2017-18 Legislative Interim: TEXAS HOSPITALS PREPARE FOR THE 2019 LEGISLATIVE SESSION



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Texas Hospitals Prepare for the 2019 Legislative Session

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About the Interim



Packed with lively debates, committee hearings that continue into the early morning hours and nonstop news coverage, it's no surprise that Texas' biennial legislative sessions get all of the attention for addressing the state's public policy needs.

Because Texas' legislative sessions last for about four months every two years, there's a misconception that work on these policy issues occurs part time. In reality, however, work on the state's policy priorities occurs year-round.

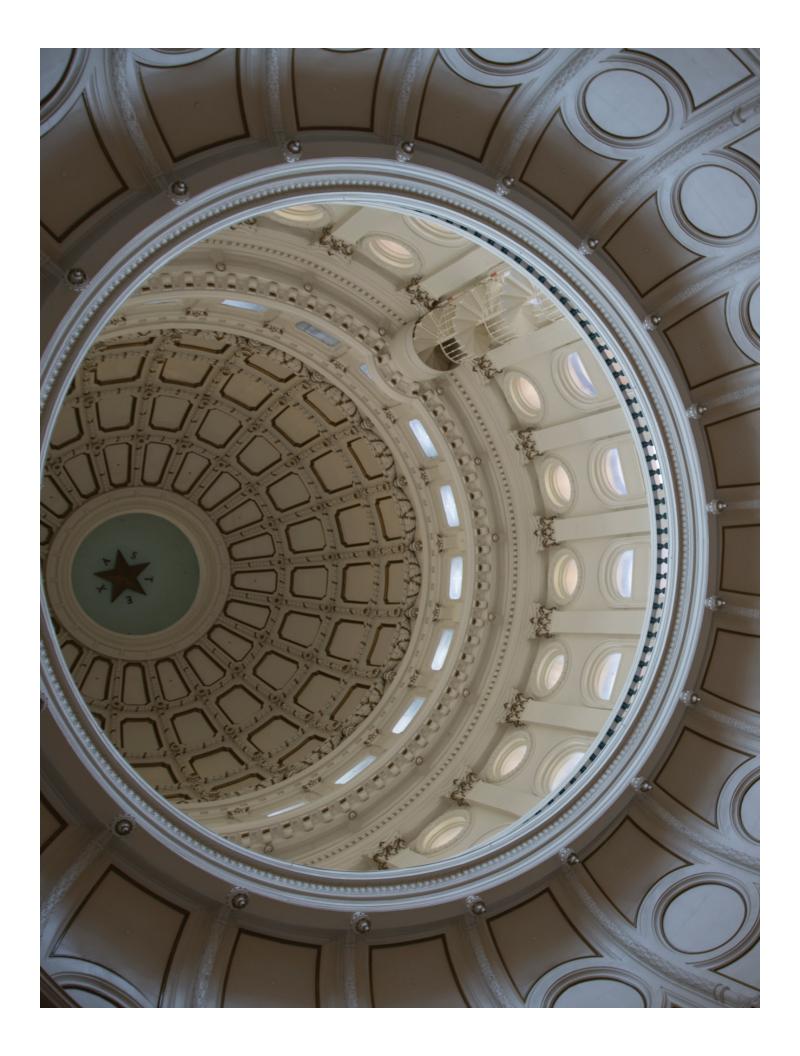
In fact, the laws that come out of a legislative session are often the product of work that occurred during the preceding interim—the period between the end of one legislative session and the start of the next.

Texas hospitals use the interim as an opportunity to educate lawmakers on issues and policy priorities that will inform their upcoming legislative agenda.

The Speaker of the Texas House of Representatives and the Lieutenant Governor kick off the interim work by distributing "charges", or specific topics for the committees in their respective chambers to study, consider in legislative hearings and sometimes issue recommendations.

This interim running up to the 86th legislative session in January 2019, lawmakers will study a wide range of topics that affect Texas hospitals—from property taxes to hospital trauma care funding to quality initiatives in Medicaid managed care.

The sections that follow include the interim charges affecting Texas hospitals. The Texas Hospital Association's advocacy and legal teams provide information to lawmakers and staff, testify at committee hearings and make recommendations on hospital-related issues. Please direct any questions regarding a specific interim charge to the advocacy or legal contacts listed in each section.



THA's Advocacy and Legal Team

THA's advocacy, legal and communications staff are here to help. Contact any member of the staff for resources or information that can help you advocate for your hospital.

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Behavioral Health

Nearly six million Texans experience a behavioral health condition annually, and more than 60 percent of those conditions go untreated. The Texas Hospital Association is committed to improving access to timely, medically necessary behavioral health treatment. As such, THA tracks and will educate lawmakers in their effort to:

- Monitor the state's progress in coordinating behavioral health services and expenditures across state government, including the impact of new local grant funding provided by the 85th Legislature. Senate Finance Committee
- Monitor implementation of initiatives to increase capacity and reduce waitlists in the mental health system, including the construction of state hospitals and new community grant programs. Senate Health and Human Services
 Committee
- Monitor the implementation of the statewide mental health parity legislation (House Bill 10), legislation authorizing a community mental health grant program (House Bill 13) and the mental health grant program for justice-involved individuals (Senate Bill 292). House Committee on Public Health, Senate Finance Committee
- Analyze the prevalence of children involved with Child Protective Services who have a mental illness and/or a substance use disorder. In addition, analyze the prevalence of children involved with CPS due to their guardian's substance abuse or because of an untreated mental illness. Ensure Texas Medicaid is providing access to appropriate and effective behavioral health services. House Committee on Public Health and House Committee on Human Services
- Study and make recommendations to improve services available for identifying and treating children with mental illness, including the application of trauma- and grief-informed practices. Identify strategies to assist in understanding the impact and recognizing the signs of trauma in children and providing school-based or

- community-based mental health services to children who need them. **House Committee on Public Health**
- Evaluate the use of telemedicine to improve behavioral health services in the juvenile justice system. House
 Committee on Juvenile Justice and Family Issues

Opioids

- Review substance use prevention, intervention and recovery programs operated or funded by the state and make recommendations to enhance services, outreach and agency coordination. Examine the adequacy of substance use services for pregnant and postpartum women enrolled in Medicaid or the Healthy Texas Women Program and recommend ways to improve substance use related health outcomes for these women and their newborns. Examine the impact of recent legislative efforts to curb overprescribing and doctor shopping via the prescription monitoring program and recommend ways to expand on current efforts. Senate Health and Human Services Committee
- Study the prevalence and impact of substance use and substance use disorders in Texas, including co-occurring mental illness. Study the prevalence and impact of opioids and synthetic drugs in Texas. Review the history of overdoses and deaths due to overdoses. Also review other health-related impacts due to substance abuse. Identify substances that are contributing to overdoses, related deaths and health impacts, and compare the data to other states. Identify effective and efficient prevention and treatment responses by health care systems, including hospital districts and coordination across state and local governments. Recommend solutions to prevent overdoses and related health impacts and deaths in Texas.

House Select Committee on Opioids and Substance Abuse

 Review the prevalence of substance abuse and substance use disorders in pregnant women, veterans, homeless individuals and people with co-occurring mental illness. In the review, study the impact of opioids and identify available programs specifically targeted to these populations and the number of people served. Consider whether the programs have the capacity to meet the needs of Texans. In addition, research innovative programs from other states that have reduced substance abuse and substance use disorders, and determine if these programs would meet the needs of Texans. Recommend strategies to increase the capacity to provide effective services.

House Select Committee on Opioids and Substance Abuse

 Review policies and guidelines used by state agencies to monitor for and prevent abuse of prescription drugs in state-funded or state-administered programs. Review policies implemented by Texas Medicaid, Division of Workers' Compensation at the Texas Department of Insurance, Teacher Retirement System and Employee Retirement System. Make recommendations regarding best practices.

House Select Committee on Opioids and Substance Abuse

- Identify how opioids have impacted the normal scope of work for law enforcement, first responders and hospital emergency department personnel. House Select Committee on Opioids and Substance Abuse
- Examine the impact of overdose reporting defense laws known as "Good Samaritan" laws. House Select Committee on Opioids and Substance Abuse

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Budget and Finance

How the state finances vital health care services for its residents is a perennial subject of debate in the Texas Legislature. With no state income tax, Texas relies on tax revenue from property owners to finance multiple social services. In addition, the state is required to have a balanced budget and operates under a state constitutional spending cap. The Texas Hospital Association tracks and will help educate lawmakers in their effort to:

• Examine options to increase investment earnings of the Economic Stabilization Fund or the "Rainy Day Fund" in a manner that minimizes overall risk to the fund balance. Investment options should ensure the liquidity of a sufficient portion of the balance so that the legislature has the resources necessary to address the needs of the state, including natural disasters. Evaluate how the Economic Stabilization Fund constitutional limit is calculated. Consider alternative methods to calculate the limit and alternative uses for funds above the limit. **Senate**

Finance Committee

Continue to study strategies to use the Economic

Stabilization Fund to generate additional revenue for state obligations without compromising the fund's intended purpose. Evaluate the current methodology used to set the ESF cap. **House Committee on Appropriations**

- Examine the use of one-time funding and deferral measures employed by the legislature in the state budget for the 2018-19 biennium, as well as any other factors that may contribute to a structural deficit. Explore strategies to ensure the state's ability to meet its ongoing fiscal obligations. House Committee on Appropriations
- Monitor:
 - Any lapses in funding at the Texas Department of Family and Protective Services or the Texas Health and Human Services Commission for prevention and early intervention, and/or behavioral health services.
 - THHSC's use of appropriated funds to expand Texas's inpatient psychiatric infrastructure.

House Committee on Appropriations

Property Taxes

- Evaluate the effective tax rate and rollback tax rate calculations and identify modifications that would yield a
 rollback process that is meaningful for local governments
 and for citizens. Evaluate whether the current rollback
 election trigger serves modern objectives. Senate Select
 Committee on Property Tax Reform
- Evaluate the operations of appraisal review boards, specifically the training and expertise of members concerning appraisal standards and law, ethics and meeting procedures. Determine whether ARB operations are sufficiently independent of central appraisal districts and taxing units and whether ARBs and/or chief appraisers should be elected. Senate Select Committee on Property Tax Reform
- Evaluate whether existing libraries of property tax data and collection methods are adequate for studying local property tax outcomes and identifying drivers of growing property tax levies. Determine the scope of existing data, where it is stored and how it is made available to the public. Determine whether existing, available data is adequate for the needs of the legislature and the public. Review existing procedures for the collection and verification of data. Receive recommendations from the comptroller regarding the collection, verification and publication of property tax data. Senate Select Committee on Property Tax Reform
- Study the feasibility of replacing the property tax with sales tax or other consumption tax revenue, with emphasis on school maintenance and operations tax. Evaluate whether some local property taxes lend themselves to a swap more than others. Quantify the short-term and long-term economic effects of a tax swap. Identify a target property tax rate and evaluate how to reach that target with a consumption tax swap. Senate Select Committee on Property Tax Reform

• Investigate the feasibility of dissolving special purpose districts and determine if there are criteria that would make dissolution acceptable. Make recommendations for codifying the dissolution requirements and procedures.

House Committee on Special Purpose Districts

- Review the property tax system and identify improvements relating to:
 - Transparency and communications with taxpayers.
 - The tax-rate-setting process.
 - The training and expertise required of appraisal review board members.
 - Appraisal review board composition, structure and process.
 - Appeals of appraisal review board orders.

House Committee on Ways & Means

In conjunction with the appropriate legislative departments, determine whether the development of a template or standardized language for the creation of municipal management districts would provide a more effective means for legislators to ensure new special purpose districts conform to accepted standards and contain appropriate taxpayer oversight. Senate Health and Human Services Committee

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Federal Issues

Federal supplemental payments and health care programs have a significant impact on Texas' health care safety net. The Texas

Hospital Association actively monitors legislative and regulatory activities in Washington, D.C. and engages with the Texas

Congressional delegation and state leadership to ensure that federal policy serves the needs of Texas hospitals and patients. THA tracks and will educate state lawmakers in their effort to:

- Study the factors affecting health insurance markets in Texas, particularly the individual market, including federal and state law. Make recommendations that would result in increased stability in the markets and enhance value and affordability for individual consumers and businesses. Examine what steps the state needs to take to allow out-of-state health insurance sales. In developing recommendations, consider the flexibility afforded to states by 1332 "state innovation" waivers, which allow states to:
 - Modify or eliminate tax penalties associated with individual and employer coverage mandates.
 - Modify requirements for benefits and subsidies.
 - Find alternative ways to provide benefit plan choices, determine eligibility for subsidies and enroll consumers.

Senate Business and Commerce Committee

 Assess the status of the health insurance market in Texas and opportunities to improve this market through waivers of federal law or other mechanisms. Monitor any changes in federal law that may affect these options. House Committee on Insurance Monitor Congressional action on federal health care reform and reauthorization of the Children's Health Insurance Program. Identify potential impacts of any proposed federal changes. Identify short and long-term benefits and challenges related to converting Texas Medicaid funding to a block grant or per capita cap methodology. Determine how Texas should best prepare for federal changes, including statutory and regulatory revisions, as well as any new administrative functions that may be needed. Explore opportunities to increase the state's flexibility in administering its Medicaid program, including but not limited to the use of 1115 and 1332 waivers. House Committee on Appropriations

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Hospital Operations

As care complexity increases and reimbursement decreases, Texas hospitals continue running their facilities and operations in the best interest of Texas patients. Texas hospitals need financial stability and programmatic flexibility to create innovative solutions for delivering higher quality care to meet the unique needs of the communities they serve. The Texas Hospital Association tracks and will help educate lawmakers in their efforts to:

- Evaluate whether, in light of recent Texas Supreme Court rulings, the provisions of the Public Information Act are
- adequate to support transparency and accountability in government, particularly as it relates to government contracting and procurement. **House Committee on Government Transparency & Operation**
- Monitor and make recommendations for any legislation needed to improve, enhance and/or complete implementation of initiatives to strengthen oversight of long-term care facilities to ensure safety and improve quality for residents and clients of these entities. Senate Health and Human Services

- Review licensing requirements and fees imposed on business entities. Make recommendations for state licenses and fees that should be reduced, repealed or transitioned to private-sector enforcement. Senate **Business and Commerce Committee**
- Study the impact of data breaches or theft on Texas consumers and businesses. In particular, study the consequences of recent data breaches and subsequent mitigation efforts. Review the existing standards of risk as well as the current best practices in securing sensitive and personal information held or used by private industries. Determine if existing rules and regulations offer adequate consumer protection while allowing continued economic success for businesses in the state. House Committee on Business & Industry
- Examine the survey process for nursing facilities to determine any duplication of government regulations. Consider recommendations to reduce duplication while ensuring patient safety is preserved. House Committee on Human Services
- Study whether Texas businesses are able to circumvent state and federal immigration law by hiring employees through temporary employment agencies rather than

hiring employees directly. Explore whether businesses that enter into contracts with a state agency should participate in the E-verify program as part of the awards process of a state contract. Make recommendations on how to best guarantee the integrity of our state's workforce. Senate Select Committee on Employment **Practices**

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Hurricane Harvey

When Hurricane Harvey devastated Texas' Gulf Coast in August 2017, it quickly became one of the nation's costliest natural disasters, with damages totaling \$200 billion. Texas hospitals' response before, during and after was comprehensive and wide ranging. Ultimately, only 20 Texas hospitals closed or evacuated as a result of the storm, but the financial impact and toll of physical damage will continue as the state rebuilds. The Texas Hospital Association tracks and will help educate lawmakers in their efforts to:

 Examine the use of federal funds by state agencies responding to the effects of Hurricane Harvey and identify opportunities to maximize the use of federal funds to reduce the impact of future natural disasters. Also, identify the need for state resources to respond to Harvey

- relief and recovery efforts, as well as opportunities for state investment in infrastructure projects that will reduce the impact of future natural disasters. **House Committee** on Appropriations
- Review the impact of Hurricane Harvey on state and local taxes. Examine the need for and the feasibility of requiring reappraisal of all property affected by large-scale disasters such as Harvey. Identify improvements to the tax-rate-setting process following such disasters. House Committee on Ways & Means
- Examine how emergency response activities are organized, funded and coordinated. Review the impact of natural disasters on county finances. Identify any deficiencies in authority for the most populous counties related to

infrastructure planning, emergency response and recovery. Explore ways to improve efficiencies and manage costs while protecting public safety. Additionally, study the relationship between the state, counties, non-governmental organizations and churches in preparing for and responding to Hurricane Harvey and its aftermath, and determine if preparedness plans are adequate. **House Committee on County Affairs**

- Examine Hurricane Harvey's economic and workforce impact on the state and private sector. Analyze the effects and efficiency of state resources available to assist in job training and the recovery of the state's workforce.
 House Committee on Economic & Small Business Development
- Study the impact of Hurricane Harvey and the response to the storm on individuals living in long-term care facilities, assisted living facilities, state supported living centers, licensed community group homes and children in the foster care system. Identify and recommend necessary solutions to ensure appropriate disaster-related protocols are in place to keep vulnerable Texans protected. Also, identify any challenges state agencies experienced in responding to the storm or during recovery efforts. House Committee on Human Services
- Review Texas' open meeting laws and related government decision-making policies. Determine if the formal processes prevented the efficient delivery of assistance during Hurricane Harvey. Make recommendations on maintaining the current standards of accountability without limiting government-provided aid during disaster events.

House Committee on Government Transparency & Operation

- Examine the role of technology in disaster preparedness and the response to Hurricane Harvey and future natural disasters. Review and make recommendations to drive innovation and efficiency and evaluate whether there are any regulatory impediments to collaboration between the public and private sectors. House Committee on Government Transparency & Operation
- Evaluate the Texas Department of Public Safety's response to Hurricane Harvey. Review the actions of the Texas Division of Emergency Management and the state's natural disaster preparedness planning efforts to determine their effectiveness at addressing Harvey-related issues. Study coordination between municipalities, counties and state agencies and how emergency response activities are organized and coordinated at the city, county and regional level. House Committee on Homeland Security & Public Safety

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Medicaid

More than 4 million Texans receive high quality health care services through Texas Medicaid each month. Texas Medicaid's risk-based managed care covers all of Texas' 254 counties and has yielded nearly \$9 billion in savings for the state and federal governments since its inception in 2011. More than 90 percent of Texas Medicaid enrollees are estimated to receive services through a managed care plan now through 2019. Texas hospitals support Medicaid funding and programs that adequately

reimburse providers for care they provide and promote access to timely care for Medicaid clients. The Texas Hospital Association tracks and will educate lawmakers in their efforts to:

Evaluate the Texas Health and Human Services
 Commission's efforts to ensure Medicaid managed care
 organizations' compliance with contractual obligations
 and the use of incentives and sanctions to enforce

compliance. Assess THHSC's progress in implementing competitive bidding practices for Medicaid managed care contracts and other initiatives to ensure the best value for taxpayer dollars used in Medicaid managed care contracts. Senate Health and Human Services

• Monitor the THHSC's implementation of Rider 219 in Article II of the 2018-19 General Appropriations Act related to prescription drug benefit administration in Medicaid. Analyze the role of pharmacy benefit managers in Texas Medicaid. House Committee on Human Services

Quality

- Review THHSC's efforts to improve quality and efficiency in the Medicaid program, including pay-for-quality initiatives in Medicaid managed care. Compare alternative payment models and value-based payment arrangements with providers in Medicaid managed care, the Employees Retirement System and the Teachers Retirement System, and identify areas for cross-collaboration and coordination among these entities. Senate Health and Human Services
- Review the history and any future roll-out of Medicaid

managed care in Texas. Determine the impact managed care has had on the quality and cost of care. In the review, determine:

- Initiatives that MCOs have implemented to improve quality of care.
- Whether access to care and network adequacy contractual requirements are sufficient.
- Whether MCOs have improved the coordination of

In addition, review THHSC's oversight of MCOs, and make recommendations for any needed improvement. House Committee on Human Services

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Pharmacy

Texas hospitals must ensure their affiliated physicians, pharmacists and health plans adhere to and are aware of state laws and best practices related to the new Prescription Monitoring Program and contract requirements for prescription drug benefits provided by Medicaid managed care organizations, among others. The Texas Hospital Association tracks and will help educate lawmakers in their efforts to:

- Evaluate recent efforts in Texas and in other states to enhance transparency regarding the practices of pharmacy benefit managers. House Committee on Insurance
- Examine the impacts of changes in prescription drug coverage and drug formularies on patients, particularly

those with chronic conditions. House Committee on Insurance

• Monitor and evaluate the implementation of legislation (House Bill 2561) related to the Prescription Monitoring Program. In addition, review the prescribing of addictive drugs by physicians and other health care providers within various geographic regions of this state. Determine the role of health care professionals in preventing overutilization and diversion of addictive prescriptions. Provide recommendations that will improve efforts to prevent overutilization and diversion of addictive prescriptions.

House Select Committee on Opioids and Substance Abuse

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Public Health

From preparing for and responding to infectious disease outbreaks or natural disasters to supporting smart immunization practices, Texas hospitals play a critical role in protecting and promoting the health, safety and wellbeing of all Texans. The Texas Hospital Association tracks and will educate lawmakers in their effort to:

- Review opportunities to improve population health and health care delivery in rural and urban medically underserved areas. Identify potential opportunities to improve access to care, including the role of telemedicine. In the review, identify the challenges facing rural hospitals and the impact of rural hospital closures. House Committee on Public Health
- Evaluate the process of organ and bone marrow donations. Consider opportunities to improve organ and bone marrow donation awareness in order to increase the number of willing donors. House Committee on Public Health
- Monitor the implementation of gun legislation (House Bill 435, Senate Bill 16) passed by the 85th Legislature.
 House Committee on Homeland Security & Public Safety
- Review local ordinances imposed on sellers and venues that affect a person's rights under the Second
 Amendment of the United States Constitution. Examine state and local regulations and restrictions regarding the carrying of weapons during a natural disaster. Make recommendations on whether any legislation is needed to address the regulatory barriers to the full exercise of the Second Amendment rights of citizens. Monitor the implementation of Senate Bill 16, relating to decreasing

the fee for the issuance of a license to carry a handgun, and make recommendations for any legislation needed to improve, enhance and/or complete implementation.

Senate State Affairs Committee

- Examine the anti-smuggling efforts of governmental and non-governmental entities related to transportation. Compare the findings to best practices in other states and make recommendations to help advance efforts in the fight against human smuggling. **Senate Transportation Committee**
- Study opportunities to increase awareness of human trafficking through public awareness campaigns, among local officials and within public school districts including the identification of potential human trafficking and stash houses as well as how and where to report. Examine the Human Trafficking Prevention Business Partnership Program at the Office of the Secretary of State and provide recommendations for increasing participation of Texas businesses in the fight against human trafficking.
 Senate Criminal Justice Committee

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Reimbursement and Billing

Hospitals' reimbursement for health care services comes from multiple public and private payers. Public payers, including Medicare and Medicaid, pay below cost. Among public and private payers alike, there is increased interest in paying for performance, rather than just for services provided. The Texas Hospital Association tracks and will help educate lawmakers in their effort to:

- Monitor coordination efforts among state agencies to improve health care and reduce costs pursuant to two riders in the 2018-19 General Appropriations Act, which require state agencies to:
 - Develop a plan for an integrated information system to compare data related to health care systems funded by state appropriations.
 - Develop and implement potential value-based payment strategies such as episode-based bundling and pay for quality initiatives. (Article IX, Section 10.06, Analysis of Certain Health Care Data and Section 10.07, Cross-agency Collaboration on Value-based Payment Strategies).

Senate Finance Committee

- Monitor the implementation of Employee Retirement System Rider 18 of the General Appropriations Act. Evaluate the impact of obtaining savings through reduced contracted provider rates and innovative value-based plan design models with Health Related Institutions. Examine the impact to HRIs of providing patient care at discounted rates, as well as potential free market implications, the methodology used to determine each HRI's savings obligation and progress on initiating innovative plan redesign based on HRI proposals. House Committee on **Appropriations**
- Review the state's readiness to care for aging Texans by reviewing the reimbursement methodologies for nursing homes and assisted living facilities, including supplemental payments, Medicaid add-on payments and availability of alternative methods of finance. Identify methodologies to adequately finance Medicaid rates for long-term care facilities under managed care capitation, support high-quality

care for Texas seniors, accommodate new models of care and encourage care coordination to treat higher incidence of complex conditions. House Committee on **Appropriations**

- Monitor:
 - Implementation of a capitated correctional managed health care rate.
 - Medicaid cost-containment efforts.

House Committee on Appropriations

Transparency

- Study efforts by the Texas Department of State Health Services and the Texas Department of Insurance to increase health care cost transparency, including a review of the Texas Health Care Information Collection system and the Consumer Guide to Healthcare. Recommend ways to make provider and facility fees more accessible to consumers to improve health care cost transparency, increase quality of care and create a more informed health care consumer base. Senate Health and Human **Services Committee**
- Monitor the implementation of legislation related to the settlement of out-of-network health benefit claims involving balance billing and patient's explanation of benefits statements. Senate Committee on Business and Commerce
- Evaluate recent efforts by the legislature and the Texas Department of Insurance to minimize instances of surprise medical billing and to ensure the adequacy of health insurance networks. Identify instances in which surprise billing most often occurs and ways to decrease its frequency through enhanced transparency or other methods. House Committee on Insurance

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Trauma Care

With nearly 290 designated trauma hospitals that provide life-saving care daily, Texas has one of the strongest and most effective trauma care systems in the nation. Dedicated state funding has supported the creation of Texas' trauma system, and Texas hospitals support continued state funding so the state's trauma care network can continue to meet the needs of the rapidly growing population. The Texas Hospital Association tracks and will help educate lawmakers in their effort to:

 Review revenue sources currently funding the state's trauma system and the impact of declining revenues and balances in General Revenue - Dedicated accounts.
 Evaluate the impact of statutory changes affecting trauma system funding, including efforts to eliminate the Driver Responsibility Program. Examine ways to ensure sustainability of the trauma system in Texas. **Senate Finance Committee**

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Women's Health

With one of the highest maternal mortality rates in the nation and ongoing litigation around requiring fetal remains from abortions and miscarriages occurring in health care facilities to be buried or cremated separately from medical waste, the Texas Hospital Association is tracking the legislature's efforts to:

 Review state programs that provide women's health services and recommend solutions to increase access to effective and timely care. During the review, identify services provided in each program, the number of

providers and clients participating in the programs and the enrollment and transition process between programs. Monitor the work of the Maternal Mortality and Morbidity Task Force and recommend solutions to reduce maternal deaths and morbidity. In addition, review the correlation between pre-term and low birth weight births and the use of alcohol and tobacco. Consider options to increase treatment options and deter usage of these substances.

House Committee on Public Health

- Monitor and make recommendations needed to improve and enhance:
 - Initiatives to better understand the causes of maternal mortality and morbidity. Recommend ways to improve health outcomes for pregnant women and methods to better collect data related to maternal mortality and morbidity.
 - Abortion complications and other reporting legislation that was passed by the 85th Legislature.

Senate Health and Human Services Committee

Examine the Attorney General's jurisdiction on issues of alleged violations of state laws regarding abortion and multi-jurisdictional human trafficking cases. Make recommendations to ensure uniform enforcement across the state. Senate State Affairs Committee

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