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TEXAS HOSPITAL ASSOCIATION

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A Summary of the 82nd Texas Legislature Regular and Special Sessions • Aug. 10, 2011

Editor's Note

This edition of the *Health Care Advocate* provides an overview of health care issues addressed by the 82nd Texas Legislature in both the regular and special sessions. The full text for all bills is available online at www.capitol.state.tx.us. If you have specific questions, please contact the THA staff member(s) listed at the end of each story.

For a printable PDF version of this special edition, visit www.tha.org.

Legislature Passes Lean Budget

Lawmakers finally approved a \$172 billion (all funds) budget for the 2012-13 biennium, which is an 8.1 percent reduction from current spending. With a perceived mandate from voters in the November General Election, freshmen and conservative Republican legislators – supported by the leadership – prevailed in not raising taxes and using only \$3.2 billion from the almost \$9 billion rainy day fund to pay the state's current bills.

Lawmakers were forced into a special session because they failed to pass **Senate Bill 1811** which contained the statutory changes necessary to create savings and balance the state's budget (**House Bill 1**). The new **Senate Bill 1** extends the sunset date on the increased exemption in the margins tax (the first \$1 million in gross receipts exemption was set to expire at year-end), and includes a temporary public school finance plan to allocate the more than \$4 billion in cuts included in the budget passed during the regular session. The bill defers the August 2013 payment to school districts into the next biennium, which saves an additional \$2 billion.

Lawmakers cut some \$15.2 billion from current spending, including the \$4 billion drop in payments to public schools and simply did not address a \$4.8 billion hole in Medicaid attributed to anticipated growth in costs and caseload to serve mandatory populations over the next two years. Lawmakers have stated their intention to tap the rainy day fund in 2013 to fill this gap.

Article II – Health and Human Services

Funding for Article II takes the largest overall hit, with an \$11.3 billion or 17.2 percent reduction in all funds. The biggest loss is in federal funds, which will decrease 28 percent, or \$11.8 million. This loss is attributed to the expiration of federal stimulus dollars and the 10-point decline in the Federal Medical Assistance Percentage. The **dedicated trauma fund** appropriation declined by 23 percent to \$57.5 million for each year of the biennium. (*See related story, p. 5.*) Averting consolidation into one statewide entity, the six **poison control centers** face a \$2.3 million reduction in funding. The final version of the budget holds the line at 2010-11 funding levels for **mental health services**. While this does not allow for population growth or inflation, it is far better than the House budget which proposed cuts of more than \$239 million.

Hospitals face an **8 percent reduction in Medicaid inpatient and outpatient hospital funding**, in addition to the 2 percent reduction implemented in fiscal year 2011 and codified in the supplemental appropriation process (**House Bill 4** and **House Bill 275**). However, hospitals were successful in protecting rural and children's hospitals from the inpatient rate reduction. Rider 40 ensures that sole community providers, rural referral centers, critical access hospitals and hospitals in counties with less than 50,000 in population in the 2000 census will continue to receive cost-based reimbursement for inpatient fee-for-service Medicaid.

Rider 59 is an aggressive initiative and includes \$1.7 billion (all funds) in savings for the second year of the biennium related to containing costs in the Medicaid program. The rider directs the Texas Health and Human Services Commission to seek a federal waiver that would permit:

- Greater flexibility in the levels of eligibility and benefit packages in Medicaid and the Children's Health Insurance Program;
- Consolidation of funding streams, including hospital and long-term care funding, to increase efficiency and accountability;
- THHSC asking the federal government to cover 100 percent of the costs for unauthorized immigrants; and
- Maximization of federal matching funds.

Rider 61 includes some \$1 billion (all funds) in **Medicaid cost containment initiatives**, many of which will impact hospitals. Among the 30 cost reduction strategies are:

- Increasing neonatal intensive care management;
- Transitioning hospital outpatient Medicaid payments to a fee schedule;
- Reducing hospital emergency department rates for nonemergency related visits;
- Paying less for hospital outlier payments;
- Adjusting amount, scope and duration for services;
- Maximizing co-payments in all Medicaid programs;
- Automatically enrolling clients into managed care plans;
- Maximizing federal match for services paid with state general revenue;
- Renegotiating more efficient contracts;
- Implementing payment reform and quality-based payments in fee-for-service and managed care programs; and
- Improving birth outcomes by reducing birth trauma and elective inductions.

Rider 67 mandates Medicaid rebasing – including a **statewide Standard Dollar Amount** – by Sept. 1, 2011. The rider's final form is more broadly crafted than earlier budget versions, granting the agency wide latitude to consider high cost hospital functions and services, including regional differences, when developing the rate methodology. The rider is projected to achieve \$31 million in general revenue savings, but adds \$48 million in all funds to mitigate disproportionate hospital losses. The details will be developed by THHSC working in conjunction with its Medicaid SDA workgroup, which is developing a methodology that includes a base rate paid to all hospitals, and add-on payments for variations in hospital wages statewide, teaching hospitals and designated trauma facilities.

Rider 70 will increase **transparency in the supplemental payment programs**. As THHSC calculates supplemental Disproportionate Share Hospital and Upper Payment Limit program payments, the agency must collect data about associated claims. In addition, an independent audit of the programs is required, including a review of regional affiliations, uncompensated care claims for both uninsured/insured individuals and contractual agreements. The cap on supplemental payments included in a previous version of the budget bill was removed.

Rider 60 funds up to \$5 million in general revenue for the **children's hospitals' UPL program**. The rider is more restrictive than in previous years and represents a cutback of \$20 million in GR from the amount funded in 2009.

Rider 76 instructs THHSC to implement the **expansion of STAR+PLUS**. If THHSC has not been granted federal approval to protect UPL payments through an 1115 waiver, THHSC must "carve out" hospital payments but still achieve a projected \$28.9 million general revenue savings through rate reductions to inpatient and outpatient hospital rates, selective contracting or other THHSC initiatives.

Rider 77 provides that THHSC shall not implement the expansion of the **STAR program** if the agency has not been granted federal approval to protect UPL payments. However, THHSC still must achieve the projected \$242.7 million in general revenue savings using rate reductions to inpatient and outpatient hospital rates, selective contracting or other THHSC initiatives.

Article III – Education

The budget includes \$30 million for the biennium for the **Professional Nursing Shortage Reduction Program**. This level of funding will allow nursing schools to maintain the increased enrollment they have achieved, and some schools may be able to expand their programs slightly. The fund was zeroed out in the first version of the budget bill.

Medical education also was cut for the upcoming biennium. Originally, the budget cut health-related institutions' formula funding by 10 percent and special-item funding by 25 percent. To temper those cuts, the supplemental budget bill reinstated more than \$200 million to these institutions. This reduces the formula funding cut to 5 percent. H.B. 4 also restores 5 percent of the special item cuts, and 10 percent for some specific items.

In Article IX of **Senate Bill 7** which was approved during the special session, the Legislature created the **Texas Emergency and Trauma Care Education Partnership Program** and appropriated \$4 million from the designated trauma account to finance grants to hospitals and their nursing or medical education program partners for fellowships related to trauma care. (*See related story on p. 4 for more details.*)

The physician education loan repayment program, which assists physicians who agree to practice in underserved communities, is losing 76 percent of its funding over the next two years. The program will be unable to enroll any additional physicians. (*See related story on p. 4 for more details.*) (*John Hawkins/John Berta/Jennifer Banda, J.D./Michelle Apodaca, J.D./Denise Rose, J.D.*)

Hospitals Opposed Budget Cuts Through 'Some Cuts Don't Heal' Campaign

The Texas Hospital Association led a high-profile grassroots advocacy effort to inform legislators and the general public about the consequences of deep cuts in Medicaid and other health care spending. THA's campaign integrated podcasts, social media, YouTube videos, a dedicated website, direct mail, print and radio advertising, earned media, op-ed pieces and

editorial board visits. Weekly Calls to Action to hospital CEOs, trustees, hospital government relations staff and communications professionals provided ideas and tools for hospitals to involve local stakeholders. Chamber resolutions, local news conferences, letter-writing campaigns, pages on hospitals' websites and social media posts were among the ways individual hospitals got involved. Ultimately, the political climate and composition of the Legislature prevailed over sound health care policy decisions.

To see how hospitals got involved in the "Some Cuts Don't Heal" campaign, go to www.tha.org/action. (*Ann Ward, APR/ Amanda Engler, APR*)

Certain Hospitals May Employ Physicians

In a repeat of the 2009 legislative session, the Texas Hospital Association, along with the Texas Organization of Rural & Community Hospitals and Teaching Hospitals of Texas, supported numerous bills that will allow rural, hospital district and certain other hospitals to directly employ physicians and retain the professional fees generated by the physicians at the hospital and at other health care facilities owned or operated by the hospital. **Senate Bill 894** by Sen. Robert Duncan (R-Lubbock) **gives hospitals in counties with a population less than 50,000 or sole community or critical access providers the option to hire physicians.** After extended negotiations and agreement on a number of provisions that ensure protection of physicians' independent medical judgment, the Texas Medical Association – which steadfastly has opposed any change in the prohibition on the corporate practice of medicine law – ultimately supported the rural hospital and other physician employment bills.

The final bill requires hospitals that employ physicians to appoint a chief medical officer who will notify the Texas Medical Board that the hospital is employing physicians and serve as the hospital's designated TMB contact. In addition, the hospital must adopt policies relating to credentialing, quality assurance, utilization review, peer review and due process, and medical decision-making; the policies also must be approved by the medical staff. The bill also addresses professional liability coverage provided to employed physicians.

Rep. Garnet Coleman (D-Houston) who was the House sponsor of S.B. 894 and one of the strongest advocates for physician employment by hospitals, was successful in passing **House Bill 1568**, which will **allow the Harris County Hospital District to employ physicians. Senate Bill 303** by Sen. Robert Nichols (R-Jacksonville) **authorizes physician employment by the Tarrant County Hospital District; Senate Bill 860** by Sen. Jose Rodriguez (D-El Paso) **gives similar authority to the El Paso Hospital District; and House Bill 2351** by Rep. Ruth Jones McClendon (D-San Antonio) **does the same for the Bexar County Hospital District.** Finally, Sen. Royce West (D-Dallas), who conducted an interim study in 2010 on physician employment as chair of the Senate Intergovernmental Relations Committee, passed **Senate Bill 761**, which allows **Texas Scottish Rite Hospital for Children in Dallas to employ physicians.** (*Charles Bailey, J.D./Jennifer Banda, J.D.*)

Medicaid Policies, Operations Also Addressed

While Medicaid budget issues dominated the session, other bills addressed specific Medicaid policies and operations. Legislators decided to implement Medicaid managed care statewide, primarily to save some \$400 million in general revenue. Article I of **Senate Bill 7** passed during the special session **eliminates the prohibition on the expansion of Medicaid managed care into South Texas** by specifically authorizing the expansion of capitated Medicaid managed care into Cameron, Hidalgo and Maverick counties. S.B. 7 includes a number of new requirements for all Medicaid managed care areas, and directs the Texas Health and Human Services Commission to seek a federal waiver to use funds from either the disproportionate share hospital or upper payment limit programs or both to draw down federal matching funds. The bill also establishes quality-based outcome and process measures to modify reimbursement methodologies for hospitals and managed care organizations to reward quality and efficiency.

S.B. 7 requires THHSC to recommend a **physician incentive program to reduce non-urgent visits to the hospital emergency department**, and encourages cost-sharing by allowing THHSC to set co-pay amounts for beneficiaries.

Article V of S.B. 7 requires the Texas Department of State Health Services to develop a **statewide standardized patient risk identification system**, based on evidence-based medicine. Hospitals that already have a standardized system – such as color-coded wristbands – may be granted an exemption.

Several attempts were made this session to limit the use of taxpayer dollars for any abortions. Some of the legislation was broadly worded and would have cut off Medicaid or other taxpayer funding to any facility that performs abortion or abortion-related services, including those related to medical emergencies. The Texas Hospital Association was able to secure some modification to these onerous provisions. (*See related story, p. 9.*)

Lowering the incidence of premature births and elective deliveries prior to 39 weeks of gestation was a popular Medicaid cost containment initiative this session. In addition to budget Rider 61, **House Bill 1983** by Rep. Lois Kolkhorst (R-Brenham) and sponsored by Sen. Jane Nelson (R-Flower Mound) requires hospitals to collaborate with physicians to develop initiatives to reduce the number of elective deliveries prior to 39 weeks. The legislation also directs THHSC to achieve cost savings by implementing quality initiatives designed to reduce elective deliveries in Medicaid prior to 39 weeks. THHSC is directed to coordinate with stakeholders, including hospitals, to develop a process for collecting data regarding the number of these elective deliveries.

Several years ago, the Texas Legislature required THHSC to conduct a review of **rate and expenditure disparities between the Texas-Mexico border region and other areas of the state**, both for Medicaid and the Children's Health Insurance Program. **Senate Bill 1220** extends this statute and requires THHSC to submit a report to the Legislature by Dec. 1, 2014, regarding the commission's plan to eliminate disparities in Medicaid and CHIP rates and expenditures in certain areas of the state.

Two bills were approved that strengthen **Medicaid fraud detection and enforcement**. **Senate Bill 688** by Sen. Robert Nichols (R-Jacksonville) increases the enforcement authority of the Medicaid fraud control unit and the penalties that can be imposed for Medicaid fraud. The timeframe for prosecuting Medicaid fraud was extended from three to seven years, and criminal penalties may be based on the number of fraudulent claims filed. The bill also allows the prosecution of a “high managerial agent” who is authorized to act on behalf of a health care provider, which is an expansion of current law that limits prosecution to the owner of a health care organization.

House Bill 1720 by Rep. John Davis (R-Houston) expands the authority of Medicaid managed care plans to investigate Medicaid fraud. In addition, THHSC is required to contract with one or more recovery audit contractors to identify underpayments and overpayments in Medicaid and recover overpayments. To address concerns about inappropriate referrals, the names and associated national provider identifier numbers of the supervised and supervising provider must be included on reimbursement claims. The bill also requires a physician or other provider who orders use of durable medical equipment for a Medicaid recipient to certify on the order that an in-person evaluation of the recipient was conducted within the preceding six-month period. (*Jennifer Banda, J.D./Michelle Apodaca, J.D./Charles Bailey, J.D.*)

Nursing Bills Pass, Others Die

During the regular session, lawmakers considered several bills addressing nursing practice and regulation to improve patient safety. **Senate Bill 192**, authored by Sen. Jane Nelson (R-Flower Mound) and sponsored in the House by Rep. Donna Howard (D-Austin), was filed at the request of the Texas Nurses Association to address issues raised by the case of two Winkler County nurses who were criminally indicted for reporting a physician to the Texas Medical Board. The bill **extends current law that protects a nurse or her advisor from retaliation for engaging in patient advocacy activities, creates immunity protections from criminal liability and increases the administrative penalty against a facility that retaliates against a nurse to an amount not to exceed \$25,000**. The Texas Hospital Association worked closely with TNA on the development of the legislation and its passage.

Senate Bill 193, also authored by Sen. Nelson and sponsored in the House by Rep. Susan King (R-Abilene), updates the Texas Board of Nursing’s regulation of nurses to improve patient safety. The bill **authorizes the Texas Board of Nursing to establish a confidential, voluntary error reporting system for nursing peer review**. The system will utilize TERCAP© (Taxonomy of Error, Root Cause Analysis and Patient-Responsibility), the standardized error classification system developed by the National Council of State Boards of Nursing, to track elements of nursing practice breakdown.

A number of nursing bills did not pass. **House Bill 884** by Rep. Howard would have amended the patient advocacy protections provision of the Nursing Practice Act to include a limited waiver of sovereign immunity for a nurse employed by a public hospital who raises a patient care concern with his or her

supervisor and then employment is terminated. The waiver was limited because it capped the damages the nurse could recover to those available under the Texas Public Employee Whistleblower Law.

Several bills were filed that attempted to protect against violence in the health care workplace. **Senate Bill 295** by Sen. Kirk Watson (D-Austin) would have enhanced the penalty for assaulting emergency department nurses and other personnel. To obtain the enhanced penalty, the hospital’s staff would have been required to participate in education programs relating to de-escalation and conflict resolution. In addition, the bill would not have applied to a patient with mental illness. Even with that amendment, the bill ultimately died because of concerns from the mental health community that enhanced penalties would be disproportionately applied to mental health patients.

There were several bills filed that would have expanded the scope of practice for advanced practice registered nurses, including bills that would have given APRNs the authority for autonomous practice. Ultimately those efforts failed, but it is anticipated that the House Public Health Committee may request to study the issue over the interim as outlined in **House Bill 1266** by Rep. Garnet Coleman (D-Houston). As substituted, Rep. Coleman’s bill would have required an interim study on the practice of APRNs and their authority to prescribe and order prescription drugs. The study would have examined the independent practice of APRNs to perform basic emergency and non-emergency health care services, as well as preventive health care services within the scope of the APRN’s license.

Once again, nursing union-backed bills failed to gain steam. **House Bill 2426** by Rep. Senfronia Thompson (D-Houston), filed at the request of National Nurses United (formerly the California Nurses Association) and known as the union’s whistleblower bill, would have mandated protections for collective advocacy actions, as well as for refusal to engage in conduct that the nurse believes is unsafe, including a mandatory requirement that the supervising nurse requesting the conduct be reported to the Texas Board of Nursing. Rep. Thompson also filed **House Bill 2427**, known as the Hospital Patient Protection Act and similar to legislation filed in 2009 and 2007, at the request of NNU. The bill is modeled on the staffing ratio law in California and would have mandated specific nurse-to-patient ratios in Texas hospitals, increased operational nurse-staffing requirements for hospital governing boards and required a standard acuity tool for uniform patient classification. Neither union bill was ever heard in its committee of jurisdiction in the House. (*Elizabeth Sjoberg, RN, J.D./Jennifer Banda, J.D.*)

Lawmakers Support Nursing, Physician Education

In 2009, the Texas Hospital Association joined with the Texas Nurses Association and others through the **Texas Nursing Workforce Shortage Coalition** to help secure an unprecedented appropriation of \$44.7 million for the Nursing Shortage Reduction Fund to be used by all nursing schools to expand capacity, hire faculty and increase graduation rates. When the budget bill was filed this session, the Nursing Shortage Reduction Fund had been zeroed out. THA again partnered with

nursing stakeholder groups and worked with past legislative champions, **ultimately securing \$30 million for the 2012-2013 biennium in the final budget adopted by the Legislature.**

This level of funding will allow nursing schools to maintain the increased enrollment they have achieved, and some schools may be able to expand their programs slightly.

THA and TNA also worked with other nursing school advocates to secure an extension of the dedication of tobacco lawsuit settlement funds to nursing education. **Senate Bill 794** by Sen. Jane Nelson (R-Flower Mound) **extends the use of the proceeds from those funds for nursing education until 2015.** The estimated income for the 2012-13 biennium is \$5-6 million.

Funding for medical education was cut for the upcoming biennium. Originally, the budget cut health-related institutions' formula funding by 10 percent and special-item funding by 25 percent. To temper those cuts, the supplemental budget bill, **House Bill 4** by Rep. Jim Pitts (R-Waxahachie), reinstated more than \$200 million in additional dollars to these institutions. This reduces the formula funding cut to 5 percent. H.B. 4 also restores 5 percent of the special-item cuts, and 10 percent for some specific items.

In Article IX of **Senate Bill 7** which was approved during the special session, the Legislature created the **Texas Emergency and Trauma Care Education Partnership Program** and appropriated \$4 million from the designated trauma account to finance grants to hospitals and their nursing or medical education program partners for fellowships related to trauma care. Administered by the Texas Higher Education Coordinating Board, the program will fund the development or operation of an emergency and trauma care education partnership that prepares a student to complete a graduate professional nursing program with a specialty focus on emergency and trauma care or earn board certification by the American Board of Medical Specialties. The Legislature appropriated \$4 million from the designated trauma fund for the 2012-13 biennium for the program.

The **physician education loan repayment program**, which assists physicians who agree to practice in underserved communities, is losing 76 percent of its funding over the next two years. The program will be unable to admit any additional physicians, and those physicians already receiving loan repayment will receive a total of three years of funds rather than four years as initially promised. (*Jennifer Banda, J.D./Elizabeth Sjoberg, RN, J.D./Denise Rose, J.D.*)

Funding Sources for Designated Trauma Hospitals Remain Intact

The Texas Hospital Association worked with numerous other stakeholders through the **Coalition to Protect Trauma Care** to maintain funding for the statewide trauma system. The major source of funding for trauma facilities and emergency medical services providers, the **Driver Responsibility Program, as well as intersection safety cameras, will remain in place** for another two years.

Numerous pieces of legislation were filed to repeal the DRP – **House Bill 299** by Rep. Leo Berman (R-Tyler), **House Bill 1609** by Rep. Larry Gonzalez (R-Round Rock) and **Senate Bill**

624 by John Whitmire (D-Houston) – or to repeal and replace it with another funding source – **House Bill 1810** by Rep. Lon Burnam (D-Fort Worth) – but none of them were voted out of their respective committees. In fact, several pieces of legislation never were granted a hearing.

There also were a number of bills filed regarding intersection safety cameras, including two that would have prohibited municipalities from implementing them – **Senate Bill 500** by Sen. Mike Jackson (R-Lake Jackson) and **House Bill 1561** by Rep. Rob Orr (R-Burleson) that would have required a local election before installation could occur. Rep. Charlie Geren (R-Fort Worth) would have prohibited the Texas Department of Public Safety from denying re-registration of vehicles if an individual had outstanding fines from intersection safety cameras. Only Rep. Geren's **House Bill 887** moved out of the House, and the Texas Hospital Association opposed it on the grounds that it would have created disincentives for individuals to pay fines from red light cameras on a timely basis.

Two pieces of legislation impacting the DRP did pass – **House Bill 588** by Rep. Ryan Guillen (D-Rio Grande City) which **allows for an advance payment of DRP surcharges**, and **House Bill 2851** by Rep. Barbara Mallory Caraway (D-Dallas) which **requires DPS to set up a surcharge deferral program for military personnel deployed outside the U.S.**

In the budget, **trauma payments to designated facilities** will be reduced by 23 percent in the 2012-2013 biennium, from \$75 million per year to \$57.5 million per year. In the supplemental appropriations bill, House Bill 4, The University of Texas Health Science Center at Houston received an additional \$1 million as a continued effort to help Level 1 facilities in the Houston area after Hurricane Ike. The House had added a rider to the budget appropriating money over the biennial revenue estimate for the Regional Trauma Account, which is funded by intersection safety cameras, but that rider was removed by the Senate Finance Committee.

During the special session, the Legislature created the **Texas Emergency and Trauma Care Education Partnership**, which will make fellowship grants to doctors and registered nurses training in trauma and emergency care hospitals through collaboration between hospitals and graduate professional nursing or graduate medical education programs. The Legislature appropriated \$4 million from the trauma fund for this program for the biennium. (*Denise Rose, J.D.*)

Hospital Lien Bill Passes; Legislation on Billing Disclosures Dies

The hospital lien statute was amended and **will require hospitals to give patients notice of a hospital lien filed for amounts owed as a result of services provided by the hospital or emergency services provider in connection with an injury resulting from an accident.** To alleviate additional costs and administrative burdens for hospitals, the Texas Hospital Association worked with Sen. John Carona (R-Dallas) to revise his **Senate Bill 328** so that hospitals would not be required to give patients the notice upon admission and would not have to send the notice via certified mail, return receipt requested. The compromise language only requires hospitals to send notice to the patient after the lien has

been filed and the hospital has been notified that the lien has been recorded in the county records. The notice can be sent by regular mail and, if the patient has an attorney, the notice can be sent to the patient's attorney.

Rep. Vicki Truitt (R-Southlake) would have required hospital outpatient facilities to disclose to patients that based on the individual's insurance coverage, their out-of-pocket costs for services provided at the facility could be greater than would be required if the services were provided in a physician's office.

House Bill 2576 passed the House, but died without a Senate hearing.

Rep. Lois Kolkhorst (R-Brenham), a proponent of health care pricing transparency and personal responsibility for health care, attempted to modify hospitals' current patient disclosure policies. Rep. Kolkhorst did not have a hearing on **House Bill 2430**, but in the last days of session amended it to Senate Bill 8. Her amendment would have required a study on a consumer-driven health care system, including the issue of differing amounts of payment in full accepted by a provider for the same or similar health care services or supplies while addressing the differences and reasons for the amounts accepted, the availability of this information to consumers, and potential methods for providing the information to consumers. The House failed to adopt the conference committee report on S.B. 8 before the May 29 deadline. (*Michelle Apodaca, J.D./Charles Bailey, J.D.*)

New State Privacy Measures Implemented

House Bill 300 by Rep. Lois Kolkhorst (R-Brenham) sets out new state level requirements in relation to electronic health records and their disclosure. The final bill included provisions from Senate Bill 622 by Sen. Jane Nelson (R-Flower Mound), which died on the House calendar, and several floor amendments including one successfully negotiated by the Texas Hospital Association that would cap the penalty amounts under the bill. Noteworthy provisions of H.B. 300 are:

- A requirement that a person's electronic medical records and an accounting of each disclosure of the record be provided to the patient not later than 15 days after a request from the patient, if the covered entity has an electronic system capable of fulfilling the request. Exceptions to disclosure under federal law are applicable.
- A mandate for patient authorization prior to each disclosure of the record except in the cases of treatment, payment or operations in which case notice that a patient's protected health information may be exchanged electronically is sufficient.
- A requirement that hospitals provide their employees with training on state and federal law concerning protected health information as it pertains to the employee's scope of work.
- The creation of a consumer information website that contains information on state and federal privacy laws.
- A prohibition of the disclosure of protected health information for direct or indirect remuneration with exceptions for treatment, payment, operations and several other activities.

- A tiered civil penalty structure for violations that occur negligently, knowingly or intentionally, or knowingly or intentionally for financial gain.
- Requirements for notice to the public about breaches of data security.
- The ability of state agencies to request the results of a risk analysis or audit conducted by a covered entity if violations have occurred that are egregious and constitute a pattern or practice.

H.B. 300 has an effective date of Sept. 1, 2012, which will allow hospitals time to prepare for the requirements of this new law. (*Denise Rose, J.D./Cameron Krier, J.D., M.P.H.*)

TDI Reauthorized, Cancer Drugs Covered; "Silent PPOs," Exchanges Fail to Pass

The Texas Department of Insurance was reviewed again this session after its sunset bill failed to pass in 2009. Several stand-alone bills addressed TDI's authority as well as insurance-related provisions to implement federal health care reform, which ultimately failed. However, during House floor debate on **House Bill 1951** by Rep. Larry Taylor (R-League City), several important amendments were added but ultimately were removed by the conference committee. Rep. John Zerwas (R-Simonton) added language establishing a **program similar to the health insurance exchanges that are part of the Patient Protection and Affordable Care Act. This program would have created a marketplace through the Consumer Protection Division** of TDI where individuals and families could research the availability and cost of qualified health plans and purchase private health insurance beginning in 2014. The Texas Hospital Association supported the failed measure.

Additionally, the "silent PPO" bill, **House Bill 1534** by Rep. Craig Eiland (D-Galveston), was amended to H.B. 1951 and ultimately removed by the conference committee. THA worked closely with other stakeholders to develop agreed-upon language **establishing criteria for certain entities accessing networks and contract discounts, and for contract termination.** These entities would have been required to disclose to physicians and hospitals when they used their discounted rates and to register with TDI. Hospitals would have had the ability to take action when a contract discount was used without a contract between the parties. The silent PPO language was added to Senate Bill 8, but the language was stripped by the conference committee.

At the request of the Texas Organization of Rural & Community Hospitals, Rep. Eiland tried to prohibit a health maintenance organization or an insurer that contracts with a rural hospital from denying that hospital the opportunity to be reimbursed for providing ancillary services for patients. Unfortunately, **House Bill 2149** died in the Calendars Committee without being set on the House calendar.

Rep. Senfronia Thompson (D-Houston) was successful in improving patient access to oral cancer drugs. **House Bill 438 requires health insurers to provide coverage for oral medications** on a basis no less favorable than intravenously administered or injected medications, which would allow health

plans to implement this legislation without reducing patient cost-sharing requirements for oral anticancer medications. (*Michelle Apodaca, J.D.*)

Legislation Modifies 5.01(a) Organizations

While the Texas Medical Association supported legislation allowing physician employment by rural and certain public hospitals, TMA maintained its position that physician employment by 5.01(a) corporations is the preferred approach in urban areas of the state and pushed for legislation that would preserve the authority of physicians employed by these corporations to exercise independent medical judgment.

Senate Bill 1661 by Sen. Robert Duncan (R-Lubbock) was compromise legislation negotiated between TMA and the Texas Hospital Association that **requires the physician governing board of 5.01(a) corporations to adopt policies relating to credentialing, quality assurance, utilization review and peer review**. As passed, the bill also provides that the required policies must be interpreted in a manner that preserves the authority of an employed physician to practice medicine and that an employed physician may not be disciplined by the corporation for reasonably advocating for patient care. The policies required by this legislation must be developed by Jan. 1, 2012. (*Charles Bailey, J.D./Jennifer Banda, J.D.*)

Bills Address Medical Board Oversight

Numerous bills were filed to improve the process by which the Texas Medical Board regulates physicians. One overly aggressive bill opposed by the Texas Hospital Association, **House Bill 1013** by Rep. Fred Brown (R-Bryan), would have **allowed a physician to receive an unredacted copy of any complaint filed against him or her at the TMB, including an unredacted copy of a peer review complaint file**. Ultimately, THA worked to ensure the bill did not pass.

Other provisions to improve the TMB's regulatory process were added to **House Bill 680** by Rep. Charles Schwertner (R-Georgetown), including a restriction on anonymous complaints being filed against a physician, allowance of a remedial plan to resolve an investigation and further time limits on agency actions. (*Jennifer Banda, J.D.*)

No Major Changes to Texas Advance Directives Act

For the third session in a row, legislation was filed by Rep. Bryan Hughes (R-Mineola) to dramatically alter the Texas Advance Directives Act, which has been in place since 1999. Rep. Hughes, a trial lawyer, has had his "treat until transfer" bill referred to a different committee each session in the hope of achieving a more favorable result. This year **House Bill 3520** was heard twice – once in full committee and again in a special subcommittee on end-of-life issues – but the bill never made it out of committee. Not to be deterred, Rep. Hughes attempted to add an amendment to Senate Bill 8 that would have required hospitals to begin reporting detailed information about the dispute resolution process contained in Chapter 166.046. The intent of the amendment was unclear, and Rep. Vicki Truitt (R-Southlake)

offered an amendment to the amendment at the Texas Hospital Association's request striking the reporting language and replacing it with an interim study in the Senate. The amendment to the amendment was overwhelmingly adopted by the House, but later stripped out by the S.B. 8 conference committee.

Additionally, another piece of legislation was filed in both the House and Senate that was believed to be an end-run to "treat until transfer." **House Bill 2483** by Rep. Aaron Pena (R-Edinburgh) and **Senate Bill 1632** by Sen. Brian Birdwell (R-Granbury) would have put into statute procedures by which a physician could have ordered an in-hospital Do-Not-Resuscitate Order and also would have allowed a "qualified relative" to overturn an individual's out-of-hospital DNR order without cause. The bills also put in place criminal penalties for individuals who "execute an out-of-hospital DNR out of compliance with the subchapter." THA strongly opposed these bills, and neither was heard in committee.

One bill addressing the out-of-hospital DNR did pass.

Current law requires emergency medical services personnel responding to emergencies to comply with the provisions of the out-of-hospital DNR order, if present. With the advent of numerous forms of "living wills" used to direct physicians in the provision of end-of-life care, EMS personnel are concerned about losing valuable time to provide emergency care while they attempt to evaluate or interpret such forms. **House Bill 577**, authored by Rep. Ruth Jones McClendon (D-San Antonio) and sponsored in the Senate by Sen. Robert Deuell (R-Greenville), amends the Out-of-Hospital DNR Order section of the Texas Advance Directives Act to state that EMS personnel must honor an out-of-hospital DNR order, but have no duty to review, examine, interpret or honor a person's other written directive, including the Directive to Physicians and Family or Surrogates. The bill also provides guidance relating to medical orders from the person's personal physician. (*Denise Rose, J.D./Elizabeth Sjoberg, RN, J.D.*)

TDSHS Can Share Data, Use NHSN for Reporting

During the special session, the Legislature approved **Senate Bill 7** which included an article relating to reporting health care data. The article transfers the powers and duties of the Texas Health Care Information Council to the Texas Department of State Health Services, and it **authorizes TDSHS to designate the Centers for Disease Control and Prevention's National Healthcare Safety Network as the recipient of health care-associated infections reports from Texas health care facilities** and for the reports to be shared with the state.

Although S.B. 7 gives the state the authority to require reporting more frequently than quarterly – a change from current law – the Texas Hospital Association successfully negotiated the inclusion of language that requires data released to the public to be aggregated at least quarterly. The 50-procedure threshold for required reporting of the incidence of surgical site infections was removed.

During the special session, Article VII in S.B. 7 made changes to legislation passed during the regular session

modifying data reporting to the Texas Health Care Information Collection. **Senate Bill 156** by Sen. Joan Huffman (R-Southside Place) **allows the Texas Department of State Health Services to share de-identified hospital discharge data with other programs within the agency with approval of its Institutional Review Board.** Data that may be shared with approval include information on health care-associated infections and preventable adverse events, as well as various public health registries and research data. An amendment was added to the bill that would have exempted ambulatory surgery centers from these reporting requirements, but it was removed at the request of numerous associations, including THA.

S.B. 7 modified the bill and **allows confidential hospital data, test results for AIDS and physician-patient communications to be shared with TDSHS or THHSC programs without notification to the provider,** although confidentiality provisions of the data remain intact and existing criminal penalties will apply to any breaches. The bill requires TDSHS to post on its website a list of each entity that purchases or receives data.

S.B. 7 also **removes the rural provider exemption from reporting, effective Sept. 1, 2014.** The exemption for Texas Scottish Rite Hospital for Children also was repealed effective Sept. 1, 2014. The confidentiality of physician data is maintained. (*Denise Rose, J.D./Cameron Krier, J.D., M.P.H./Elizabeth Sjoberg, RN, J.D.*)

Newborn Screening Laws Amended

Legislation passed during this session will amend current law relating to newborn hearing and metabolic screenings. **Senate Bill 229** authored by Sen. Jane Nelson (R-Flower Mound) and sponsored by Rep. Susan King (R-Abilene) and Rep. Elliott Naishtat (D-Austin) in the House, **removes exemptions for children's and rural hospitals to provide newborn hearing screening services.** Most facilities already have been providing this service. The bill also codifies current newborn hearing screening rules adopted by the Texas Department of State Health Services; allows midwives who attend births to refer parents to a provider who participates in the program; and requires TDSHS to provide software to all facilities participating in the Medicaid program.

House Bill 411, authored by Rep. Jodie Laubenberg (R-Rockwall) and sponsored by Sen. Robert Deuell (R-Greenville), addressed only newborn metabolic screening prior to the addition of a measure relating to newborn hearing screening. The metabolic screening provisions of the bill **require approval of the health commissioner to disclose information collected on the newborn screening blood spot form.** The bill also allows consent for disclosure to be withdrawn at a later date by the parent, managing conservator, guardian or the child when the age of majority is reached; outlines the approved circumstances for releasing screening information for public health research purposes; and addresses the destruction of genetic material.

The newborn hearing screening provisions of H.B. 411, originally contained in Senate Bill 270 authored by Sen. Carlos Uresti (D-San Antonio) and sponsored by Rep. Veronica

Gonzales (D-McAllen), **require a birthing facility, through a certified program, to perform either directly or through a transfer agreement a hearing screening exam on newborns or infants prior to discharge.** The birthing facility must inform the parents that it is required by law to screen the newborn or infant and that the parents may decline the screening. In addition, the bill clarifies that if the newborn is transferred to another birthing facility prior to the screening, then the receiving birthing facility must conduct the hearing screening exam prior to the newborn's or infant's discharge. The program that performed the initial hearing screening exam must provide the screening results to the parents and either offer a follow-up screening to parents of newborns or infants who do not pass the screening or refer the parents to another program for the follow-up screening. (*Elizabeth Sjoberg, RN, J.D./Denise Rose, J.D.*)

NICU Council to Be Established

The increasing rate of preterm births has led to the expansion of neonatal intensive care unit beds statewide. Since the Medicaid program currently pays for at least half of all births in Texas, lawmakers are seeking more detailed information about NICU operational standards. **House Bill 2636** authored by Rep. Lois Kolkhorst (R-Brenham) and sponsored in the Senate by Sen. Jane Nelson (R-Flower Mound) **directs the Texas Health and Human Services Commission to create the Neonatal Intensive Care Unit Council to study and make recommendations regarding neonatal intensive care unit operating standards and reimbursement under Medicaid.** The bill also directs THHSC to develop standards for operating a NICU, develop an accreditation process, and study and make recommendations regarding best practices and protocols to lower admissions to NICUs. (*Jennifer Banda, J.D./Elizabeth Sjoberg, RN, J.D.*)

Bill Requires Pertussis Information for New Parents

Current law requires a hospital, birthing center, physician, nurse midwife or midwife who provides prenatal care to a pregnant woman during gestation or at the time of delivery to give an informational resource pamphlet to the woman and the father of the infant relating to such issues as newborn screening, immunizations and shaken baby syndrome. **House Bill 336** authored by Rep. Garnet Coleman (D-Houston) and Sen. Robert Deuell (R-Greenville) **requires the resource pamphlet to also include information relating to pertussis disease and the availability of the vaccine to protect against it.** Information also must include the recommendation that parents receive the Tdap vaccination during the post-partum period to protect the newborn. (*Elizabeth Sjoberg, RN, J.D./Denise Rose, J.D.*)

Bills Address Mental Health Care

The Texas Legislature considered a number of mental health bills this session. With looming budget cuts to state psychiatric hospital beds and community services, the Texas Hospital Association opposed legislation that would place additional burdens on hospitals.

Senate Bill 44 by Sen. Judith Zaffirini (D-Laredo) was the fourth attempt to pass legislation to keep individuals with mental illness under emergency detention or order of protective custody out of jails. As filed, the bill would have limited the detention of such individuals in jails unless a hospital within 75 miles, or similar facility, was not available. In response to concerns expressed by rural hospitals, this provision was deleted from the bill and the substitute became essentially a bill requiring reporting to the Commission on Jail Standards of certain mental health patients detained in jail. The bill ultimately died.

Another bill that would have placed additional burdens on psychiatric hospitals was **Senate Bill 1503** by Sen. Joan Huffman (R-Southside Place). The measure would have allowed judicial override of a facility administrator's decision to discharge a patient receiving court-ordered mental health services based simply on the patient's having a criminal charge – not a conviction – for certain offenses occurring years ago. The bill died in the Senate.

Senate Bill 47, also by Sen. Zaffirini and dealing with patient consent issues, failed to move forward. It would have prohibited the use of *pro re nata* orders in the administration of psychoactive medications to residents of certain facilities including hospitals, except in emergency situations, under court order or at the patient's request.

Several mental health bills did pass, including **House Bill 3146** by Rep. Elliott Naishtat (D-Austin) and sponsored in the Senate by Sen. Zaffirini. It **modifies consent to treatment provisions under facility licensure statutes** to allow psychologists, social workers, professional counselors or chemical dependency counselors to obtain a patient's consent for treatment for chemical dependency.

Senate Bill 1449 by Sen. Zaffirini **establishes an alternative method of satisfying certain licensing and program participation requirements for chemical dependency treatment facilities**. It requires the Texas Department of State Health Services to accept accreditation from an accrediting entity such as The Joint Commission instead of inspection by the department for renewal of a chemical dependency treatment facility license. THA supported the measure, which is effective Sept. 1.

House Bill 1829 by Rep. Elliott Naishtat (D-Austin) clarifies current law by **providing police with the legal authority to transfer mental health patients admitted to a hospital for emergency detention to appropriate mental health facilities**.

A key provision of the bill is that it allows an individual held in a medical hospital under an emergency detention to be transferred to a psychiatric hospital with the psychiatric hospital's written permission. Additionally, when the bill was heard in the Senate, Sen. Eddie Lucio (D-Brownsville) added an amendment, similar to his Senate Bill 1358, that: 1) permits a judge or magistrate to transmit a warrant electronically to a physician who is presenting an application for emergency detention, and 2) to receive the warrant back electronically. The electronic transmission requires a digital signature or, if sent by email, the warrant must be attached in PDF format. (*Michelle Apodaca, J.D.*)

Abortion Measures Spur Debate, Ultimately Pass

One of the items declared an "emergency" by Gov. Rick Perry at the beginning of the legislative session was a bill requiring the performance of a sonogram prior to an abortion. **House Bill 15** passed both houses of the Legislature and was signed by the governor on May 19. Effective Sept. 1, the legislation **requires physicians to provide a sonogram to a pregnant woman before the performance of an abortion**. The Texas Hospital Association worked with the bill authors, Rep. Sid Miller (R-Stephenville) and Sen. Dan Patrick (R-Houston), to add an exemption for medical emergencies for the health of the mother.

Several attempts were made during the regular session to limit the use of taxpayer dollars for any abortions. While THA was successful in modifying some of the onerous provisions in bills that failed in the regular session, two abortion-funding measures were added to **Senate Bill 7** and were approved during the special session. Although the intended target of these efforts was Planned Parenthood, some of the broadly worded legislation also affects hospitals.

Section 1.19 of Article I in S.B. 7 **restricts access to family planning grants and funding for the Medicaid Women's Health Program**. The section establishes the order of priority that the Texas Health and Human Services Commission must consider in awarding family planning grants. Public entities that provide family planning services – including state, county and local community health clinics and federally qualified health centers – are the top priority. Nonpublic entities that provide comprehensive primary and preventive care services in addition to family planning are second, and nonpublic entities that provide family planning but not primary/preventive care are last.

S.B. 7 also restricts the use of money in the successor Women's Health Program, and prohibits its use to perform or promote elective abortions, or to contract with entities that perform or promote elective abortions or affiliate with entities that do so. These requirements ensure that Planned Parenthood, which provides about 40 percent of current family planning services, will be unable to participate in the Medicaid program. As a result, hospitals are likely to see an increase in preventive care cases and Medicaid births in the emergency room.

Article XV of S.B. 7 states that a **hospital district that uses any tax revenue to finance an abortion, except in cases of a medical emergency, may not receive state Medicaid funding**. Initially, the definition of "medical emergency" applied only to conditions that threaten the life of the mother. THA was successful in amending the definition to include a severe fetal abnormality that even with life-saving medical treatment is "incompatible with the fetus' life outside the womb." (*Jennifer Banda, J.D.*)

State Lawmakers Address Federal Health Care Reform

Passage of the federal health care reform legislation in 2010 prompted a range of state legislative proposals this session. Some of the legislation was consistent with the federal reforms, while other bills attempted to repeal or limit the impact of

the federal law. Rep. John Zerwas (R-Simonton) attempted to establish the Texas Health Insurance Connector, which would have served as the state's insurance exchange under the federal law. While **House Bill 636** had broad support from health care, insurance and the business community and the Texas Hospital Association testified in support of the legislation, the bill was not voted out of the House Insurance Committee. Rep. Zerwas was successful in adding a floor amendment to House Bill 1951, the Texas Department of Insurance sunset legislation, which would have allowed TDI to perform some of the insurance connector functions. However, that amendment was removed from the bill prior to its passage.

After her measure failed in the regular session, Rep. Lois Kolkhorst (R-Brenham) introduced legislation in the special session to allow the state to join the **Interstate Health Care Compact** and, along with other states, seek consent from Congress to independently administer the Medicaid and Medicare programs in the participating states rather than having the federal government control the programs. She also added the compact language as Article XII to **Senate Bill 7**, which passed in the special session. Rep. Kolkhorst and proponents of the compact concept, including the Texas Public Policy Foundation, emphasized that the "one size fits all" approach to these federal programs leaves little room for innovation, and that the compact – if approved by Congress – would give the state more flexibility in operating these programs, including the determination of eligibility for services, covered benefits and reimbursement of health care providers.

Lt. Gov. David Dewhurst and Sen. Jane Nelson (R-Flower Mound) again tried to establish a number of new programs to improve health care quality and reduce costs. Although Senate Bill 8 failed during the regular session, it was resurrected and approved as **Senate Bill 7** during the special session. Article III of S.B. 7 creates the **Texas Institute of Health Care Quality and Efficiency to make recommendations for improving health care outcomes and containing costs**. Article IV establishes a **state certification process and regulatory requirements for health care collaboratives**, which may accept payments from Medicare, Medicaid and private payers based on alternative payment methodologies, including bundled or shared savings payments, and distribute payments to participating hospitals, physicians and other health care providers. Article IV addresses state legal barriers, such as the prohibitions on the corporate practice of medicine and fee-splitting.

Republican opposition to federal health care reform was evidenced by numerous bills that would have allowed individuals to refuse to comply with the health care coverage mandate imposed by the federal law. **House Bill 32** by Rep. Brandon Creighton (R-Conroe) would have removed the personal mandate at the state level and removed the fine or penalty if an individual chose not to obtain or maintain coverage. While H.B. 32 died on the House floor on a point of order, a similar provision was added to S.B. 8, which ultimately died. (*Charles Bailey, J.D./Jennifer Banda, J.D./Michelle Apodaca, J.D.*)

Emotional Immigration Reform Bills Stymied

State frustration with lack of enforcement of federal immigration laws prompted a broad range of immigration reform bills this session. Gov. Rick Perry designated enforcement of immigration laws an "emergency" item, and Rep. Burt Solomons (R-Carrollton) introduced **House Bill 12**, which would have prohibited the adoption of policies not to enforce the immigration laws by local law enforcement agencies and other types of governmental entities. The so-called "sanctuary cities" bill also would have denied state funding to a local governmental entity that adopted a policy to prohibit any peace officers, employed by *any* entity, from making an inquiry about the citizenship status of an individual arrested or detained as a part of a criminal investigation. Based on how the bill was crafted, there were concerns that it would conflict with the responsibility of public hospitals to provide emergency and other services to all people in need of services, and the Texas Hospital Association was successful in adding a House floor amendment that clarified that the bill would not apply to hospital districts and other types of public hospitals to the extent that the hospital was providing emergency services. H.B. 12 passed the House over strong opposition from Democratic members, but stalled in the Senate and did not pass.

House Bill 178 by Rep. Jim Jackson (R-Carrollton) and **House Bill 202** by Rep. Solomons would have required employers and state contractors, including hospitals with Medicaid contracts, to perform e-verification of the citizenship status of all prospective employees. Failure to perform the verification would have subjected the employers to loss of state contracts and funding. Neither bill passed out of the House State Affairs Committee. **House Bill 197** by Rep. Solomons would have required an individual seeking a license to practice in an occupation or profession to provide the licensing agency with documentation of citizenship or lawful presence in the U.S. The bill passed the House, but died in the Senate.

As part of Article I of **Senate Bill 7** that passed during the special session, public hospitals and hospital districts are given the authority to **recover the costs of health care services provided to a legal permanent resident from his sponsor**. (*Charles Bailey, J.D.*)

Vaccination Policy Measure Passes in Special Session

The Texas Hospital Association supported legislation, **Senate Bill 1177** by Sen. Jane Nelson (R-Flower Mound) and Rep. John Zerwas (R-Simonton), which would have required health care facilities to adopt a policy on vaccination of health care workers. Although the initiative died as an amendment to Senate Bill 8 during the regular session, it was added as Article VIII to **Senate Bill 7** which passed in the special session. By Sept. 1, 2012, a health care facility must have a policy requiring covered individuals to receive vaccines specified by the facility based on the level of risk the individual presents to patients through his job duties. Covered individuals include employees, an individual providing direct patient care under a contract and individuals

to whom the facility has granted privileges to provide direct patient care. The policy must include a procedure to grant an individual exemption based on medical conditions indentified as contraindications or precautions by the Centers for Disease Control and Prevention. (*Denise Rose, J.D./Elizabeth Sjoberg, RN, J.D.*)

Discount Extended for Telecommunications Services

A telecommunications discount provided to public schools, libraries, institutions of higher education, health centers and nonprofit and public hospitals, created in 1995 and extended initially in 2005, was set to expire in 2012. **Senate Bill 773** by Sen. Judith Zaffirini (D-Laredo) **extends the discount through 2016.**

The bill requires companies to provide private network services, which include broadband services and other customized or packaged network services, at a rate no higher than 110 percent of cost. This saves hospitals millions of dollars annually in their contracts with telecommunications providers. (*Denise Rose, J.D.*)

Bill Requires Notice of Destruction of Medical Records

The Texas Hospital Association supported **House Bill 118** by Rep. Ruth Jones McClendon (D-San Antonio), which will **require licensed hospitals to tell patients that their medical records may be disposed of according to time periods in existing law.** Current law allows destruction 10 years after treatment for most types of records; exceptions exist for records involved in litigation and for minors' records. Most hospitals will take care of this new notice requirement by adding it to the required Notice of Privacy Practices. (*Michelle Apodaca, J.D.*)

Bill to Increase Administrative Penalties Fails

Senate Bill 798 by Sen. Jane Nelson (R-Flower Mound) would have increased the maximum administrative penalty the Texas Department of State Health Services could assess against hospitals, ambulatory surgical centers and end-stage renal disease facilities from \$1,000 under current law to \$25,000 per violation per day. The bill's objective was to make such penalties more consistent with administrative penalties for other facilities regulated by TDSHS and to deter noncompliance. The measure passed the Senate, but failed to be heard in committee in the House.

In **Senate Bill 192**, also by Sen. Nelson, administrative penalties can be increased for retaliation against a nurse. (*See related story, p. 4.*) (*Michelle Apodaca, J.D./Jennifer Banda, J.D./Elizabeth Sjoberg, RN, J.D.*)

Interpreter Bill Fails to Get a Hearing

House Bill 1719 by Rep. Eddie Rodriguez (D-Austin) would have prohibited a person from providing health care foreign language interpreter services (except in an emergency) unless training standards were met and the interpreter was registered with the Texas Department of State Health Services. The bill also would have required health care sign language interpreters to register at the Texas Department of Assistive and Rehabilitative Services.

The bill was the result of a year of meetings of the Interpreter and Translator Advisory Committee established at the Texas Health and Human Services Commission, in which the Texas Hospital Association participated. THA provided suggested changes for the bill, which ultimately never had a hearing. (*Jennifer Banda, J.D.*)

Other Bills of Interest to Hospitals

The Texas Hospital Association and Texas Organization of Rural & Community Hospitals successfully modified a law from 2009 that inadvertently required some hospitals that operate wellness centers to register as health spas. **Senate Bill 335**, by Sen. Troy Fraser (R-Horseshoe Bay) will **exempt wellness centers operated by governmental hospitals from the health spa registration requirements.**

Sen. Fraser also passed legislation clarifying that **public hospitals may borrow money on a short-term basis from a bank and may secure the loan through a pledge of revenue that is not pledged to pay the hospital's bonded indebtedness.** **Senate Bill 494** also allows tax revenue to be collected during a subsequent 12-month period to be pledged if it is not already pledged to pay the principal or interest on bonds. (*Charles Bailey, J.D./Jennifer Banda, J.D.*)

House and Senate Recognize Hospitals

In early May, the Texas Legislature recognized Texas hospitals by passing resolutions in honor of National Hospital Week, May 8-14. **House Resolution 1854**, sponsored by Rep. Lois Kolkhorst (R-Brenham), and **Senate Resolution 1040** by Sen. Jane Nelson (R-Flower Mound), acknowledged the efforts of Texas hospitals to improve the health and well-being of Texans and their contributions to the state's economy through local spending and job creation.

The Texas Hospital Association appreciates Rep. Kolkhorst and Sen. Nelson for this recognition. (*Jennifer Banda, J.D.*)

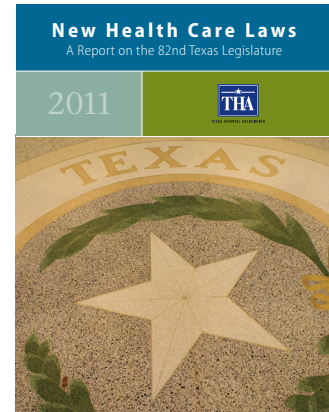
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