THA 2019 Texas Legislative Priorities

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The Texas Legislative Session

• Biennial Regular Session for 140 Days
  • Special Sessions called by Governor
• Primary Election March 6, 2018
• General Election November 6, 2018
• Nov. 11 bill filing opened
• Second Tuesday of January
• 86th Texas Legislature = Jan. 8 through May 27, 2019
140 Days Every Other Year

The average legislative office handles the following during the 140-day session:

• 7,000 + bills
• 6,000 telephone calls
• 5,000 drop-in visitors
• 8,000 letters
• 15,000 emails
• 600 event invitations
2017 Legislative Session

In a session lasting **140 days**:

- 7,000 bills filed
- THA tracked 1,144
- Affected hospitals’
  - Budget
  - Operation
  - Policy

In a 30-day **special session** with 20 issues:

- THA tracked 6 issues, plus others not on call
Legislative Process in Theory
Legislative Process in Reality
Leading the nation in population and job growth, Texas has one of the country’s strongest economies. Yet, no other state has more residents without health insurance, and no other state has experienced more hospital closures in rural communities.

A strong economy depends on healthy residents and communities. And that requires a strong health care infrastructure.
Texas Hospitals’ Public Policy Priorities to Support Healthy Hospitals, Patients and Communities for 2019-2020

To support a strong health care infrastructure, Texas hospitals advocate for the following:

1. A state budget that protects funding for health care programs and services to meet the physical and behavioral health care needs of a growing population.

- Continue state funding of health and human services programs and services, including adequate Medicaid funding that supports hospital payments that are closer to the actual costs of providing health care services.
- Maintain a dedicated funding source for the state’s network of trauma hospitals to compensate for some of their unreimbursed costs of providing life-saving trauma care.
- Continue state funding for educating and training a workforce of physicians, nurses, behavioral health professionals and allied health care professionals in numbers sufficient to care for the state’s large, growing and aging population.
Is Medicaid Eating the State Budget?

- General Revenue spending on HHS / Medicaid is less than GR spending on Education
- Using an All Funds amount includes the dollars from the hospital/IGT-funded portion of the budget
  - $6.2B in UC and DSRIP
  - $1.8B in DSH
  - 40% state / 60% federal
~4.0 million enrolled in Medicaid

3.2 enrolled are children

Increase of 2 million since 2000

Children are only 30% of expenditures in Medicaid

Elderly & Disabled account for 60% of cost but only 30% of enrollees
Smart for Texas: Bending the Cost Curve

Texas Medicaid Acute and Long-Term PMPM Costs: FY09-FY16

COST GROWTH LESS THAN 1% ON AVERAGE PER YEAR
From 2009-2016, Medicaid Per-Capita Cost Growth was **5 TIMES LOWER** than the U.S.

- **Texas Medicaid Per-Capita Cost Growth**: 5.8%
- **U.S. Per-Capita Health Care Cost Growth**: 30.4%
Medicaid Caseload Growth is the Cost Driver

Texas Medicaid Acute and Long-Term Caseloads: FY02-FY16 (in millions)
### Protect Health Care Funding in the State Budget

Continue state funding of HHS programs, including adequate Medicaid funding that is closer to the cost of providing health care.

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Protect Health Care Funding in the State Budget

Maintain a dedicated funding source for the state’s network of trauma hospitals.

Issue: Preserve trauma hospital funding but replace the source of funding.

- Since 2003 passage of Driver Responsibility Program, 77 NEW designated facilities
- Account 5111 funds used for uncompensated trauma care and Medicaid add-ons
- 14 Bills filed on DRP (6 to repeal the program, 8 to tinker with the program) in 2017 Session.
- THA supported legislation passed house but failed in Senate.
- Senate Finance interim study on value of trauma system.
- At least 5 bills filed so far in 2019.
Securing the State Trauma Fund to Protect Patient Care

Texas Hospitals Rely on $327.2 Million in State and Federal Funding Made Possible Because of State’s Trauma Fund (Account 5111)

Medicaid underpays Texas hospitals for medically necessary covered services. On average, Medicaid payments cover approximately 70 percent of the audited allowable costs of providing services. At the same time, designated trauma hospitals incur more than $320 million in unreimbursed trauma care costs annually.

Since 2015, the Texas Legislature has appropriated funds to increase Medicaid payments for certain particularly high need hospitals – rural, safety net, and trauma hospitals – to offset part of the Medicaid shortfall and unreimbursed trauma care.

State funds for the payment increase for safety net and trauma hospitals come in large part from the state’s trauma fund (Account 5111), fed mostly by fines and penalties imposed on drivers for excessive speed, driving while intoxicated or other reckless behaviors, through the Driver Responsibility Program. These state funds leverage federal funds, which combined contribute $327.2 million to Texas trauma and safety net hospitals.

Maintaining state funding for Account 5111, whether through the DRP or another source, is critical.
Protect Health Care Funding in the State Budget

Continue state funding for educating and training a workforce of physicians, nurses, behavioral and allied health professionals.

Physicians:
• Continue to expand GME slots to reach state's goal of having 1.1 slots per Texas medical school graduate.
• Physician Educational Loan Repayment Program.

Nurses:
• Fully fund Professional Nursing Shortage Reduction Program.
• Fully fund nursing faculty loan repayment program.

Behavioral Health:
• Loan Repayment Program for Mental Health Professionals ($2.1M level funding).
Texas Hospitals’ Public Policy Priorities to Support Healthy Hospitals, Patients and Communities for 2019-2020

2. A fair and equitable system of financing hospital payments.
   
   - Continue the current property tax structure and oppose limiting local jurisdictions’ ability to generate revenue for essential services.
   - Support locally generated solutions, including local provider participation funds, to generate the required non-federal share of Medicaid supplemental payments and increased hospital reimbursement rates.
   - Support maintaining Delivery System Reform Incentive Program supplemental payments within the hospital financing system while working with stakeholders to develop fair and equitable value based payment models that support access to care and good health care outcomes.
Financing Hospital Payments

- Continue the current property tax structure and oppose limiting local jurisdictions' ability to generate revenue for essential services.
Financing Hospital Payments

• Support locally generated solutions, including local provider participation funds, to generate the required non-federal share of Medicaid supplemental payments and increased hospital reimbursement rates.
Financing Hospital Payments

- Supporting maintaining DSRIP supplemental payments within the hospital financing system while working with stakeholders to develop a payment model that supports access to care and good health outcomes.

Texas DSRIP Funding

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<tr>
<th>Year</th>
<th>Funding (in billions)</th>
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<td>DY 11 2022</td>
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3. An increase in the number of Texans with affordable, comprehensive private health insurance.

- Support enrollment of all uninsured Texans who are eligible for coverage in the federal health insurance marketplace.
- Support development of a private market solution for low-wage working Texans with incomes too low to qualify for marketplace health insurance to purchase affordable, comprehensive health insurance.
Increase Access to Affordable, Comprehensive Health Insurance

Background:
Texas has the highest number and highest percentage of uninsured residents in the US.

• Uninsured rate rose in 2017 compared to 2016, from 4.5 million to 4.8 million uninsured residents and from 16.6 percent to 17.3 percent (U.S. Census Bureau)

• Support Enrollment of all uninsured Texans who are eligible for coverage in the federal health insurance marketplace.

• Support development of a private market solution for low-wage working Texans to purchase affordable, comprehensive health insurance.
Texas Hospitals’ Public Policy Priorities to Support Healthy Hospitals, Patients and Communities for 2019-2020

4. Funding for behavioral health care that is commensurate with the need for services and policies that foster, rather than inhibit, access to emergency psychiatric care.

- Increase state funding to ensure timely and appropriate access to inpatient and outpatient, community-based services and supports for Texans with a behavioral health diagnosis.

- Support revising the Texas Mental Health Code to allow physicians, not only law enforcement, to detain temporarily a patient deemed to be a danger to self or others for the purpose of conducting a thorough psychiatric assessment and evaluation and assessing the need for continued psychiatric treatment.

- Support revising the Texas Mental Health Code to allow physicians to delegate to an advanced practice registered nurse or physician assistant the ability to conduct a pre-admission examination to determine whether an individual meets the criteria for voluntary inpatient mental health services and obtain a physician's order for admission if admission criteria are met.
Support Behavioral Health Funding and Policies that Foster Access to Care

• Increase state funding for inpatient and outpatient services, including state-funded hospital beds and community-based services.

• Grow the behavioral health care workforce, including funding the mental health loan repayment program.

• Allow physicians, in addition to law enforcement, to temporarily detain a patient deemed a danger to self or others for the purpose of conducting a thorough psychiatric evaluation.

• Lessen use and abuse of opioids.
Texas Hospitals’ Public Policy Priorities to Support Healthy Hospitals, Patients and Communities for 2019-2020

5. Simplification and alignment of state and federal quality and patient safety reform initiatives.
   - Minimize conflicting and inconsistent initiatives related to health care quality and patient safety.

6. Preservation of the state’s model medical liability and prompt payment laws.
   - Oppose legislation to repeal the state’s 2003 tort reform law and any efforts to modify the law’s limits on non-economic and medical damages.
   - Protect the confidentiality of hospitals’ physician and nurse peer review processes.
   - Support the current law (Prompt Pay Act) to ensure that physicians and hospitals receive timely and accurate payments for health care provided and ensure the law’s applicability to all payor sources.
Preserve Tort Reform, Peer Review & Prompt Pay

• Oppose increasing the cap on non-economic damages in tort cases (including a tie to the Consumer Price Index).

• Protect the confidentiality of hospitals’ physician and nurse peer review processes.

• Support the Prompt Pay Act to ensure hospitals and physicians receive timely and accurate payments for services provided.
7. Empowerment of health care consumers through access to information that supports better health care decision making.

- Support efforts to inform consumers of the critical licensing and regulatory differences among hospitals, hospital-affiliated freestanding emergency centers, non-hospital-affiliated freestanding emergency centers and urgent care centers.
- Support enhanced disclosure of the ability of freestanding emergency centers to charge facility fees and of their participation in insurance networks.
Empower Consumers by Providing Access to Health Care Information

• Support efforts to inform consumers of the licensing and regulatory differences among hospitals, hospital-affiliated freestanding emergency centers, non-hospital-affiliated freestanding emergency centers and urgent care centers.

• Support enhanced disclosure of the ability of FEC to charge facility fees and their participation in insurance networks.
Current Issues: Hospital Liens

• Texas Property Code chapter 55

• Sec. 55.002(a): “A hospital has a lien on a cause of action or claim of an individual who receives hospital services for injuries caused by an accident that is attributed to the negligence of another person. For the lien to attach, the individual must be admitted to a hospital not later than 72 hours after the accident.”

• Concern with the use of the term “admitted.”
  • Efforts were made to clarify this term during 2017 Legislative Session.
  • Legislative action in 2019?
Monitoring the Supreme Court of Texas:

• In re N. Cypress Med. Ctr. Operating Co., Ltd.
  • 16-0851, 2018 WL 1974376 (Tex. Apr. 27, 2018 ); TX SC Case No. 16-0851
  • Reasonableness of charges and discoverability of negotiated reimbursement amounts.

• In re Travis County
  • TX SC Case No. 17-0947
  • Mitigation of damages.

• Texas Health Presbyterian Hospital of Denton v D.A.
  • TX SC Case No. 17-0256
  • Section 74.153 of the Texas Medical Liability requires claimants to prove willful and wanton negligence when their claims arise out of the provision of emergency medical care in a hospital obstetrical unit.

• Gunn v. McCoy
  • 489 S.W.3d 75, 03-24-16 (Tex. 2018); TX SC Case No. 16-0125
  • Ability for insurers to better predict costs of care; agents for insurers can sign affidavits concerning reasonableness.
Questions?

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