Fellows Module 1: THA Legislative & Regulatory Work



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Texas Hospital Association

- Founded in 1930, the Texas Hospital
 Association is the leadership organization and principal advocate for the state's hospitals and health care systems.
- Based in Austin, THA enhances its members' abilities to improve accessibility, quality and cost-effectiveness of health care for all Texans.
- One of the largest hospital associations in the country, THA represents more than 85 percent of the state's acute-care hospitals and health care systems, which employ more than 400,000 health care professionals statewide.





Healthcare and Hospitals in Texas

- 630 hospitals in Texas
- 288 designated trauma hospitals
- More than 400,000 full and part time employees
- \$144 billion annually economic activity generated by Texas hospital jobs
- 1 in 9 U.S. jobs supported directly or indirectly by hospitals
- \$7.1 Billion annually in uncompensated care
 - Before DSH and UC payments





The Texas Legislative Session

- Texas Constitution
- · November (even) elections, January (odd) sessions
- 150 House Members, 31 Senators
- Biennial Regular Session for 140 Days
- Second Tuesday in January, of odd years
- Sine Die!
- Special Sessions only called by Governor
- Interim

Who represents you?

Capitol.Texas.gov (bottom right corner)





Why Be Involved and Engaged?

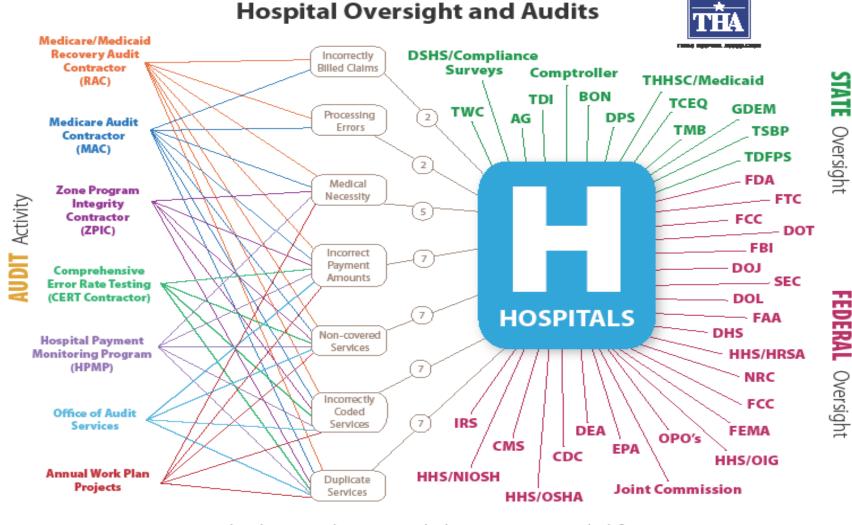
Why does legislative advocacy matter to hospital executives and trustees? How do elected officials affect my hospital?

- Budget Writers
 - What percentage of your budget is from government payers?
 - Managed care oversight?
- Policy Makers
 - Regulation of Healthcare Delivery
- Engage with Elected Officials
 - Elections Matter, Rhetoric Matters





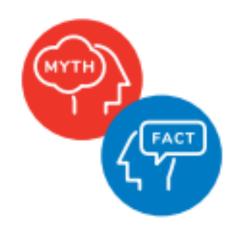
Hospital Government Oversight





Legislators Live from 2023

- State Senator to THA witness: What was the average bonus payment hospitals got for treating a COVID patient?
- House Chairman to THA witness: Hospital are completely on par with insurance companies... There are few hospitals that can't negotiate fairly with an insurance company. Many hospitals are monopolies with an upper hand over insurance companies.
- House Chairman from House Floor: Some hospitals are taking advantage of the uninsured and it needs to stop.
- House Chairman from House Floor: Medicare is considered above cost at 90% of the hospitals in Texas.
- House Chairman in Committee: This bill will take money out of the hospital's pocket, that's the point.





What Does THA Do in Advocacy?

THA Mission: Serving Texas hospitals as the trusted source and unified voice to influence excellence in health care for all Texans.

- About 460 member-hospitals in Texas
- Policy Making Structure at THA
 - · Boards, Councils, Workgroups to THA Board
 - · Hospital Advocacy Group (your GR team)
- Advocacy Team Components
 - · Lobby, Policy, Legal, Comms, HOSPAC, CEO
- Lobby Issues = Affect Legislation affecting hospitals
- Regulatory Issues = Affect Regulation affecting hospitals

THA is most effective when members are engaged in process, policy making, feedback loop.





THA Policy Committees and Councils

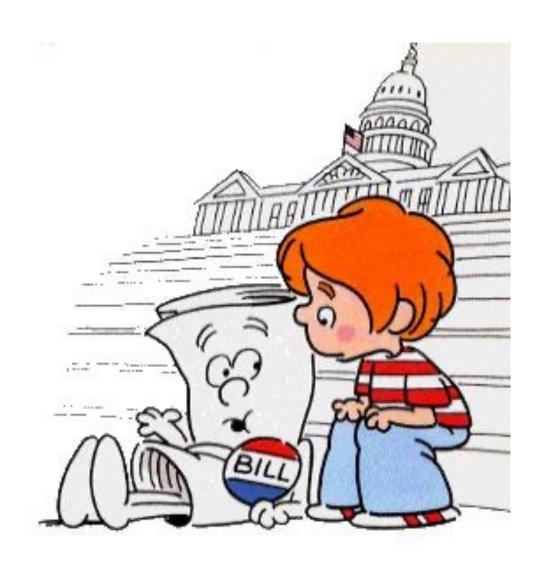
Hospital subject matter experts who support the COPD and THA board with the technical aspects of policy development:

- Hospital Insurance Contracting
- Hospital Reimbursement
- Quality and Patient Safety
- Trauma and EMS
- Behavioral Health Council
- Hospital Physician Executives
- In-House Counsel Group
- Medicaid Task Force



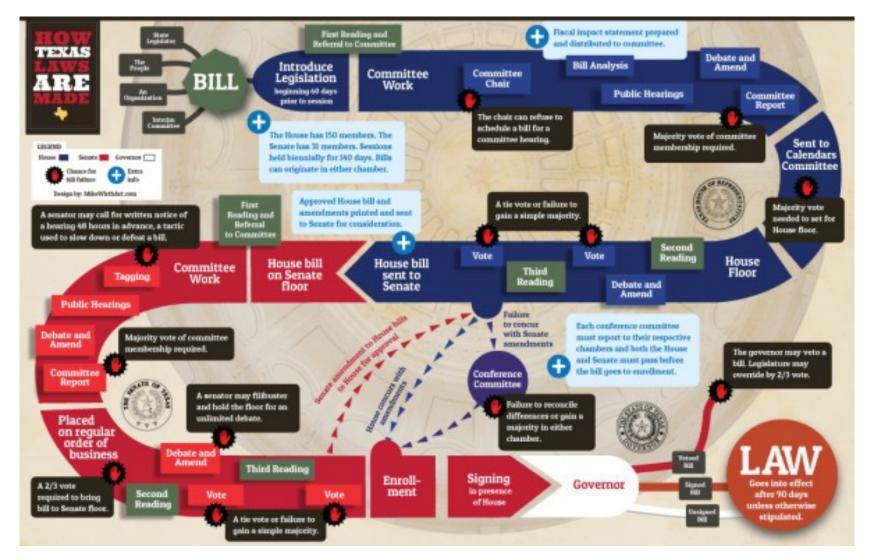


Legislative Process in Theory





Legislative Process in Reality in 140 Days





88th Legislative Session (+4...) 2023

- · Nov. 2022 elections showed Texas remains a very red state.
- · Legislative Majorities are GOP in House and Senate.
- · Abbott, Patrick, Phelan returned.
- Record number <mark>8,520</mark> bills filed this session
 - THA tracked 1,644
 - 1,246 sent to Governor
 - Total Bills Vetoed: 76 bills
- Four Special Sessions
 - COVID Vaccine Mandates, Immigration, School Vouchers





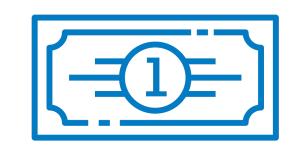
State Legislation Impacting Hospitals

- Hospital Licensure Requirements, Surveys, Inspections and Fees
- · Physician, Nurse, Allied Health Provider Education, Training, Licensure
- COVID Visitations, Standards of Care, Vaccine Mandates
- · Medical and Nursing Workforce, Education, Staffing
- · Telemedicine Standards, Requirements
- Trauma and EMS Standards, Licensure, Requirements
- NICU Regulation, Certification
- · Public Health Vaccines, Car Seats, Texting While Driving, Prevention
- · Insurance Coverage, Network Adequacy, Contracting
- · Mental Health Care Delivery, Coverage, Workforce
- · Life Cycle: Pregnant Women, Fetal Tissue, Placentas, End of Life, DNR Orders
- Compliance with Public Information Act
- · Medicaid Coverage, Budgeting, Reimbursement, LPPFs
- Licensed Freestanding Emergency Centers regulation and billing
- Medical Waste Disposal





Setting the Scene for the 88th

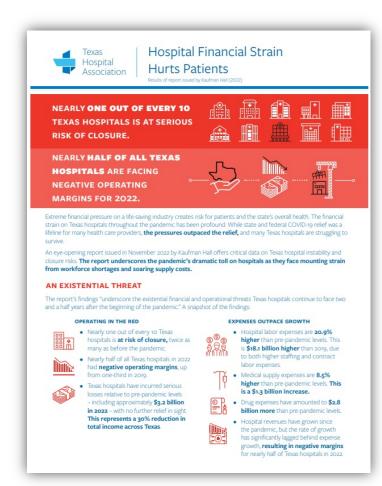


- Must-pass legislation every general session biennial budget
- Texas had record surplus of \$32.7 billion*, driven by inflation in sales tax revenues and oil and gas production taxes.
 - Texas spending limits:
 - · Balanced budget requirement as determined by Comptroller Hegar, and
 - Constitutional Spending Limits set by Legislative Budget Board (12.3% over current)
 - To "bust the cap" takes record vote of both houses
 - Rainy Day Fund ~ \$27 billion in Jan. 2023
- Rhetoric Entering 2023 Session: "Hospitals made money during COVID thanks to the provider relief funds, COVID patient payments and the state's investment in hospital staffing (almost \$6B)."



THA Correcting Rhetoric with Facts Pre-88th

- Texas <u>Kaufman Hall Report</u>:
 - · One in Nine Texas Hospital at Risk of Closure.
 - 26% of rural hospitals are at risk.
 - · Labor Expenses are up 21% from pre-pandemic.
 - Labor expenses are \$18B higher than 2019.
 - Medical supplies are up 8.5%.
 - · Hospital volumes remain below pre-pandemic.
 - · But patient days and length of stay are up.
 - · Hospital revenues have grown since the pandemic, but the rate of growth has significantly lagged expense growth.
 - Almost half of Texas hospitals (47%) finished 2022 with a negative margin.
 - THA's <u>COVID Report</u> tells the story of hospitals throughout the pandemic and the challenges still existing.





#1 Concern for Texas Hospitals: Workforce

Pipeline: Increase funding to increase the health care workforce = critical Texas infrastructure.

- 64% of hospital have reduced services due to staff shortages
- 15,709 qualified applicants turned away from the state's nursing schools in 2021, per Texas Center for Nursing Workforce Studies
- Funding in HB 1:
 - Professional Nursing Shortage Reduction Program for Texas nursing school faculty supplements and clinicals = \$46.8M biennium (+\$27.9M).
 - Nursing Scholarships = new \$25M biennium (tied to SB 25).
 - Nurse Faculty Loan Repayment Program = \$7M biennium (+\$4M).
 - Behavioral Health Loan Repayment Program = \$28M (+\$26M).
 - Maintain GME funds for physicians at 1.1 to 1 ratio = \$233M (+\$34M)
 - Physician Education Loan Repayment Program = \$35.5M (+\$6M)
 - Family Practice Residency Program = \$16.5M (+\$7M)
 - · Rural Residency Physician Program created with new \$3M



Workforce Retention and Safety

Continued health care workplace safety, retention and violence reduction strategies needed to maintain a strong workforce.

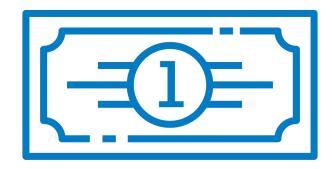
- SB 240 requiring all providers to develop workplace safety plans and prevention policies, committee, unified definitions and reporting mechanism. First bill to pass this year, signed by the Governor on May 15, effective on Sept. 1!
- SB 840 enhances to a third-degree felony an assault on hospital personnel while the person is on hospital property (beyond the ED). Effective Sept. 1
- HB 915 ALL employers must post a notice (sign) in conspicuous place and in sufficient locations with the contact information for reporting workplace violence or suspicious activity to DPS. The Workforce Commission will develop rules with details, to be adopted by March 1, 2024. *Effective Sept. 1*





Hospital Funding in the State Budget

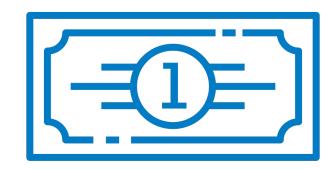
- Increased state funding of Medicaid:
 - All Medicaid funding \$12B increase over previous biennium
 - · Trauma, safety net and rural (increased) hospitals add-ons
- Trauma Fund Maintained at \$226M over biennium
 - + \$3.3M AF more for RACS
 - Rider 37 directs HHSC to report on uncompensated trauma care
- Inpatient Community Psychiatric Beds Increased
 - \$100.1 million over biennium to contract for 170 competency restoration beds
 - \$206.3 million over biennium to maintain existing capacity and 193 additional state purchased beds (70 rural;123 urban)
 - \$13.7 million for beds in Uvalde
 - Prioritizes 20 beds for DFPS conservatorship.
 - · Total: \$306.4 million over biennium allocated to additional beds.
- \$2 Billion for construction and improvements at State Hospitals





Hospital Funding in the State Budget cont.

- Rural Hospital Funding Increases:
 - Inflation adjustment increase of \$213M AF biennium
 - L&D add-on increased to \$1500 from \$500 (\$47M AF)
 - \$50M for rural financial stabilization grants
 - \$7.4M GR for rural telepsychiatry consultations (HHSC Rider 56)
 - Definition of "Rural" updated post-census
- Increased Funding for Medicaid Wellness Visits for Children and Women's Health:
 - \$126M AF biennially in rate increases for pediatric services to improve access to wellness visits for children by 6%.
 - \$15M AF biennially to increase rates for birth and women's health related surgeries by 3%.
 - Rider 31(e) directs HHSC to evaluate and report to the legislature whether there are distinctions in the level of access to care for clients aged 0-4 compared with children ages 5-10.





Increase Health Care Coverage

- Increase the number of Texans with comprehensive health insurance: No Medicaid Expansion legislation moved.
- Extend postpartum Medicaid coverage for new mothers from 2 months to 12 months: *HB 12 passed, CMS approved, March 1 implementation*.
- Engage in unwinding of the PHE and ensure those eligible for Medicaid or alternate programs remain enrolled. Eligibility redeterminations began on Apr. 1 and are complete. Texas denial of Medicaid to 1 million children for procedural reasons.





Behavioral Health Access and Coverage

THA supports improving the continuum of care and reimbursement in all behavioral health care settings

- · Increase reimbursement rate and number of state contracted beds in communities - *included in budget*
- · Increase funding for Mental Health Loan Repayment Program - included in budget (x14!)
- · Obtaining an electronic means of requesting an Emergency Detention Order - passed*
- Expand IMD coverage for inpatient Medicaid adults beyond 15 day limit – did not pass (2024 interim charge request)
- Medicaid coverage for Partial Hospitalization Services and Intensive Outpatient Therapy to prevent hospitalization – did not pass (2024 interim charge request)



Texas Hospitals Strongly Support Behavioral Health Priorities



Demand for behavioral health care surged during the pandemic. And the after-effects continue to unfold with increases in arxiety, depression and suicidal ideation among children and adults. While Texas has recognized the critical importance of a strong behavioral health infrastructure, behavioral health services unfortunately remain difficult to access for many Texans.

Like never before, behavioral health concerns have been pushed front and center - and the time is now to make additional investments in behavioral health policies, hospitals, programs and workforce.

The consequences of untreated mental health conditions are significant, rangin from drug overdoses, increases in violence, lost jobs, and poor physical health. According to the National Alliance on Mental Illness, 3,900 Texans died from suicide and 750,000 adults had suicidal thoughts in 2020. Mental health condition affect one in five Texans every year. And over two-thirds of people with a



forefront of the agenda in local communities, statewide and in Washington, D.C. THA will continue to lay the groundwork for sound behavioral health care policy in

Here are THA's top behavioral health priorities for the 88th Texas legislative sessior



- Secure a federal waiver from the Institutions for Mental Diseases (IMD) exclusion rule, which would allow Texans aged 21-64 to be covered for Medicaid inpatient behavioral health stays longer than 15 days.
- Increase in general reimbursements for adults and pediatric inpatient psychiatric beds



- Increase behavioral health hospital capacity by increasing contract beds and rates for
- Mandate coverage in Medicaid for intensive outpatient therapy and partial hospitalization.



- Improve and increase hospital workforce by increasing funding to the Mental Health Loan
- Streamline the detention warrant acquisition process through electronic warrant
- Create a grant program for behavioral health providers who lack access to electronic

Visit www.tha.org/behavioralhealth for additional information | 📫 | 1108 Lavaca, Austin TX, 78701-2180

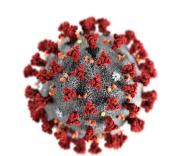




Politicization of Public Health and Vaccines

Hundreds of COVID-related bills filed:

• SB 7 (Special Session #3) prohibits employers from requiring the COVID vaccine. Health care providers may adopt reasonable policies (PPE, reassignment) to mitigate risk from an unvaccinated employee.



- · DSHS Rider prohibits funds to promoting or advertising COVID-19 vaccinations.
- State agencies or higher ed institutions are required to report to HHSC on any World Health Organization activities. (Article IX Sec. 7.15).
- Legislation prohibits governmental entities from requiring masks for COVID-19 or COVID-19 vaccines (hospitals exempted if existing CMS requirement). SB 29 effective 9/1.
- Legislation prohibits a Medicaid or CHIP provider from restricting care based solely on immunization status, has exemption for oncology and organ transplant. HB 44 effective 9/1.
- Bring Your Own Blood (SB 1584) did not pass
- Bring Your Own Physician (SB 299) did not pass



Legislative Challenges Were Significant

House Select Committee on Health Care, charged with looking at "excessive health care costs":

- Legislation banning all hospital outpayment payments, defined as "facility fees", died. Health insurance backed bill. (HB 1692 and SB 1275)
- Legislation forcing hospitals to accept a government-set rate for services provided outside of insurance, despite charity care requirements, died. The rate would be set at the lowest commercial contracted rate. (HB 633)
- Legislation requiring a 10-person legislative committee to establish governmentset hospital rates for ERS, TRS, UT and A&M plans died. This would have superseded existing private market negotiations with health plans for one of 11 Texans with private insurance. (HB 5186)
- Legislation allowing health insurance companies to sell deregulated insurance-like products free from consumer protections existing in law died. The bill would have created more uncompensated care. (HB 1001)
- Legislation to create a health insurance think tank to review all health insurance requirements, putting health insurance companies in the driver's seat of determining regulations and coverage, died. (HB 2403 / SB 1581)





Overview of the Regulatory Process





This.





Now, This!

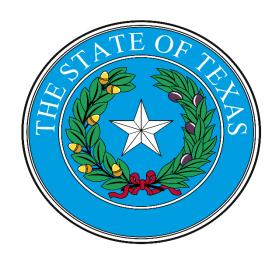




Players & Agencies

Governor / Executive Directors / Policy Staff

- HHSC
- DSHS
- Texas Medical Board
- Texas Board of Nursing
- Texas State Board of Pharmacy
- Texas Department of Insurance
- Texas Comptroller of Public Accounts
- Texas Attorney General
- Texas Commission on Environmental Quality
- Texas Department of Public Safety
- Texas Higher Education Coordinating Board





Overview of Regulatory Process

The Texas Legislature and the United States Congress have authority to enact new laws or changes in existing laws, and state and federal regulatory agencies are responsible for implementation and enforcement of the laws

- Regulatory process involves:
 - Development of rules based on laws enacted by Legislature or Congress
 - · Communication of rule changes (or proposed changes) to regulated individuals or organizations
 - · Data and information collection, leading to public reporting
 - Annual Survey, Charity Care & Community Benefits, Discharge Data (inpatient and outpatient claims), Birth Certificates, HAI
 - Monitor compliance with rules by regulated individuals or organizations
 - Investigation of potential violations of rules
 - Enforcement action and imposition of penalties

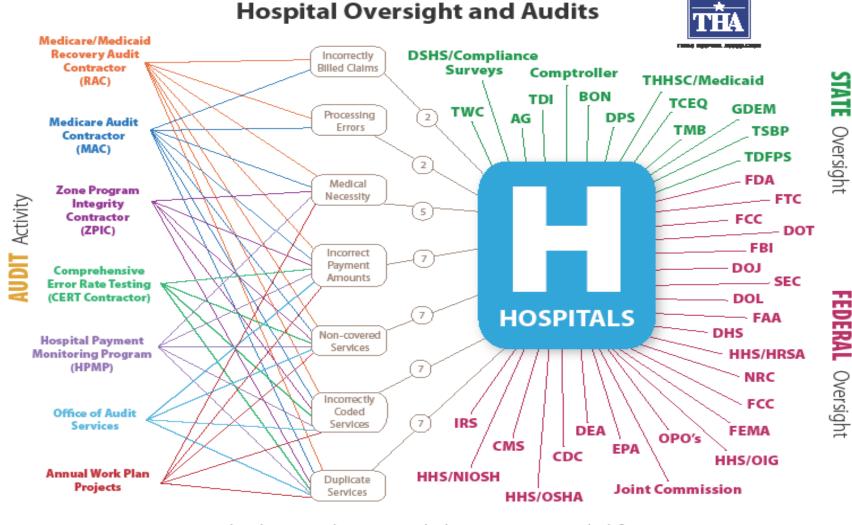


Actively Following:

- Hospital Licensing Rules
- Nursing Practice Act and Licensure
- EMS and Trauma Rules
- Hospital Data Reporting (THCIC)
- NICU and Maternal Designation Rules
- Communicable Diseases
- Newborn Screening
- DSH / UC / Waiver / Funding Rules
- GME Funding and Planning Grants
- Nursing Faculty Grants and Funding
- DSHS Annual Survey
- ETC ETC



Hospital Government Oversight





Continued Scrutiny of Hospitals

- · Hospital Charges, Billing
- Hospital Charity Care Policies, Percentages
- Hospital Medicaid Supplemental Payments
- Medicare Pays Above Cost of Care
- Hospital Compliance with Price Transparency
- Facility Fees are Hidden Fees
- Site Neutral Payment Push
- Hospital Consolidation Drives Up Costs
- Patient Billing Confusion



The Facts: Texas Hospitals Work to Stabilize Amid Harmful Mistruths

Hospitals save lives, regardless of a patient's ability to pay, and put patients first. This was never more evident than during the relentless, unpredictable and deadly pandemic years, when hospitals in Texas and across the country faced both extreme and unusual pressures. Hospitals provided high levels of intensive and comple care, stability and safety during a public health response that brought many other industries to a standstill. Texas hospitals are cornerstones of health in their communities large and small.

While hospitals work to rebuild from continued pandemic impacts, there are efforts to capitalize on a weakened system and dismantle efforts and policies that help preserve the state's critical health care safety net.

As the 88th legislative session gets underway, the hospital industry seeks to set the record straight and offer facts on several key issues.

Texas Hospitals: Separating Fact from Fiction

Fiction: Hospitals have raised prices to increase profits.

Fact: Hospital prices are based on the cost of providing care to patients, and the ability to invest in improvements in quality and infrastructure.

Hospitals are the only industry required to treat everyone, including those who cannot pay. Specifically, the Emergency Medical Treatment and Labor Act (EMTALA) requires hospitals to screen and treat anyone who comes into the emergency room, regardless of their ability to pay. As a result, Texas hospitals provide a significant amount of free and discounted care. Texas hospitals incur \$46 billion in uncompensated costs each year, even after supplemental payments.

Hospitals have very little control over the cost of many of the primary requirements of providing care, and these costs have skyrocketed post-pandemic. Since 2019, Texas hospitals' labor costs are up \$18.1 billion (20.9% higher), drug expenses are up \$2.8 billion, and medical supplies are up \$1.3 billion (8.5% higher). However, unlike commercial businesses - such as grocery stores and automobile dealers - that can nimbly adjust prices based on inflation and other market fluctuations, hospitals are beholden to rates set by government payers and managed care negotiations.

Visit www.tha.org for additional information | 1108 Lavaca, Austin TX, 78701-2180

Effectively Addressing Cost Drivers

- Increase the Texas health care workforce, especially nurses, to ensure providers can provide care, staff vacant beds, and balance continued workforce cost challenges;
- Ensure nurses and all health care providers are safe at work by developing strong plans to prevent workplace violence, which endangers patients and staff and increases staff turnover and staffing costs;
- Improve access to care and increase health care coverage, including post-partum
 care for mothers and access for inpatient behavioral health patients, which will
 decrease Texas hospitals' more than \$2 billion in uncompensated care and cost
 shifting to private insurance;
- Increase resources for behavioral health care with increased bed capacity statewide, more BH workforce, and increased access and coverage leading to less hospitalizations;
- Balance individual rights and the needs for safety within hospitals, ensuring a strengthened public health system and fewer sick patients.





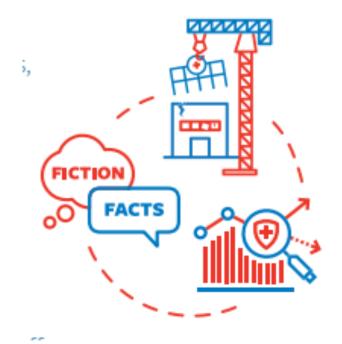
2024: Reframe and Drive the Narrative

Harness the Power of Hospital Leaders in Each Community:

Hospitals in Action in 2024

https://www.tha.org/hospitals-in-action/

- THA CEO Checklist sent by email to CEO
 - · "Easy Button" Action Items by Quarter
- Legislator Engagement, Tools
 - Template for Legislator Visits
 - · White Papers on Priority Issues
 - · Site Neutral, Facility Fees, Medicaid, Medicaid & Supplemental Payments, Etc.
- Motivated Adversary Engagement
- HOSPAC donate at the HOSPAC booth
- Interim Charge Requests* and Responses





Establishing the Dialogue for 2025

- Monitor implementation of workforce funding, programs. Study how to encourage more clinical sites, preceptors for nursing and how to alleviate allied health care workforce shortages.
- Study the impact of utilization review on the cost of health care, administrative burden and associated costs to providers and beneficiary access. Specifically, study the impact of prior authorization, concurrent reviews and retrospective denials.
- The committee should study the impact of **consolidation of health insurance companies**, including the impact of vertical and horizontal integration among health insurance companies and pharmacy benefit managers pharmacies and sites of service.
- Study the impact of claim denials on patients seeking emergency care (prudent layperson).
- Study the extent to which insurance plans have achieved mental health parity and analyze any gaps in the behavioral health continuum of care for Texans, as well as gaps in services for behavioral health care patients in the Medicaid program, including the federal IMD exclusion and services such as partial hospitalization and intensive outpatient therapy (*joint proposal with TAHP).
- Study the impact of cost shifting on the commercial health insurance market, specifically due to \$2B underpayment by government health care programs and caring for the uninsured.



Anticipate Challenges

- Charity Care 2022 100% state law compliance
- Cost Report Reviews Worksheet S-10 Reference Guide for Texas Hospitals
- State Transparency Compliance THA outreach to hospitals not in year two compliance
 - SIGN UP FOR HHSC GOV DELIVERY, PLEASE
 - https://service.govdelivery.com/accounts/TXHHSC/subscriber/new
- THA & TNA Workplace Violence Toolkit Download on THA's website
 - https://www.tha.org/wp-content/uploads/2023/12/Workplace-Violence-Toolkit-2023.pdf





The Primary Campaign Results

- Texas legislative and congressional districts are drawn to advantage the party in power
 - i.e. districts are majority R or majority D
- The Action is in the PRIMARY!
- 2024 Factors:
 - Paxton Impeachment
 - · Abbott on School Vouchers / School Choice
 - Top of the Ticket
- OUTCOMES of March 5 Primary?
- What Comes Next?

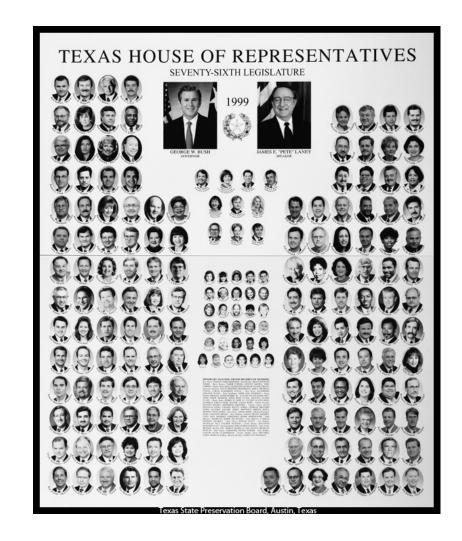




Know Your Elected Officials

140 Days isn't the time to make introductions.

- Give Hospital Tours to Elected Officials
 - · Congressional, State and Local Leaders
 - https://www.tha.org/Public-Policy/State-Advocacy/Resources-for-Hosting-a-Legislative-Visit
- Engage with Elected Officials
- Attend Local Meetings
- · Be a Trusted Resource on Health Care
- Trustees are Critical to the process
- Engage with THA!





HOSPAC



- THA's political action committee.
- Only PAC representing all TX hospitals.
- 35 member HOSPAC board.
- Member-driven endorsement process.
- HOSPAC strengthens THA's advocacy
- Spent more than \$600,000 on state and federal candidates by end of 2022.
- To learn more visit, <u>www.hospac.org</u>, password HOSPAC.





How to Engage with THA

- THA White Paper and Reports
 - tha.org/news-publications
 - THA Priorities
 - Medicaid Financing 101
 - · Workforce, Behavioral Health
 - All Advocacy Materials
 - COVID Report
- Stay Connected With THA:
 - THA Website www.tha.org
 - Facebook @TexasHospitals
 - Instagram @TexasHospitals
 - Twitter @TexasHospitals
 - LinkedIn



Texas Hospital

State Policy F



Now more than ever, Texas hospitals have proven th and safety of Texas. Hospitals were tested and strained pandemic, and they kept the lights on during a time of un

Hospitals are open around the clock, caring for all Tex of a patient's ability to pay. Over the course of the pander cared for millions while many antities had to shut down.



Unfortunately, this has come at a cost. The extreme toll of forward, it's clear that the battle-worn hospital industry and rebuild.



Texas hospitals advocate for the resources they need that has proven to be foundational in a public health

Texas hospitals support policies to help rebuild the state the state's growing population.

Here are the 2023 state policy priorities for the

1. STATE BUDGET



- Maintain state funding of health and human s reimbursement rates for trauma, safety net a
- Targeted rural Medicaid payments to match st closures.
- Increase state funding to ensure timely and apcommunity-based services and supports for Te
- Maintain consistent funding for the state's tra

2. WORKFORCE

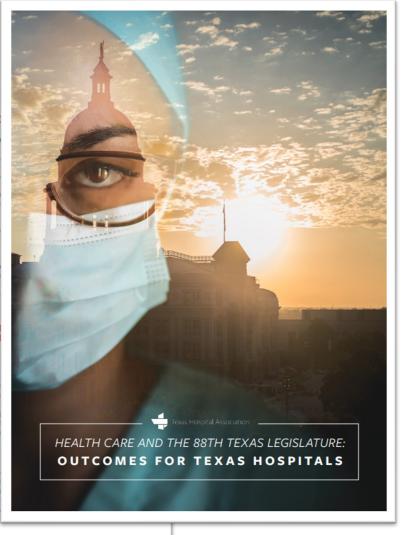


- Support increased state funding for physician allied health professional training, retention a severe workforce shortages and help care fo
- Support continued health care workplace sal reduction strategies to maintain a strong wo
- Support funding to address increased staffin

3. FINANCIAL STABILITY



- Support hospital reimbursement payments closer to the actual cost of services.
- Support stability and maintenance of supplemental Medicaid payments to help cover billions in unreimbursed costs, and ongoing preservation of the Medicaid 1115 Waiver





Thank you.

Questions?

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