HEALTH & SAFETY CODE
SUBTITLE F. POWERS AND DUTIES OF HOSPITALS
CHAPTER 311. POWERS AND DUTIES OF HOSPITALS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 311.001. SPECIAL HOSPITAL REQUIREMENTS FOR GRADUATE OF FOREIGN MEDICAL SCHOOL PROHIBITED. (a) A hospital may not, as a condition to beginning a hospital internship or residency, require a United States citizen who resides in this state and who holds a diploma from a medical school outside the United States that is listed in the World Directory of Medical Schools published by the World Health Organization to:

(1) take an examination other than an examination required by the Texas State Board of Medical Examiners to be taken by a graduate of a medical school in the United States before allowing that graduate to begin an internship or residency;

(2) complete a period of internship or graduate clinical training; or

(3) be certified by the Educational Council for Foreign Medical Graduates.

(b) This section applies only to a hospital that:

(1) is licensed by this state;

(2) is operated by this state or a political subdivision of this state; or

(3) receives direct or indirect state financial assistance.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 311.002. ITEMIZED STATEMENT OF BILLED SERVICES. (a) Each hospital shall develop, implement, and enforce a written policy for the billing of hospital services and supplies. The policy must include:

(1) a periodic review of the itemized statements required by Subsection (b); and

(2) a procedure for handling complaints relating to billed services.

(b) Not later than the 30th business day after the date of the hospital discharge of a person who receives hospital services, the hospital shall provide on request an itemized statement of the billed services provided to the person. The itemized statement must:

(1) be printed in a conspicuous manner;

(2) list the date services and supplies were provided;

(3) state whether:

(A) a claim has been submitted to a third party payor; and

(B) a third party payor has paid the claim;

(4) if payment is not required, state that payment is not required:

(A) in a typeface that is bold-faced, capitalized, underlined, or otherwise set out from surrounding written material; or

(B) by other reasonable means so as to be conspicuous that payment is not required; and

(5) contain the telephone number of the facility to call for an explanation of acronyms, abbreviations, and numbers used to describe the services provided or supplies used or any other questions regarding the bill.

(c) Before a person is discharged from a hospital, the hospital shall inform the person of the availability of the statement.

(d) To be entitled to receive a statement, a person must request the statement not later than one year after the date on which the person is discharged from the hospital. The hospital shall provide the statement to the person not later than the 30th day after the date on which the person requests the statement.

(e) A hospital shall provide an itemized statement of billed services to a third party payor who is actually or potentially responsible for paying all or part of the billed services provided to a patient and who has received a claim for payment of those services. To be entitled to receive a statement, the third party payor must request the statement from the hospital and must have received a claim for payment. The request must be made not later than one year after the date on which the payor received the claim for payment. The hospital shall provide the statement to the payor not later than the 30th day after the date on which the payor requests the statement. If a third party payor receives a claim for

payment of part but not all of the billed services, the third party payor may request an itemized statement of only the billed services for which payment is claimed or to which any deduction or copayment applies.

(f) If a person, including a third party payor, requests more than two copies of the statement, the hospital may charge a reasonable fee for the third and subsequent copies provided to that person. The fee may not exceed the hospital's cost to copy, process, and deliver the copy to the person.

(g) The Texas Department of Health or other appropriate licensing agency may enforce this section by assessing an administrative penalty, obtaining an injunction, or providing any other appropriate remedy, including suspending, revoking, or refusing to renew a hospital's license.

(h) In this section, "hospital" includes:

(1) a hospital licensed under Chapter 241;

(2) a treatment facility licensed under Chapter 464; and

(3) a mental health facility licensed under Chapter 577.

(i) This section does not apply to a hospital maintained or operated by the federal government.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 903, Sec. 2.01, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 610, Sec. 2, eff. Sept. 1, 1999.

Sec. 311.0025. AUDITS OF BILLING. (a) A hospital, treatment facility, mental health facility, or health care professional may not submit to a patient or a third party payor a bill for a treatment that the hospital, facility, or professional knows was not provided or knows was improper, unreasonable, or medically or clinically unnecessary.

(b) If the appropriate licensing agency receives a complaint alleging a violation of Subsection (a), the agency may audit the billings and patient records of the hospital, treatment facility, mental health facility, or health care professional.

(c) A hospital, treatment facility, mental health facility, or health care professional that violates Subsection (a) is subject to disciplinary action, including denial, revocation, suspension, or nonrenewal of the license of the hospital, facility, or professional. Disciplinary action taken under this section is in addition to any other civil, administrative, or criminal penalty provided by law.

(d) In this section:

(1) "Health care professional" means an individual licensed, certified, or regulated by a health care regulatory agency who is eligible for reimbursement for treatment ordered or rendered by that professional.

(2) "Hospital" means a hospital licensed under Chapter 241.

(3) "Mental health facility" means a mental health facility licensed under Chapter 577.

(4) "Treatment facility" means a treatment facility licensed under Chapter 464.

(e) A licensing agency may not take disciplinary action against a hospital, treatment facility, mental health facility, or health care professional for unknowing and isolated billing errors.

Added by Acts 1993, 73rd Leg., ch. 903, Sec. 2.02, eff. Aug. 30, 1993. Amended by Acts 1999, 76th Leg., ch. 1271, Sec. 1, eff. Sept. 1, 1999.

Sec. 311.003. REIMBURSEMENT FOR INFANT TRANSPORT TO HOSPITAL NEONATAL INTENSIVE CARE UNIT. (a) A hospital that agrees to admit an infant into its level III neonatal intensive care unit shall pay for the part of the cost of transporting the infant to the hospital from any location in this state that the hospital administrator determines cannot be paid:

(1) by a member of the infant's immediate family or other person legally responsible for the infant's support through personal means; or

(2) by insurance or another benefit system that pays for transportation for that purpose.

(b) A hospital is entitled to receive state reimbursement for funds spent by the hospital under Subsection (a).

(c) The Texas Department of Health shall administer the state funds for reimbursement under this section, and may spend not more than $100,000 each fiscal year from earned federal funds or

private donations to implement this section.

(d) The Texas Board of Health shall adopt rules that establish qualifications for reimbursement and provide procedures for applying for reimbursement.

(e) In this section, "level III neonatal intensive care unit" means a neonatal care unit that complies with standards adopted by the American Academy of Pediatrics.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. EMERGENCY SERVICES

Sec. 311.021. DEFINITION. In this subchapter, "emergency services" means services that are usually and customarily available at a hospital and that must be provided immediately to:

(1) sustain a person's life;

(2) prevent serious permanent disfigurement or loss or impairment of the function of a body part or organ; or

(3) provide for the care of a woman in active labor or, if the hospital is not equipped for that service, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 311.022. DISCRIMINATION PROHIBITED IN DENIAL OF SERVICES; CRIMINAL PENALTIES. (a) An officer, employee, or medical staff member of a general hospital may not deny emergency services because a person cannot establish the person's ability to pay for the services or because of the person's race, religion, or national ancestry if:

(1) the services are available at the hospital; and

(2) the person is diagnosed by a licensed physician as requiring those services.

(b) An officer or employee of a general hospital may not deny a person in need of emergency services access to diagnosis by a licensed physician on the hospital staff because the person cannot establish the person's ability to pay for the services or because of the person's race, religion, or national ancestry.

(c) In addition, the person needing emergency services may not be subjected to arbitrary, capricious, or unreasonable discrimination based on age, sex, physical condition, or economic status.

(d) An officer, employee, or medical staff member of a general hospital commits an offense if that person recklessly violates this section. An offense under this subsection is a Class B misdemeanor, except that if the offense results in permanent injury, permanent disability, or death, the offense is a Class A misdemeanor.

(e) An officer, employee, or medical staff member of a general hospital commits an offense if that person intentionally or knowingly violates this section. An offense under this subsection is a Class A misdemeanor, except that if, as a direct result of the offense, a person denied emergency services dies, the offense is a felony of the third degree.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 311.023. NO LIABILITY FOR FAILURE TO PROVIDE EMERGENCY SERVICES AFTER GOOD FAITH EFFORT. An employee of a general hospital that does not have physician services available at the time of an emergency is not in violation of Section 311.022 if, after a reasonable good faith effort, a physician fails to provide or delegate the provision of medical services as required by state statutes.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 311.024. PAYMENT FOR SERVICES REQUIRED. This subchapter does not relieve a person of that person's obligation to pay for services provided by a hospital if the person can pay for those services.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER C. HOSPITAL DATA REPORTING AND COLLECTION SYSTEM

Sec. 311.031. DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Board of Health.

(2) "Charity care" means the unreimbursed cost to a hospital of:

(A) providing, funding, or otherwise financially supporting health care services on an inpatient or outpatient basis to a person classified by the hospital as "financially indigent" or "medically indigent"; and/or

(B) providing, funding, or otherwise financially supporting health care services provided to financially indigent

persons through other nonprofit or public outpatient clinics, hospitals, or health care organizations.

(3) "Contractual allowances" means the difference between revenue at established rates and amounts realizable from third-party payors under contractual agreements.

(4) "Department" means the Texas Department of Health.

(5) "Donations" means the unreimbursed costs of providing cash and in-kind services and gifts, including facilities, equipment, personnel, and programs, to other nonprofit or public outpatient clinics, hospitals, or health care organizations.

(6) "Education-related costs" means the unreimbursed cost to a hospital of providing, funding, or otherwise financially supporting educational benefits, services, and programs including:

(A) education of physicians, nurses, technicians, and other medical professionals and health care providers;

(B) provision of scholarships and funding to medical schools, colleges, and universities for health professions education;

(C) education of patients concerning diseases and home care in response to community needs; and

(D) community health education through informational programs, publications, and outreach activities in response to community needs.

(7) "Financially indigent" means an uninsured or underinsured person who is accepted for care with no obligation or a discounted obligation to pay for the services rendered based on the hospital's eligibility system.

(8) "Government-sponsored indigent health care" means the unreimbursed cost to a hospital of providing health care services to recipients of Medicaid and other federal, state, or local indigent health care programs, eligibility for which is based on financial need.

(9) "Health care organization" means a nonprofit or public organization that provides, funds, or otherwise financially supports health care services provided to financially indigent persons.

(10) "Hospital" means:

(A) a general or special hospital licensed under Chapter 241;

(B) a private mental hospital licensed under Chapter 577; and

(C) a treatment facility licensed under Chapter 464.

(11) "Hospital eligibility system" means the financial criteria and procedure used by a hospital to determine if a patient is eligible for charity care. The system shall include income levels and means testing indexed to the federal poverty guidelines; provided, however, that a hospital may not establish an eligibility system which sets the income level eligible for charity care lower than that required by counties under Section 61.023 or higher, in the case of the financially indigent, than 200 percent of the federal poverty guidelines. A hospital may determine that a person is financially or medically indigent pursuant to the hospital's eligibility system after health care services are provided.

(12) "Hospital system" means a system of local nonprofit hospitals under the common governance of a single corporate parent that are located within a radius of not more than 125 linear miles of the corporate parent.

(13) "Medically indigent" means a person whose medical or hospital bills after payment by third-party payors exceed a specified percentage of the patient's annual gross income, determined in accordance with the hospital's eligibility system, and the person is financially unable to pay the remaining bill.

(14) "Research-related costs" means the unreimbursed cost to a hospital of providing, funding, or otherwise financially supporting facilities, equipment, and personnel for medical and clinical research conducted in response to community needs.

(15) "Subsidized health services" means those services provided by a hospital in response to community needs for which the reimbursement is less than the hospital's cost for providing the services and which must be subsidized by other hospital or nonprofit supporting entity revenue sources.

Subsidized health services may include but are not limited to:

(A) emergency and trauma care;

(B) neonatal intensive care;

(C) free-standing community clinics; and

(D) collaborative efforts with local government or private agencies in preventive medicine, such as immunization programs.

(16) "Unreimbursed costs" means the costs a hospital incurs for providing services after subtracting payments received from any source for such services including but not limited to the following: third-party insurance payments; Medicare payments; Medicaid payments; Medicare education reimbursements; state reimbursements for education; payments from drug companies to pursue research; grant funds for research; and disproportionate share payments. For purposes of this definition, the term "costs" shall be calculated by applying the cost to charge ratios derived in accordance with generally accepted accounting principles for hospitals to billed charges. The calculation of the cost to charge ratios shall be based on the most recently completed and audited prior fiscal year of the hospital or hospital system. Prior to January 1, 1996, for purposes of this definition, charitable contributions and grants to a hospital, including transfers from endowment or other funds controlled by the hospital or its nonprofit supporting entities, shall not be subtracted from the costs of providing services for purposes of determining unreimbursed costs. After January 1, 1996, for purposes of this definition, charitable contributions and grants to a hospital, including transfers from endowment or other funds controlled by the hospital or its nonprofit supporting entities, shall not be subtracted from the costs of providing services for purposes of determining the unreimbursed costs of charity care and government-sponsored indigent health care.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 360, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 705, Sec. 6.01, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 781, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.032. DEPARTMENT ADMINISTRATION OF HOSPITAL REPORTING AND COLLECTION SYSTEM. (a) The department shall establish a uniform reporting and collection system for hospital financial and utilization data.

(b) The board shall adopt necessary rules consistent with this subchapter to govern the reporting and collection of data.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 726, Sec. 2, eff. Sept. 1, 1995.

Sec. 311.033. FINANCIAL AND UTILIZATION DATA REQUIRED. (a) A hospital shall submit to the department financial and utilization data for that hospital, including data relating to the hospital's:

(1) total gross revenue, including:

(A) Medicare gross revenue;

(B) Medicaid gross revenue;

(C) other revenue from state programs;

(D) revenue from local government programs;

(E) local tax support;

(F) charitable contributions;

(G) other third party payments;

(H) gross inpatient revenue; and

(I) gross outpatient revenue;

(2) total deductions from gross revenue, including:

(A) contractual allowance; and

(B) any other deductions;

(3) charity care;

(4) bad debt expense;

(5) total admissions, including:

(A) Medicare admissions;

(B) Medicaid admissions;

(C) admissions under a local government program;

(D) charity care admissions; and

(E) any other type of admission;

(6) total discharges;

(7) total patient days;

(8) average length of stay;

(9) total outpatient visits;

(10) total assets;

(11) total liabilities;

(12) estimates of unreimbursed costs of subsidized

health services reported separately in the following categories:

(A) emergency care and trauma care;

(B) neonatal intensive care;

(C) free-standing community clinics;

(D) collaborative efforts with local government or private agencies in preventive medicine, such as immunization programs; and

(E) other services that satisfy the definition of "subsidized health services" contained in Section 311.031(13);

(13) donations;

(14) total cost of reimbursed and unreimbursed research;

(15) total cost of reimbursed and unreimbursed education separated into the following categories:

(A) education of physicians, nurses, technicians, and other medical professionals and health care providers;

(B) scholarships and funding to medical schools, colleges, and universities for health professions education;

(C) education of patients concerning diseases and home care in response to community needs;

(D) community health education through informational programs, publications, and outreach activities in response to community needs; and

(E) other educational services that satisfy the definition of "education-related costs" under Section 311.031(6).

(b) The data must be based on the hospital's most recent audited financial records.

(c) The data must be submitted in the form and at the time established by the department.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 360, Sec. 2, eff. Sept. 1, 1993.

Sec. 311.0335. MENTAL HEALTH AND CHEMICAL DEPENDENCY DATA. (a) A hospital that provides mental health or chemical dependency services shall submit to the department financial and utilization data relating to the mental health and chemical dependency services provided by the hospital, including data for inpatient and outpatient services relating to:

(1) patient demographics, including race, ethnicity, age, gender, and county of residence;

(2) admissions;

(3) discharges, including length of inpatient treatment;

(4) specific diagnoses and procedures according to criteria prescribed by the Diagnostic and Statistical Manual of Mental Disorders, 3rd Edition, Revised, or a later version prescribed by the department;

(5) total charges and the components of the charges;

(6) payor sources; and

(7) use of mechanical restraints.

(b) The data must be submitted in the form and at the time established by the department.

Added by Acts 1993, 73rd Leg., ch. 705, Sec. 6.02, eff. Sept. 1, 1993.

Sec. 311.035. USE OF DATA. (a) The department shall use the data collected under this subchapter to publish an annual report regarding:

(1) the amount of charity care, bad debt, and other uncompensated care hospitals provide;

(2) the use of hospital services by indigent patients; and

(3) the effect of indigent care services on hospitals.

(b) Repealed by Acts 1995, 74th Leg., ch. 726, Sec. 5(1), eff. Sept. 1, 1995.

(c) The department shall enter into an interagency agreement with the Texas Department of Mental Health and Mental Retardation, Texas Commission on Alcohol and Drug Abuse, and Texas Department of Insurance relating to the mental health and chemical dependency data collected under Section 311.0335. The agreement shall address the collection, analysis, and sharing of the data by the agencies.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 705, Sec. 6.03, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 726, Sec. 3, 5(1), eff. Sept. 1, 1995.

Sec. 311.036. DATA VERIFICATION. (a) Before the department

may publish the report required by Section 311.035 or provide data to the public in any other manner, the department shall give each hospital a copy of the preliminary report or provide the hospital an opportunity in some other manner to verify the data relating to that hospital.

(b) If a hospital does not submit corrected data before the 31st day after the date on which the hospital receives the preliminary report or other data, the department shall presume that the data is correct.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 311.037. CONFIDENTIAL DATA; CRIMINAL PENALTY. (a) The following data reported or submitted to the department under this subchapter is confidential:

(1) data regarding a specific patient; or

(2) financial data regarding a provider or facility submitted to the department before September 1, 1987. All financial data regarding a provider or facility submitted after September 1, 1987, are no longer confidential.

(b) Before the department may disclose confidential data under this subchapter, the department must remove any information that identifies a specific patient.

(c) A person commits an offense if the person:

(1) discloses, distributes, or sells confidential data obtained under this subchapter; or

(2) violates Subsection (b).

(d) An offense under Subsection (c) is a Class B misdemeanor.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 360, Sec. 3, eff. Sept. 1, 1993.

Sec. 311.039. EXEMPTION. A hospital may, but is not required to, provide the data required by Section 311.033 if the hospital:

(1) is exempt from state franchise, sales, ad valorem, or other state or local taxes; and

(2) does not seek or receive reimbursement for providing health care services to patients from any source, including:

(A) the patient or any person legally obligated to support the patient;

(B) a third party payor; or

(C) Medicaid, Medicare, or any other federal, state, or local program for indigent health care.

Added by Acts 1997, 75th Leg., ch. 261, Sec. 15, eff. Sept. 1, 1997.

SUBCHAPTER D. COMMUNITY BENEFITS AND CHARITY CARE

Sec. 311.041. POLICY STATEMENT. It is the purpose of this subchapter to clarify and set forth the duties, responsibilities, and benefits that apply to hospitals for providing community benefits that include charity care.

Added by Acts 1993, 73rd Leg., ch. 360, Sec. 4, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 204, Sec. 22.01, eff. Sept. 1, 2003.

Sec. 311.042. DEFINITIONS. In this subchapter:

(1) "Charity care" means those amounts defined as charity care in Section 311.031(2).

(2) "Community benefits" means the unreimbursed cost to a hospital of providing charity care, government-sponsored indigent health care, donations, education, government-sponsored program services, research, and subsidized health services. Community benefits does not include the cost to the hospital of paying any taxes or other governmental assessments.

(3) "Contributions" means the dollar value of cash donations and the fair market value at the time of donation of in-kind donations to the hospital from individuals, organizations, or other entities. Contributions does not include the value of a donation designated or otherwise restricted by the donor for purposes other than charity care.

(4) "Donations" means those amounts defined as donations in Section 311.031(5).

(5) "Education-related costs" means those amounts defined as education-related costs in Section 311.031(6).

(6) "Government-sponsored indigent health care" means those amounts defined as government-sponsored indigent health care in Section 311.031(8).

(7) "Government-sponsored program unreimbursed costs" means the unreimbursed cost to the hospital of providing health

care services to the beneficiaries of Medicare, the Civilian Health and Medical Program of the Uniformed Services, and other federal, state, or local government health care programs.

(8) "Net patient revenue" is an accounting term and shall be calculated in accordance with generally accepted accounting principles for hospitals.

(9)(A) "Nonprofit hospital" means a hospital that is:

(i) eligible for tax-exempt bond financing; or

(ii) exempt from state franchise, sales, ad valorem, or other state or local taxes; and

(iii) organized as a nonprofit corporation or a charitable trust under the laws of this state or any other state or country.

(B) For purposes of this subchapter, a "nonprofit hospital" shall not include a hospital that:

(i) is exempt from state franchise, sales, ad valorem, or other state or local taxes;

(ii) does not receive payment for providing health care services to any inpatients or outpatients from any source including but not limited to the patient or any person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other federal, state, or local indigent care program; payment for providing health care services does not include charitable donations, legacies, bequests, or grants or payments for research; and

(iii) does not discriminate on the basis of inability to pay, race, color, creed, religion, or gender in its provision of services; or

(iv) is located in a county with a population under 50,000 where the entire county or the population of the entire county has been designated as a Health Professionals Shortage Area.

(10) "Nonprofit supporting entities" means nonprofit entities created by the hospital or its parent entity to further the charitable purposes of the hospital and that are owned or controlled by the hospital or its parent entity.

(11) "Research-related costs" means those amounts defined as research-related costs in Section 311.031(12).

(12) "Tax-exempt benefits" means all of the following, calculated in accordance with standard accounting principles for hospitals for tax purposes using the applicable statutes, rules, and regulations regarding the calculation of these taxes:

(A) the dollar amount of federal, state, and local taxes foregone by a nonprofit hospital and its nonprofit supporting entities. For purposes of this definition federal, state, and local taxes include income, franchise, ad valorem, and sales taxes;

(B) the dollar amount of contributions received by a nonprofit hospital and its nonprofit supporting entities; and

(C) the value of tax-exempt bond financing received by a nonprofit hospital and its nonprofit supporting entities.

(13) "Subsidized health services" means those amounts defined as subsidized health services in Section 311.031(13).

(14) "Unreimbursed costs" means costs as defined in Section 311.031(14).

(15) "Hospital system" means a system of local nonprofit hospitals under the common governance of a single corporate parent that are located within a radius of not more than 125 linear miles of the corporate parent.

Added by Acts 1993, 73rd Leg., ch. 360, Sec. 4, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 781, Sec. 2, eff. Sept. 1, 1995.

Sec. 311.043. DUTY OF NONPROFIT HOSPITALS TO PROVIDE COMMUNITY BENEFITS. (a) A nonprofit hospital shall provide health care services to the community and shall comply with all federal, state, and local government requirements for tax exemption in order to maintain such exemption. These health care services to the community shall include charity care and government-sponsored indigent health care and may include other components of community benefits as both terms are defined in Sections 311.031 and 311.042.

(b) In order to qualify as a charitable organization under Sections 11.18(d)(1), 151.310(a)(2) and (e), and 171.063(a)(1), Tax Code, and to satisfy the requirements of this subchapter, a nonprofit hospital shall provide community benefits, which include

charity care and government-sponsored indigent health care, in an amount that satisfies the requirements of Section 311.045. A determination of the amount of charity care and government-sponsored indigent health care provided by a hospital shall be based on the most recently completed and audited prior fiscal year of the hospital.

(c) Reductions in the amount of community benefits, which includes charity care and government-sponsored indigent health care, provided by a nonprofit hospital shall be considered reasonable when the financial reserves of the hospital are reduced to such a level that the hospital would be in violation of any applicable bond covenants, when necessary to prevent the hospital from endangering its ability to continue operations, or if the hospital, as a result of a natural or other disaster, is required substantially to curtail its operations.

(d) A hospital's admissions policy must provide for the admission of financially indigent and medically indigent persons pursuant to its charity care requirements as set forth in this subchapter.

Added by Acts 1993, 73rd Leg., ch. 360, Sec. 4, eff. Sept. 1, 1993.

Sec. 311.044. COMMUNITY BENEFITS PLANNING BY NONPROFIT HOSPITALS. (a) A nonprofit hospital shall develop:

(1) an organizational mission statement that identifies the hospital's commitment to serving the health care needs of the community; and

(2) a community benefits plan defined as an operational plan for serving the community's health care needs that sets out goals and objectives for providing community benefits that include charity care and government-sponsored indigent health care, as the terms community benefits, charity care, and government-sponsored indigent health care are defined by Sections 311.031 and 311.042, and that identifies the populations and communities served by the hospital.

(b) When developing the community benefits plan, the hospital shall consider the health care needs of the community as determined by community-wide needs assessments. For purposes of this subsection, "community" means the primary geographic area and patient categories for which the hospital provides health care services; provided, however, that the primary geographic area shall at least encompass the entire county in which the hospital is located.

(c) The hospital shall include at least the following elements in the community benefits plan:

(1) mechanisms to evaluate the plan's effectiveness, including but not limited to a method for soliciting the views of the communities served by the hospital;

(2) measurable objectives to be achieved within a specified time frame; and

(3) a budget for the plan.

(d) In determining the community-wide needs assessment required by Subsection (b), a nonprofit hospital shall consider consulting with and seeking input from representatives of the following entities or organizations located in the community as defined by Subsection (b):

(1) the local health department;

(2) the public health region under Chapter 121;

(3) the public health district;

(4) health-related organizations, including a health professional association or hospital association;

(5) health science centers;

(6) private business;

(7) consumers;

(8) local governments; and

(9) insurance companies and managed care organizations with an active market presence in the community.

(e) Representatives of a nonprofit hospital shall consider meeting with representatives of the entities and organizations listed in Subsection (d) to assess the health care needs of the community and population served by the nonprofit hospital.

Added by Acts 1993, 73rd Leg., ch. 360, Sec. 4, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1101, Sec. 1, eff. Sept. 1, 1997.

Sec. 311.045. COMMUNITY BENEFITS AND CHARITY CARE REQUIREMENTS. (a) A nonprofit hospital or hospital system shall annually satisfy the requirements of this subchapter and of

Sections 11.18(d)(1), 151.310(a)(2) and (e), and 171.063(a)(1), Tax Code, to provide community benefits which include charity care and government-sponsored indigent health care by complying with one or more of the standards set forth in Subsection (b). The hospital or hospital system shall file a statement with the Bureau of State Health Data and Policy Analysis at the department and the chief appraiser of the local appraisal district no later than the 120th day after the hospital's or hospital system's fiscal year ends, stating which of the standards in Subsection (b) have been satisfied, provided, however, that the first report shall be filed no later than the 120th day after the end of the hospital's or hospital system's fiscal year ending during 1994. For hospitals in a hospital system, the corporate parent may elect to satisfy the charity care requirements of this subchapter for each of the hospitals within the system on a consolidated basis.

(b)(1) A nonprofit hospital or hospital system may elect to provide community benefits, which include charity care and government-sponsored indigent health care, according to any of the following standards:

(A) charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;

(B) charity care and government-sponsored indigent health care are provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax; or

(C) charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of net patient revenue.

(2) For purposes of satisfying Subdivision (1)(C), a hospital or hospital system may not change its existing fiscal year unless the hospital or hospital system changes its ownership or corporate structure as a result of a sale or merger.

(3) A nonprofit hospital that has been designated as a disproportionate share hospital under the state Medicaid program in the current fiscal year or in either of the previous two fiscal years shall be considered to have provided a reasonable amount of charity care and government-sponsored indigent health care and shall be deemed in compliance with the standards in this subsection.

(c) The providing of charity care and government-sponsored indigent health care in accordance with Subsection (b)(1)(A) shall be guided by the prudent business judgment of the hospital which will ultimately determine the appropriate level of charity care and government-sponsored indigent health care based on the community needs, the available resources of the hospital, the tax-exempt benefits received by the hospital, and other factors that may be unique to the hospital, such as the hospital's volume of Medicare and Medicaid patients. These criteria shall not be determinative factors, but shall be guidelines contributing to the hospital's decision, along with other factors which may be unique to the hospital. The standards set forth in Subsections (b)(1)(B) and (b)(1)(C) shall also not be considered determinative of the amount of charity care and government-sponsored indigent health care that will be considered reasonable under Subsection (b)(1)(A).

(d) For purposes of this section, a hospital that satisfies Subsection (b)(1)(A) or (b)(3) shall be excluded in determining a hospital system's compliance with the standards provided by Subsection (b)(1)(B) or (b)(1)(C).

(e) In any fiscal year that a hospital or hospital system, through unintended miscalculation, fails to meet any of the standards in Subsection (b), the hospital or hospital system shall not lose its tax-exempt status without the opportunity to cure the miscalculation in the fiscal year following the fiscal year the failure is discovered by both meeting one of the standards and providing an additional amount of charity care and government-sponsored indigent health care that is equal to the shortfall from the previous fiscal year. A hospital or hospital system may apply this provision only once every five years.

(f) A nonprofit hospital or hospital system under contract with a local county to provide indigent health care services under Chapter 61 may credit unreimbursed costs from direct care provided to an eligible county resident toward meeting the nonprofit hospital's or system's charity care and government-sponsored indigent health care requirement.

Added by Acts 1993, 73rd Leg., ch. 360, Sec. 4, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 781, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 260, Sec. 1, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 654, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1263, Sec. 78, eff. Sept. 1, 2001.

Sec. 311.0455. ANNUAL REPORT BY THE DEPARTMENT. (a) The department shall submit to the attorney general and comptroller not later than July 1 of each year a report listing each nonprofit hospital or hospital system that did not meet the requirements of Section 311.045 during the preceding fiscal year.

(b) The department shall submit to the attorney general and the comptroller not later than November 1 of each year a report containing the following information for each nonprofit hospital or hospital system during the preceding fiscal year:

(1) the amount of charity care, as defined by Section 311.031, provided;

(2) the amount of government-sponsored indigent health care, as defined by Section 311.031, provided;

(3) the amount of community benefits, as defined by Section 311.042, provided;

(4) the amount of net patient revenue, as defined by Section 311.042, and the amount constituting four percent of net patient revenue;

(5) the dollar amount of the hospital's or hospital system's charity care and community benefits requirements met;

(6) a computation of the percentage by which the amount described by Subdivision (5) is above or below the dollar amount of the hospital's or hospital system's charity care and community benefits requirements;

(7) the amount of tax-exempt benefits, as defined by Section 311.042, provided, if the hospital is required to report tax-exempt benefits under Section 311.045(b)(1)(A) or (b)(1)(B); and

(8) the amount of charity care expenses reported in the hospital's or hospital system's audited financial statement.

(c) The department shall make the report required by Subsection (b) available to the public and shall issue a press release concerning the availability of the report.

(d) For purposes of Subsection (b), "nonprofit hospital" includes the following if the hospital is not located in a county with a population under 50,000 where the entire county or the population of the entire county has been designated as a Health Professionals Shortage Area:

(1) a Medicaid disproportionate share hospital; or

(2) a public hospital that is owned or operated by a political subdivision or municipal corporation of the state, including a hospital district or authority.

Added by Acts 1997, 75th Leg., ch. 260, Sec. 2, eff. Jan. 1, 1998.

Sec. 311.0456. ELIGIBILITY AND CERTIFICATION FOR LIMITED LIABILITY. (a) In this section:

(1) "Department" means the Department of State Health Services.

(2) "Nonprofit hospital" has the meaning assigned by Section 311.042(9)(A).

(b) This section applies only to a nonprofit hospital or hospital system that is certified by the department under Subsection (d).

(c) To be eligible for certification under Subsection (d), a nonprofit hospital or hospital system must provide:

(1) charity care in an amount equal to at least eight percent of the net patient revenue of the hospital or hospital system during the most recent fiscal year of the hospital or system; and

(2) at least 40 percent of the charity care provided in the county in which the hospital is located.

(d) To be certified under this subsection, a nonprofit hospital or hospital system must submit a written request for certification to the department not later than May 31 of each year stating that the hospital or system is eligible for certification.

The department must determine eligibility for certification not later than December 31 of the year in which the department receives the request by checking the report submitted by the hospital or system under Section 311.033 and the statement of community benefits and charity care submitted by the nonprofit hospital or hospital system under Section 311.045. If a report under Section 311.033 is not available for all hospitals in a county in which a nonprofit hospital meeting the requirement of Subsection (c)(1) is requesting certification, the department shall determine the eligibility of the hospital or hospital system using other sources of verified charity care information available at the time of certification. The department shall certify that the hospital or hospital system has met the requirements for certification. The certification issued under this subsection to a nonprofit hospital or hospital system takes effect on December 31 of that year and expires on the anniversary of that date.

(e) For the purposes of Subsection (b), a corporation certified by the Texas State Board of Medical Examiners as a nonprofit organization under Section 162.001, Occupations Code, whose sole member is a qualifying hospital or hospital system is considered a nonprofit hospital or hospital system.

(f) Notwithstanding any other law, the liability of a nonprofit hospital or hospital system for noneconomic damages as defined by Section 41.001, Civil Practice and Remedies Code, for a cause of action that accrues during the period that the hospital or system is certified under this section is subject to the limitations specified by Section 101.023(b), Civil Practice and Remedies Code, and Subsection (c) of that section does not apply. This subsection establishes the total combined limit of liability of the nonprofit hospital or hospital system and any employee, officer, or director of the hospital or system for noneconomic damages for each person and each single occurrence, as described by Section 101.023(b), Civil Practice and Remedies Code.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 22.02, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 376, Sec. 1, eff. June 17, 2005.

Sec. 311.046. ANNUAL REPORT OF COMMUNITY BENEFITS PLAN. (a) A nonprofit hospital shall prepare an annual report of the community benefits plan and shall include in the report at least the following information:

(1) the hospital's mission statement;

(2) a disclosure of the health care needs of the community that were considered in developing the hospital's community benefits plan pursuant to Section 311.044(b);

(3) a disclosure of the amount and types of community benefits, including charity care, actually provided. Charity care shall be reported as a separate item from other community benefits;

(4) a statement of its total operating expenses computed in accordance with generally accepted accounting principles for hospitals from the most recent completed and audited prior fiscal year of the hospital; and

(5) a completed worksheet that computes the ratio of cost to charge for the fiscal year referred to in Subdivision (4) and that includes the same requirements as Worksheet 1-A adopted by the department in August 1994 for the 1994 "Annual Statement of Community Benefits Standards".

(b) A nonprofit hospital shall file the annual report of the community benefits plan with the Bureau of State Health Data and Policy Analysis at the department. The report shall be filed no later than April 30 of each year. In addition to the annual report, a completed worksheet as required by Subsection (a)(5) shall be filed no later than 10 working days after the date the hospital files its Medicare cost report.

(c) A nonprofit hospital shall prepare a statement that notifies the public that the annual report of the community benefits plan is public information; that it is filed with the department; and that it is available to the public on request from the department. The statement shall be posted in prominent places throughout the hospital, including but not limited to the emergency room waiting area and the admissions office waiting area. The statement shall also be printed in the hospital patient guide or other material that provides the patient with information about the admissions criteria of the hospital.

(d) Each hospital shall provide, to each person who seeks any health care service at the hospital, notice, in appropriate

languages, if possible, about the charity care program, including the charity care and eligibility policies of the program, and how to apply for charity care. Such notice shall also be conspicuously posted in the general waiting area, in the waiting area for emergency services, in the business office, and in such other locations as the hospital deems likely to give notice of the charity care program and policies. Each hospital shall annually publish notice of the hospital's charity care program and policies in a local newspaper of general circulation in the county. Each notice under this subsection must be written in language readily understandable to the average reader.

(e) For purposes of this section, "nonprofit hospital" includes the following if the hospital is not located in a county with a population under 50,000 where the entire county or the population of the entire county has been designated as a Health Professionals Shortage Area:

(1) a Medicaid disproportionate share hospital; or

(2) a public hospital that is owned or operated by a political subdivision or municipal corporation of the state, including a hospital district or authority.

Added by Acts 1993, 73rd Leg., ch. 360, Sec. 4, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 260, Sec. 3, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 654, Sec. 2, eff. Sept. 1, 2001.

Sec. 311.0461. INFORMATIONAL MANUAL. The department shall annually publish a manual that lists each nonprofit hospital in this state with a brief summary of the charity care policies and community benefits that the nonprofit hospital provides.

Added by Acts 2001, 77th Leg., ch. 654, Sec. 3, eff. Sept. 1, 2001.

Sec. 311.047. PENALTIES. The department may assess a civil penalty against a nonprofit hospital that fails to make a report of the community benefits plan as required under this subchapter. The penalty may not exceed $1,000 for each day a report is delinquent after the date on which the report is due. No penalty may be assessed against a hospital under this subsection until 10 business days have elapsed after written notification to the hospital of its failure to file a report.

Added by Acts 1993, 73rd Leg., ch. 360, Sec. 4, eff. Sept. 1, 1993.

Sec. 311.048. RIGHTS AND REMEDIES. The rights and remedies provided for in this subchapter shall not limit, affect, change, or repeal any other statutory or common-law rights or remedies available to the state or a nonprofit hospital.

Added by Acts 1993, 73rd Leg., ch. 360, Sec. 4, eff. Sept. 1, 1993.