SUBJECT: Indigent care, administration at M.D. Anderson Cancer Center

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Berlanga, Hirschi, Coleman, Glaze, Janek, Maxey, Rodriguez

0 nays

2 absent — Delisi, McDonald

SENATE VOTE: On final passage, January 24 — 31-0

WITNESSES: For — Leonard Spearman Jr., for Harris County Judge Robert A. Eckels

Against — None

On — Dr. William H. Cunningham, University of Texas System; Dr. Charles A. LeMaistre and David J. Bachrach, University of Texas M.D. Anderson Cancer Center; Jim Allison, County Judges and Commissioners Association of Texas

BACKGROUND: The University of Texas M.D. Anderson Cancer Center in Houston was established in 1941 to diagnose, teach, study, prevent and treat cancer and allied diseases. State law requires the center to provide care without regard to a patient's ability to pay. Center operations are funded by state general revenue, patient charges and other fees. M.D. Anderson's governing statutes are Education Code Chapter 73, subchapter C, and Health and Safety Code Chapter 552.

Local entities are charged with certain responsibilities for health care for indigent patients under the Indigent Health Care and Treatment Act of 1985 (Health and Safety Code Chapter 61). Counties, public hospitals and hospital districts pay for emergency care and pre-approved nonemergency care of indigent residents of their service areas. They may contract with each other and with other health care providers to facilitate reimbursement. County and public hospital liability for an indigent patient's care is capped at $30,000 or 30 inpatient days in a hospital or skilled nursing facility.

Sums that a local entity spends over the cap may be reimbursed from the Indigent Health Care Assistance Fund.

DIGEST:

CSSB 192 would allow M.D. Anderson Cancer Center to bill counties, hospital districts and public hospitals who had entered into contracts with the center for services to indigent residents of the local service areas. The bill also would exempt M.D. Anderson from many state purchasing laws, allow patients to apply for admission to M.D. Anderson without a written request from an attending physician and allow the center to offer employee retirement incentives.

The financial liability of counties, public hospitals and hospital districts contracting with M.D. Anderson could not exceed actual health service costs, but could exceed the ceilings in the Indigent Health Care and Treatment Act if this were specified in the contract. Counties, public hospitals or hospital districts that did not enter into a contract with the center would have to approve nonemergency care of their indigent residents at the center in order to be held financially responsible. If approval was received, the local entity's financial liability would be limited under the Indigent Health Care and Treatment Act.

M.D. Anderson staff retirement incentives would have to be paid from institutional funds or hospital fees. Notice of the incentives would have to be filed with the Legislative Budget Board by the 61st day before the plan was implemented. M.D. Anderson could not rehire an employee receiving a retirement incentive without the specific approval of the center president.

M.D. Anderson would be required to purchase goods and services by the method that provided the best value for the institution, using specified considerations. The new requirement would prevail over other state purchasing requirements, except for requirements governing historically underutilized businesses (generally those owned by women or minorities). The state auditor could audit purchases.

The bill would take effect immediately, if approved by a two-thirds majority of the membership of each house, except the provisions relating to the admission of patients to M.D. Anderson would take effect September 1, 1995.

SUPPORTERS SAY:

CSSB 192 would help M.D. Anderson Cancer Center weather financial pressures and survive major changes in the health care marketplace while maintaining its excellent national reputation. At no cost to the state, the bill would help avert a projected funding deficit of $773 million by 1999 at the center. The bill would help the center become more cost-efficient, increasing its attractiveness to managed care plans, such as health maintenance organization and prepaid plans. This could increase the hospital's proportion of paying patients and assure high quality care.

M.D. Anderson is facing a funding squeeze caused by rising indigent care costs and the growing number of managed care plans that limit paying patient referrals to hospitals outside of their networks. In 1994 indigent care at the hospital cost more than $200 million, far more than the state general revenue appropriation of $116 million. Considerable responsibility for routine indigent cancer care could be assumed by local hospital districts and public hospitals — Harris County in particular. Harris County contains 17 percent of the state's population but its residents made up 40 percent of M.D. Anderson's indigent patient volume.

Letting M.D. Anderson contract with counties and public hospitals to provide health care to indigent residents, as all other public hospitals and hospital districts may do now, would help the cancer center recoup costs. A contract with Harris County is expected to free sufficient funds in the next two years to cover indigent care from all other counties. Giving the hospital a clear role in implementing the Indigent Health Care and Treatment Act would allow M.D. Anderson to respond to increased incidence of cancer outside Harris County and changes in health care financing.

Allowing patients to apply for admission to M.D. Anderson without a statement from a referring physician would allow them to obtain expert cancer treatment when their physicians are hindered from referring them under a managed care network. Specialty hospitals, such as M.D. Anderson, are often excluded from managed care networks because of their higher-than-average costs caused by complex patient caseloads and teaching, research and technology expenditures. Some managed care networks do pay for some services provided outside of the network.

M.D. Anderson has already taken several steps to improve efficiency and has eliminated 600 jobs. Another 1,400 positions may be cut in the next year and a half. An early retirement incentive would allow the hospital to restructure its staff while also offering a benefit to faithful, long-term employees.

In the competitive, fast-moving marketplace for health care services, state purchasing rules can slow and overly burden the purchase of drugs and other hospital supplies, adding to costs. M.D. Anderson needs the flexibility that most large hospitals have to respond to price reductions, new suppliers, new treatment modalities and special inventory controls. Performance-based budgeting also requires flexibility for state administrators to make appropriate decisions for their agencies to reach specified goals.

CSSB 192 would allow M.D. Anderson to make more appropriate and cost-effective purchases under streamlined statutory guidelines that ensure lowest possible prices and best value yet also maintain state oversight. Exempting only health care products and services from purchasing rules would be difficult to administer and could increase administrative costs. Unethical or poor purchasing decisions would be detected by one of the many annual state audits or by national hospital accreditation surveys. State auditors spent 170 work days reviewing hospital purchases last year. Various penalties could be imposed under other laws and regulations.

OPPONENTS SAY:

The state should not shirk its stated financial responsibility and pass costs for indigent care onto local taxpayers by allowing M.D. Anderson to charge or contract with counties and public hospitals. What is now a special service provided by the state would become an unfunded state mandate. The cost of cancer care for indigent patients would be passed onto local taxpayers. Instead, the state should increase funding to M.D. Anderson so it can continue to provide high quality care to all Texans.

CSSB 192 would enact a sweeping special exemption from state purchasing laws and rules for M.D. Anderson, a flexibility denied to other state institutions. The purchasing laws already governing the hospital were designed to give the state the greatest negotiating leverage for price discounts, to ensure that certain public policies are enacted and to monitor

and enforce appropriate and ethical state purchasing practices. The bill would reduce monitoring of purchases because the state auditor would not be required to audit all purchases, and the institution would be exempt from routine reporting requirements. A better approach might be to allow the hospital certain exemptions when purchasing special health care goods but to follow state rules when purchasing common goods, such as transportation vehicles.

OTHER OPPONENTS SAY:

The approach of this bill is too broad. It could burden counties across the state when the problem is really indigent patients from Harris County. A more finely tuned local financing solution should be tried before setting up a statewide system.

NOTES:

Unlike the Senate version, the committee substitute would allow public hospitals, as well as hospital districts and counties, to contract with M.D. Anderson for indigent care. The substitute also stipulates that M.D. Anderson indigent care charges to counties, public hospitals or hospital districts could not exceed actual costs unless allowed by contract and would require approval from the responsible public entities prior to providing services.