

81R6308 YDB-F

By: Duncan

S.B. No. 1461

A BILL TO BE ENTITLED

AN ACT

relating to the registration of diagnostic imaging equipment, the accreditation of diagnostic imaging facilities, and the regulation of diagnostic imaging providers; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. DIAGNOSTIC IMAGING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 113.001. DEFINITIONS. In this chapter:

(1) "Center" means the Center for Health Statistics of the Department of State Health Services.

(2) "Department" means the Department of State Health Services.

(3) "Diagnostic imaging equipment" means a machine or equipment used to perform magnetic resonance imaging, computed tomography, positron emission tomography, and any hybrid technology that combines any of those imaging modalities.

(4) "Diagnostic imaging facility" means any location where a diagnostic imaging service is provided to a patient for a fee by a diagnostic imaging provider.

(5) "Diagnostic imaging provider" means any person that has an investment interest in any facility, office, clinic, imaging center, hospital, or other location in which a diagnostic imaging service is provided or in any machine or equipment that is used to provide a diagnostic imaging service.

(6) "Diagnostic imaging service" means magnetic resonance imaging, computed tomography, positron emission tomography, and any hybrid technology that combines any of those imaging modalities.

(7) "Health care provider" means a person licensed as a health care professional or authorized to practice in health care under Subtitle B or C.

(8) "Immediate family member" means a person's spouse, child, child's spouse, grandchild, grandchild's spouse, parent, parent-in-law, or sibling.

(9) "Investment interest" means an equity or debt security issued by a person, including shares of stock in a corporation, membership or other interest in a company, including a limited liability company, units or other interests in a partnership, including a limited liability partnership, bonds, debentures, notes, or other equity interests or debt instruments. The term includes the rental or time sharing of imaging equipment in which a referring health care provider receives a portion of the billing revenue.

(10) "Investor" means a person who directly or

S.B. No. 1461

indirectly holds a legal, beneficial ownership, or investment interest, including an interest held through an immediate family member, trust, or another person related to the investor within the meaning of "related to the provider" as defined by 42 C.F.R. Section 413.17.

(11) "Licensing authority" means a department, board, office, or other agency of this state that regulates a health care provider subject to this chapter.

(12) "Patient" means a person who receives a physical examination, evaluation, diagnosis, or treatment by a health care provider.

(13) "Referral" means a health care provider's request for or ordering of a diagnostic imaging service for a patient.

Sec. 113.002. RULES. The executive commissioner of the Health and Human Services Commission, on behalf of the department and center and as necessary to protect the public health and safety, shall adopt rules specifying the procedures health care providers and diagnostic imaging providers must use to comply with this chapter.

[Sections 113.003-113.050 reserved for expansion]

SUBCHAPTER B. REGISTRATION OF FACILITIES

Sec. 113.051. REGISTRATION REQUIRED. A person may not operate a diagnostic imaging facility unless the person holds a diagnostic imaging facility certificate of registration issued under this subchapter.

Sec. 113.052. APPLICATION; ISSUANCE. (a) An applicant for a diagnostic imaging facility certificate of registration shall file an application with the department on the form prescribed by the department.

(b) The applicant is entitled to a diagnostic imaging facility certificate of registration if:

(1) the applicant pays any required fee; and

(2) the applicant's facility meets the accreditation requirements under Section 113.053 and department rule.

Sec. 113.053. ACCREDITATION. (a) The department may not issue a diagnostic imaging facility certificate of registration to a person unless the person's diagnostic imaging facility has been accredited by a nationally recognized accreditation organization approved by the department.

(b) In approving accreditation organizations, the department shall consider:

(1) the ability of the organization to conduct timely reviews of accreditation applications;

(2) the organization's process for timely integration of new technology into accreditation programs;

(3) whether the organization's criteria for accreditation of diagnostic imaging facilities includes all of the following:

(A) qualifications for non-physician medical personnel;

(B) qualifications for and responsibilities of medical directors, supervising physicians, and interpreting physicians located at the facility;

(C) procedures for ensuring that diagnostic imaging equipment meets performance specifications;

(D) procedures for ensuring patient safety; and

(E) quality assurance reporting; and

(4) other factors the department considers necessary to protect the public health and safety.

Sec. 113.054. TERM; RENEWAL. (a) A diagnostic imaging facility certificate of registration expires on the second anniversary of the date of issuance.

(b) A person may renew a diagnostic imaging facility certificate of registration by submitting to the department on the form prescribed by the department a renewal application and any required fee.

[Sections 113.055-113.070 reserved for expansion]

SUBCHAPTER B-1. REPORTING AND DISCLOSURE OF HEALTH CARE PROVIDER

REFERRALS

Sec. 113.071. REPORTING AND DISCLOSURE OF REFERRALS. (a) A diagnostic imaging provider that performs services for a referring health care provider shall report to the center:

(1) the identity of the referring health care provider;

(2) whether the health care provider is an investor in the diagnostic imaging provider and the exact nature of any

investment interest the health care provider has in the diagnostic imaging provider;

(3) the total number of patients receiving diagnostic imaging services who were referred by the health care provider; and

(4) the additional claims data required by the center.

(b) The report required under Subsection (a) may be in the form of a bill for services provided by the diagnostic imaging provider in accordance with rules for filing a clean claim adopted by the Texas Department of Insurance (28 TAC 21.2803), as those rules existed on September 1, 2009.

(c) A report required by this section must be submitted to the center in the format or method required by the Department of State Health Services.

Sec. 113.072. PUBLIC INFORMATION. Information collected under Section 113.071 shall be made available to the public.

Sec. 113.073. DISCIPLINARY ACTION. A diagnostic imaging provider's failure to report information required by this subchapter is grounds for disciplinary action, including the imposition of an administrative penalty, by the licensing authority that regulates the diagnostic imaging provider.

Sec. 113.074. EXPIRATION. This subchapter expires September 1, 2010.

[Sections 113.075-113.150 reserved for expansion]

SUBCHAPTER C. CIVIL PENALTY

Sec. 113.151. CIVIL PENALTY. (a) A diagnostic imaging

provider that violates this chapter or rules adopted under this chapter is subject to a civil penalty of not more than \$1,000 for each violation.

(b) The attorney general at the request of the center shall bring an action to collect penalties under this section. In the suit, the center and the attorney general each may recover reasonable expenses incurred in obtaining the penalty, including investigation and court costs and reasonable attorney's fees.

(c) Expenses recovered by the center under this section shall be deposited in a separate account outside the state treasury to be used by the center in the enforcement of this chapter.

SECTION 2. (a) The Department of State Health Services shall conduct a study of the information required to be submitted to the department under Subchapter B-1, Chapter 113, Occupations Code, as added by this Act.

(b) In conducting the study, the department shall compare the rates at which diagnostic imaging services were used by physicians of the same specialty who have a financial interest in the diagnostic imaging services prescribed for the patient's care and those who do not have a financial interest in the prescribed diagnostic imaging services.

(c) Not later than January 1, 2011, the department shall submit a report regarding the study to the lieutenant governor and the speaker of the house of representatives.

SECTION 3. (a) Not later than January 1, 2010, the executive

S.B. No. 1461

commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement Chapter 113, Occupations Code, as added by this Act.

(b) Notwithstanding Chapter 113, Occupations Code, as added by this Act, a person is not required to hold a diagnostic imaging facility certificate of registration to operate a diagnostic imaging facility until March 1, 2010.

SECTION 4. Subchapter B-1, Chapter 113, Occupations Code, as added by this Act, applies only to a referral or service that occurs on or after the effective date of this Act. A referral or service that occurs before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2009.