

SUBJECT: Allowing hospitals to build nursing homes using bonds and UPL funds

COMMITTEE: Public Health — favorable, without amendment

VOTE: 9 ayes — Crownover, Naishtat, Blanco, Coleman, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

2 absent — Collier, S. Davis

WITNESSES: For — Ted Matthews, Eastland Memorial Hospital District; Brian Roland, Hamilton Healthcare System; Kevin Frosch, Medina County Hospital District; Ronald McCann, Oakbend Medical Center; Kevin Reed, Texas Organization of Rural and Community Hospitals; Tom Nordwick, Uvalde Memorial Hospital Authority; Adrian Larson, Val Verde Hospital District; Phillip Hopkins; (*Registered, but did not testify:* Dan Posey, Baylor Scott and White Health; Maureen Milligan, Teaching Hospitals of Texas; Charles Bailey, Texas Hospital Association; Don McBeath and David Pearson, Texas Organization of Rural and Community Hospitals; Andrew Smith, University Health System)

Against — None

BACKGROUND: Chapter 223 of Health and Safety Code, the Hospital Project Financing Act, authorizes cities, counties, public hospital authorities, and hospital districts to issue revenue bonds or notes to finance health care facilities as a hospital project. Under this chapter, a “hospital project” means property or a property interest — other than a nursing home — for which financing, refinancing, acquiring, providing, constructing, enlarging, remodeling, renovating, improving, furnishing, or equipping of that property is deemed necessary for medical care, research, training, or teaching in Texas by the governing body of a debt issuer.

Sections 285.101 and 262.034 of the Health and Safety Code allow rural public hospitals, public hospital authorities, and hospital districts to own,

operate, and issue revenue bonds for nursing homes or similar long-term care facilities, elderly housing, assisted living, home health, special care, continuing care, durable medical equipment, and personal care facilities. A public hospital, hospital district, or public hospital may lease or enter into an operations or management agreement relating to all or part of these facilities or services.

The Health and Human Services Commission recently implemented a Nursing Facility Upper Payment Limit (UPL) Supplemental Payment Program through which a hospital authority, hospital district, health care district, city, or county operating a nursing facility can use UPL funding for nursing facilities they own. Under this program, the state draws down federal funding for Medicaid to pay nursing facilities the Medicare rate for services, rather than the Medicaid rate, which is usually lower.

DIGEST:

HB 3332 would allow the definition of a “hospital project” to include a nursing facility, assisted living facility, or multi-unit senior housing facility. The bill would allow a hospital project to be located anywhere in Texas if the project served a legitimate public purpose and the location of the project was consistent with the project’s purpose.

The bill would repeal a provision in statute that prohibits a public hospital, hospital district, or public hospital authority from issuing revenue bonds or notes for housing or a facility for people who are elderly or disabled if a private provider can provide those services within the service area of a hospital, hospital district, or hospital authority.

It also would remove a requirement in statute that only rural public hospitals, hospital districts, or public hospital authorities can issue revenue bonds or notes to acquire, construct, or improve nursing homes or similar long-term care facilities, elderly housing, assisted living, home health, special care, continuing care, durable medical equipment, and personal care facilities for people who are elderly or disabled.

This bill would take effect September 1, 2015.

SUPPORTERS
SAY:

HB 3332 would enable public hospitals to participate in the Health and Human Services Commission's Nursing Facility UPL Supplemental Payment Program by allowing them to issue bonds for the purpose of building or operating nursing homes. This would increase federal dollars available to long-term care facilities under the Medicaid program without incurring additional state expense. It also would create valuable new nursing home and long-term care facility space to house patients for whom one of these settings would be more appropriate than a hospital bed.

HB 3332 particularly would help public hospitals remain financially viable in rural counties, which would improve rural Texans' access to quality health care, improve continuity of care, and reduce unnecessary hospital readmissions. Rural counties cannot afford to lose these public hospitals, which often are the only trauma health providers for many miles and serve a geriatric population.

Public hospitals also are often the largest and highest-paying employers in rural Texas. Allowing them to participate in the Nursing Home UPL Supplemental Payment Program would ensure that they could continue to operate in these communities. Support for these entities should be a priority.

Hospitals have a need for UPL funding for nursing homes because the hospital model is moving away from keeping patients in hospital beds and more toward delivering care in long-term care facilities. Rural hospitals in particular have a need for funding because they serve a geriatric population that uses Medicare, and the federal Affordable Care Act recently cut Medicare reimbursement rates.

Hospitals also are financially penalized for avoidable readmissions under Medicare. Allowing public hospitals to participate in UPL funding for nursing homes would improve follow-up care and prevent readmissions because providers would better be able to keep track of geriatric patients' health if a nursing home was within the hospital system.

Hospital authorities would build a new nursing home only if there was a need for one. It is not in their financial interest to build a nursing home in an area with competing, high-quality nursing homes. The state needs better quality nursing homes. Certain nursing homes might be at low capacity because they are not providing the high level of care that a hospital authority could provide.

OPPONENTS
SAY:

HB 3332 would give public hospitals an unfair advantage over private nursing homes by allowing all public hospitals — not just rural hospitals — to build nursing homes using revenue bonds and public funding. Rural hospitals already are allowed to build nursing homes as part of a hospital project, but the bill specifically would remove a provision that allows public hospitals to use revenue bonds for a nursing home only if a private provider is not available within the public hospital's service area. This provision is in law because nursing homes across the state are overbuilt and are not at full capacity.

The state does not need more nursing homes in areas already served by private providers, and the bill should not allow public hospitals to use government funding for this purpose. The bill also should not allow hospitals to build a nursing home outside of their hospital districts using government funds, as it would if enacted. The UPL program is meant to reimburse public hospitals for providing charity care. It was not meant to grant public hospitals an unfair advantage over private nursing homes.

Hospitals also do not need nursing homes to be within their networks to provide follow-up care. They can use electronic health records to keep track of patients' health regardless of their location.