

BILL ANALYSIS

Senate Research Center
86R13354 JCG-D

S.B. 1622
By: Kolkhorst
Health & Human Services
3/15/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Nineteen Texas rural hospitals have closed permanently or temporarily since 2013. S.B. 1622 seeks to ensure that Texans residing in rural areas have access to hospital services.

S.B. 1622 requires the Health and Human Services Commission to develop a strategic plan for rural hospital care access, including cost reimbursement and rate methodologies; collaborate with the State Office of Rural Health to maximize federal funds for rural hospitals; evaluate rural hospital licensing and regulations; adopt methodologies for determining rural hospital allowable costs in Medicaid; and establish the Rural Hospital Advisory Committee as a subcommittee of the Hospital Payment Advisory Committee.

Additionally, S.B. 1622 establishes a new category of hospital license called a limited services rural hospital, contingent upon the federal government establishing a payment program for these types of hospitals.

As proposed, S.B. 1622 amends current law relating to rural hospitals and similar facilities; requiring a license and authorizing fees.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 533.0041, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 531, Government Code, by adding Subchapter G, as follows:

SUBCHAPTER G. RURAL HOSPITALS

Sec. 531.201. STRATEGIC PLAN; REPORT. (a) Requires the Health and Human Services Commission (HHSC) to develop and implement a strategic plan to ensure that the citizens of this state residing in rural areas have access to hospital services.

(b) Requires the strategic plan to include:

(1) a proposal for using at least one of the following methods to ensure access to hospital services in the rural areas of this state:

(A) an enhanced cost reimbursement methodology for the payment of rural hospitals participating in the Medicaid managed care program in conjunction with a supplemental payment program for rural hospitals to cover costs incurred in providing services to recipients;

(B) a hospital rate enhancement program that applies only to rural hospitals;

(C) a reduction of punitive actions under the Medicaid program that require reimbursement for Medicaid payments made to the provider, if the provider is a rural hospital, a reduction of the frequency of payment reductions under the Medicaid program made to rural hospitals, and an enhancement of payments made under merit-based programs or similar programs for rural hospitals;

(D) a reduction of state regulatory-related costs related to HHSC's review of rural hospitals; or

(E) in accordance with rules adopted by the Centers for Medicare and Medicaid Services, the establishment of a minimum fee schedule that applies to payments made by managed care organizations to rural hospitals; and

(2) target dates for achieving goals related to the proposal described by Subdivision (1).

(c) Requires HHSC to submit the strategic plan developed under Subsection (b) to the Legislative Budget Board (LBB), not later than January 1, 2020, for comment and review. Prohibits HHSC from beginning to implement the proposal contained in the strategic plan until the strategic plan is approved by the LBB.

(d) Requires HHSC to submit a report regarding HHSC's development and implementation of the strategic plan described by Subsection (b), not later than November 1 of each even-numbered year, to:

(1) the legislature;

(2) the governor; and

(3) the LBB.

Sec. 531.202. **ADVISORY COMMITTEE ON RURAL HOSPITALS.** (a) Requires HHSC to establish the Rural Hospital Advisory Committee (rural hospital committee), either as another advisory committee or as a subcommittee of the Hospital Payment Advisory Committee, to advise HHSC on issues relating specifically rural hospitals.

(b) Provides that the rural hospital committee is composed of interested persons appointed by the executive commissioner of HHSC (executive commissioner). Provides that Section 2110.002 (Composition of Advisory Committees) does not apply to the rural hospital committee.

(c) Provides that a member of the rural committee serves without compensation.

Sec. 531.203. **COLLABORATION WITH OFFICE OF RURAL AFFAIRS.** Requires HHSC to collaborate with the Office of Rural Affairs to ensure that this state is pursuing to the fullest extent possible federal grants, funding opportunities, and support programs available to rural hospitals as administered by the Health Resources and Services Administration and the Office of Minority Health in the United States Department of Health and Human Services.

SECTION 2. Amends Subchapter A, Chapter 533, Government Code, by adding Section 533.0041, as follows:

Sec. 533.0041. **REIMBURSEMENT METHODOLOGY FOR RURAL HOSPITALS.** Requires the executive commissioner, to the extent allowed by federal law and notwithstanding any state law, to adopt by rule a reimbursement methodology for the payment of rural hospitals participating in the Medicaid managed care program that

ensures rural hospitals fully recover allowable costs incurred in providing services to recipients. Authorizes the executive commissioner, in adopting rules under this section, to adopt a methodology that requires HHSC to directly reimburse rural hospitals for allowable costs or a managed care organization to reimburse rural hospitals and requires the executive commissioner to define "allowable costs" and "rural hospital" for purposes of this section.

SECTION 3. Amends Chapter 241, Health and Safety Code, by adding Subchapter K, as follows:

SUBCHAPTER K. LIMITED SERVICES RURAL HOSPITAL

Sec. 241.301. DEFINITION. Defines "limited services rural hospital" as a general or special hospital that is or was licensed under this chapter (Hospitals) and that:

(1) is:

(A) located in a rural area, as defined by:

(i) HHSC rule; or

(ii) 42 U.S.C. Section 1395ww(d)(2)(D); or

(B) designated by the Centers for Medicare and Medicaid Services as a critical access hospital, rural referral center, or sole community hospital; and

(2) otherwise meets the requirements to be designated as a limited services rural hospital or a similarly designated hospital under federal law.

Sec. 241.302. LICENSE REQUIRED; FEES. (a) Prohibits a person from establishing, conducting, or maintaining a limited services rural hospital unless:

(1) the United States Congress passes a bill creating a payment program specifically for limited services rural hospitals or similarly designated hospitals that becomes law; and

(2) HHSC issues a license to the person to establish, conduct, or maintain a limited services rural hospital under this subchapter.

(b) Requires HHSC, if the United States Congress enacts a bill described by Subsection (a)(1) that becomes law, to adopt rules:

(1) establishing minimum standards for the facilities; and

(2) implementing this section.

(c) Requires the standards adopted under Subsection (b) to be at least as stringent as the standards established in the law described by Subsection (a) for eligibility to qualify for a payment program established by the law.

(d) Requires an applicant for a license under this section to:

(1) submit an application for the license to HHSC in a form and manner prescribed by HHSC; and

(2) pay any required fee.

(e) Requires HHSC to issue a license to act as limited services rural hospital under this subchapter if the applicant complies with the rules and standards adopted

under this section.

(f) Authorizes HHSC by order to waive or modify the requirement of a particular provision of this chapter or a standard adopted under this section if HHSC determines that the waiver or modification will facilitate the creation or operation of the facility and the waiver or modification is in the best interests of the individuals served or to be served by the facility. Provides that Sections 241.026 (d) (relating to requiring the executive commissioner to adopt rules establishing procedures and criteria for the issuance of the waiver or modification order) and (e) (relating to requiring the licensing record of a hospital granted a waiver or modification by the Department of State Health Services waiving or modifying a provision or standard to contain documentation to support the action) apply to a waiver or modification under this section for limited services rural hospital in the same manner as the subsections apply to waiver or modification for a hospital.

(g) Provides that a provision of this chapter related to the enforcement authority of HHSC applies to a limited services rural hospital.

SECTION 4. Effective date: September 1, 2019.