a nonpublic hospital that provides inpatient hospital services.

(2) "Local government" means a hospital district, county, or municipality to which this chapter applies.

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

(4) "Program" means a health care provider participation program authorized by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0003. APPLICABILITY. This chapter applies only to:

(1) a hospital district that is not participating in a health care provider participation program authorized by another chapter of this subtitle; and

(2) a county or municipality that:

(A) is not participating in a health care provider participation program authorized by another chapter of this subtitle; and

(B) is not served by a hospital district or a public hospital.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0004. LOCAL JURISDICTION HEALTH CARE PROVIDER PARTICIPATION PROGRAM; ORDER REQUIRED FOR PARTICIPATION. The governing body of a local government may only adopt an order or ordinance authorizing that local government to participate in a health care provider participation program after an affirmative vote of the majority of the governing body.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

#### SUBCHAPTER B. POWERS AND DUTIES OF GOVERNING BODY

Sec. 300.0051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY PAYMENT. The governing body of a local government may require a mandatory payment authorized under this chapter by an institutional health care provider located in that hospital district, county, or municipality, as applicable, only in the manner provided by this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0052. RULES AND PROCEDURES. The governing body of a local government may adopt rules relating to the administration of the health care provider participation program in the local government, 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. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0053. INSTITUTIONAL HEALTH CARE PROVIDER REPORTING. If the governing body of a local government authorizes the local government to participate in a health care provider participation program under this chapter, the governing body shall require each institutional health care provider to submit to the local government 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. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

#### SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 300.0101. HEARING. (a) In each year that the governing body of a local government authorizes a health care provider participation program under this chapter, the governing body shall hold a public hearing on the amounts of any mandatory payments that the governing body 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 governing body shall publish notice of the hearing in a newspaper of general circulation in the hospital district, county, or municipality, as applicable, and provide written notice of the hearing to the chief operating officer of each institutional health care provider located in the hospital district, county, or municipality, as applicable.

(c) A representative of a paying hospital is entitled to appear at the time and place designated in the public notice and to be heard regarding any matter related to the mandatory payments authorized under this chapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0102. LOCAL PROVIDER PARTICIPATION FUND;

DEPOSITORY. (a) Each governing body of a local government that collects a mandatory payment authorized under this chapter shall create a local provider participation fund.

(b) If a governing body of a local government creates a local provider participation fund, the governing body shall designate one or more banks as a depository for the mandatory payments received by the local government.

(c) The governing body of a local government may withdraw or use money in the local provider participation fund of the local government only for a purpose authorized under this chapter.

(d) All funds collected under this chapter shall be secured in the manner provided for securing other funds of the local government.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0103. LOCAL PROVIDER PARTICIPATION FUND; AUTHORIZED USES OF MONEY. (a) The local provider participation fund established by a local government under Section 300.0102 consists of:

(1) all revenue received by the local government 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 from the local government to the state for the purpose of providing 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 of a local government may be used only to:

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

(A) uncompensated care 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 local government is located;

(C) payments available 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 [300.0151\(d\)](#), pay the administrative expenses of the local government in administering the program, including collateralization of deposits;

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

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

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

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

(5) transfer funds to the Health and Human Services Commission if the local government is required by law to transfer the funds to address a disallowance of federal matching funds with respect to payments, rate enhancements, and reimbursements for which the local government made intergovernmental transfers described by Subdivision (1); and

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

(c) Money in the local provider participation fund of a

local government may not be commingled with other funds of the local government.

(d) Notwithstanding any other provision of this chapter, with respect to an intergovernmental transfer of funds described by Subsection (b)(1) made by the local government, any funds received by the state, local government, or other entity as a result of that transfer may not be used by the state, local government, or any other entity to:

(1) 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); or

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

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. [4289](#)), Sec. 1, eff. June 10, 2019.

#### SUBCHAPTER D. MANDATORY PAYMENTS

Sec. 300.0151. MANDATORY PAYMENTS. (a) Except as provided by Subsection (e), if the governing body of a local government authorizes a health care provider participation program under this chapter, the governing body shall require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider located in the hospital district, county, or municipality, as applicable. The governing body of the local government shall provide that the mandatory payment is to be assessed 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 located in the hospital district, county, or municipality, as applicable, 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 local government shall update the amount of the mandatory payment on an annual basis.

(b) The amount of a mandatory payment authorized under this chapter for a local government must be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the hospital district, county, or municipality, as applicable, as permitted under federal law. A health care provider participation program 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 governing body of a local government that authorizes a program under this chapter shall set the amount of the mandatory payment. The aggregate amount of the mandatory payments required of all paying hospitals in the hospital district, county, or municipality, as applicable, may not exceed six percent of the aggregate net patient revenue from hospital services provided by all paying hospitals in the hospital district, county, or municipality, as applicable.

(d) Subject to Subsection (c), the governing body of a local government shall set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the local government for activities under this chapter and to fund an intergovernmental transfer described by Section [300.0103\(b\)\(1\)](#). The annual amount of revenue from mandatory payments that shall be paid for administrative expenses for activities under this chapter by the local government may not exceed \$150,000, plus the cost of collateralization of deposits, regardless of actual expenses.

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

(f) A mandatory payment required by the governing body of a hospital district under this chapter is not a tax for purposes of

the applicable provision of Article IX, Texas Constitution.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0152. ASSESSMENT AND COLLECTION OF MANDATORY PAYMENTS. (a) A hospital district may designate an official of the district or contract with another person to assess and collect the mandatory payments authorized under this chapter.

(b) A county or municipality may collect or, using a competitive bidding process, contract for the assessment and collection of mandatory payments authorized under this chapter.

(c) The person charged by the local government with the assessment and collection of mandatory payments shall charge and deduct from the mandatory payments collected for the local government a collection fee in an amount not to exceed the person's usual and customary charges for like services.

(d) If the person charged with the assessment and collection of mandatory payments is an official of the local government, any revenue from a collection fee charged under Subsection (c) shall be deposited in the local government general fund and, if appropriate, shall be reported as fees of the local government.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0153. CORRECTION OF INVALID PROVISION OR PROCEDURE. (a) This chapter does not authorize a local government to collect mandatory payments for the purpose of raising general revenue or any amount in excess of the amount reasonably necessary to fund the nonfederal share of a Medicaid supplemental payment program or Medicaid managed care rate enhancements for nonpublic hospitals and to cover the administrative expenses of the local government associated with activities under this chapter and other uses of the fund described by Section 300.0103(b).

(b) 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 local government 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 local government or an institutional health care provider in the local hospital district, county, or municipality, as applicable, beyond the provisions of this chapter. This section does not require the governing body of a local government to adopt a rule.

(c) The local government may only assess and collect a mandatory payment authorized under this chapter if a waiver program, uniform rate enhancement, or reimbursement described by Section 300.0103(b)(1) is available to the local government.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1, eff. June 10, 2019.

Sec. 300.0154. REPORTING REQUIREMENTS. (a) The governing body of each local government that authorizes a program under this chapter shall report information to the Health and Human Services Commission regarding the program on a schedule determined by the commission.

(b) The information must include:

(1) the amount of the mandatory payments required and collected in each year the program is authorized;

(2) any expenditure of money attributable to mandatory payments collected under this chapter, including:

(A) any contract with an entity for the administration or operation of a program authorized by this chapter; or

(B) a contract with a person for the assessment and collection of a mandatory payment as authorized under Section 300.0152; and

(3) the amount of money attributable to mandatory payments collected under this chapter that is used for any other purpose.

(c) The executive commissioner of the Health and Human Services Commission shall adopt rules to administer this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. 4289), Sec. 1,

eff. June 10, 2019.

Sec. 300.0155. EXPIRATION OF AUTHORITY. 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](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. [4289](#)), Sec. 1, eff. June 10, 2019.

Sec. 300.0156. AUTHORITY TO REFUSE FOR VIOLATION. The Health and Human Services Commission may refuse to accept money from a local provider participation fund established under this chapter if the commission determines that doing so may violate federal law.

Added by Acts 2019, 86th Leg., R.S., Ch. 923 (H.B. [4289](#)), Sec. 1, eff. June 10, 2019.