

SUBJECT: Requiring financial interest disclosure for referral to niche hospitals

COMMITTEE: Public Health — favorable, without amendment

VOTE: 8 ayes — Delisi, Laubenberg, Coleman, Dawson, Jackson, McReynolds, Solis, Truitt

0 nays

1 absent — Zedler

SENATE VOTE: On final passage, April 12 — 30-0-1 (Williams present, not voting).

WITNESSES: For — Joe DaSilva, Texas Hospital Association; John Thomas, Baylor Health Care System and Controlled Affiliates.

Against — None

DIGEST: SB 872 would prohibit a physician from requiring a patient to obtain a healthcare service from a niche hospital in which the physician had a financial interest without disclosing the financial interests and informing the patient of other options. The physician also would be required to notify the Department of State Health Services (DSHS) of any financial interest in a niche hospital.

The bill would define “niche hospital” as a facility:

- in which at least two-thirds of its Medicare patients or all patients, depending on available data, fell into one or two diagnosis groups; or
- that specialized in cardiac care, orthopedics, surgery, or women’s health.

The definition would not include public hospitals, specialty facilities for rehabilitation, psychiatry, alcohol or drug treatment, or pediatrics. It also would not apply to hospitals with fewer than 10 claims per bed per year.

A financial interest would not include ownership of publicly available

shares of a registered investment company, such as a mutual fund.

DSHS would have to conduct a study of the financial impact of niche hospitals on the financial viability of other hospitals. It would report the findings to the Legislature by December 1, 2006.

The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

SB 872 would require doctors to disclose any financial interest they had in niche hospitals before they could direct patients there for services. It also would commission a study on the impact niche hospitals have on the state's health care system, which would help the Legislature make future policy decisions on these facilities.

Niche hospitals have been established to offer specialized services to patients. Typically, these hospitals see only paying patients and do not offer the full range of services that general hospitals are required to have. Consequently, niche hospitals are more profitable and a growing business model. More than 100 doctor-owned limited service businesses now operate nationally and nearly half — 47 of these — are in Texas. An additional 29 are under development in the state.

A patient deserves to know that his or her physician may be profiting in more ways than through the direct fee by performing a procedure in a specific location. Patients are billed for hospital fees separately from their physician's fee, and they should be alerted when the profit from both fees would go to the physician through an ownership interest in a niche hospital. In addition, patients deserve to know that they have other options for where procedures could be performed. Often, they take the physician's recommendation as the final word.

Because these hospitals take paying clients away from the other hospitals in an area and can crush any competition in lucrative specialties, such as cardiology, orthopedics, and surgery, the state should look how niche hospitals impact the entire health care system. Trauma, uncompensated care, Medicaid-reimbursed care, and specialties that require the financial support of an entire hospital system to be available could be in jeopardy because of niche hospitals. However, the Legislature needs more

information before addressing this problem, which the study and report in this bill would provide.

Rural areas can be particularly hard hit by a niche hospital's opening. Sixty-five percent of Texas counties have one or fewer hospitals to serve residents. When a physician-owned niche hospital begins to supplant the full-service community hospital, the quality of community health care can suffer because the lone community hospital relies on a broad patient base to sustain unprofitable, yet essential services such as emergency care and other vital health services.

**OPPONENTS
SAY:**

Niche hospitals are a valuable addition to the health care landscape in Texas. They can offer more specialized services and employ a more highly-trained, specialized staff to support the procedures performed in their facilities. Patients whose diagnostic or surgical needs are uncommon often can find the best and most knowledgeable level of care in these facilities because they serve as a nexus for experience and training. Cancer centers and pediatric hospitals long have been an established part of the healthcare delivery system. Cardiology, orthopedic, and other surgical hospitals are simply an extension of that tradition.

Disclosure of financial interests would be confusing and of little value to most patients. Their relationship with a physician is based on the exchange of medical information, and most patients are unconcerned about payment terms or other financial matters, usually leaving them up to the insurer and the doctor's office staff. Patients already know that they can have surgery in a number of locations and look to their physician for a recommendation about which facility would be best.