

Texas Hospital Association 86th Legislative Session Round Up



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The Texas Legislative Session

- Texas Constitution sets Biennial 140 Days
 - Second Tuesday of January
- Citizen Legislature
- 150 House, 31 Senate, Governor
- November Elections (Odd Years)
 - March Primaries (Odd Years)
- Sine Die!
- Special Sessions called by Governor
- Interim



Healthcare and Hospitals in Texas

- 630 hospitals in Texas
- 288 designated trauma hospitals
- Almost 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



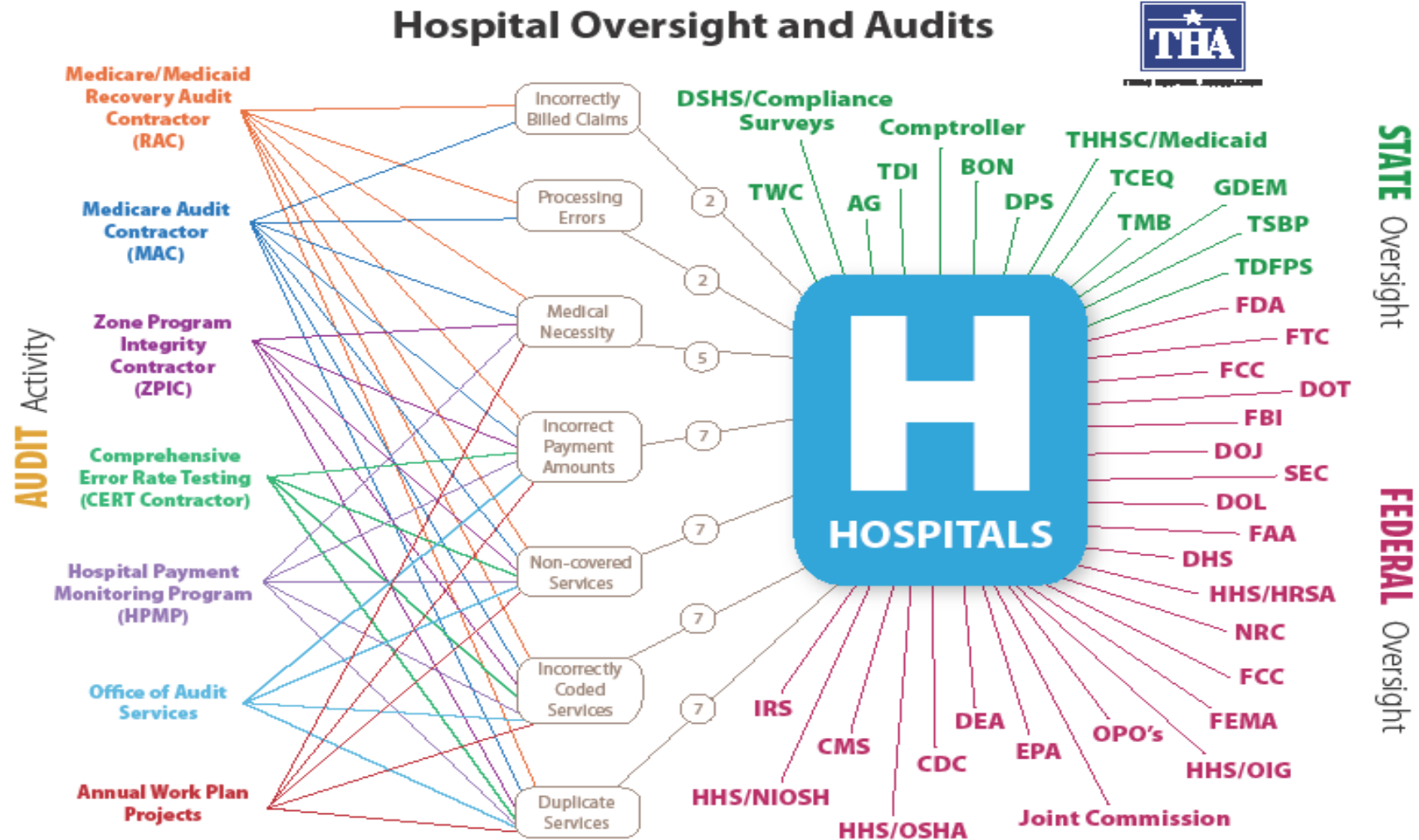
Why Does It Matter to Hospitals?

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

- Budget Writers
 - What percentage of your budget is from government payers?
- Policy Makers
 - Regulation of Healthcare Delivery (next slide)
- Engage with Elected Officials
 - Elections Matter, Rhetoric Matters



Hospital Government Oversight



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.

- 475 member hospitals in Texas
- Policy Making Structure at THA / Governance
 - From Workgroups to THA Board
- Advocacy Team Components
 - Lobby, Policy, Legal, Communications, HOSPAC, CEO
- Lobby Issues = Affect Legislation affecting hospitals
- Regulatory Issues = Affect Regulation affecting hospitals



86th Texas Legislative Session

In the 2019 session lasting **140 days**:

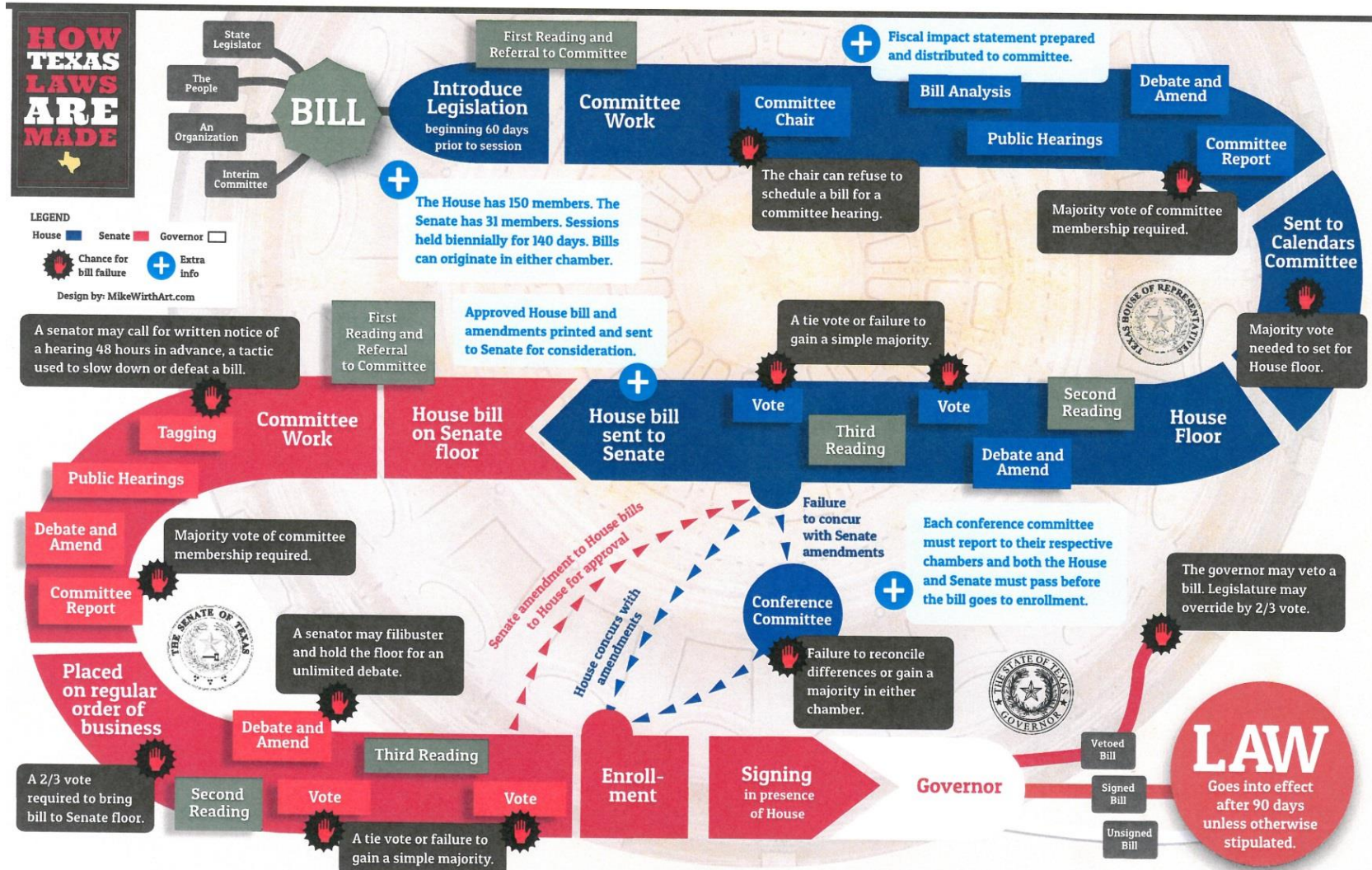
- **7,851 bills filed**
- **THA tracked 1,538**
- Impacted hospitals'
 - Budget
 - Operation
 - Policy
- Or could be amended to impact hospitals and health care systems



Legislative Process in Theory



Legislative Process in Reality



Major Budget Issues Coming Into Session

- Economic growth puts pressure on infrastructure
 - 1,000+ people moving to Texas each day
- Political pressure to remain fiscally conservative
 - Pass Balanced Biannual Budget aligned with Biennial Revenue Estimate (BRE)
 - Honor the constitutional spending cap
 - Protect the Rainy Day Fund (>\$12 billion balance)
- Promises to Limit Property Taxes but Increase Education Funding
- Budget Deferrals from 2017 push costs to 2019 Legislature
 - \$7.9 Billion estimate of deferral (\$2 Billion just for Medicaid)
- **In January, Comptroller Hegar BRE gives Legislature \$119.1 Billion in state funds to spend on two year FY20-21 budget (up from previous budget).**
 - Thanks to revised and raised oil and gas revenue, positive economic forecast and a more favorable match rate for Medicaid (feds will pay higher percentage).



2020-2021 State Budget

- H.B. 1 – “must pass” bill
 - Led by Sen. Jane Nelson and Rep. John Zerwas, M.D.
- 86th Legislature had ~ \$10 billion (16%) more to spend than past biennium
- HB 1 is a \$250.7 billion all funds two-year budget
 - Spends \$84.4 billion in all funds on health and human services (1% increase).
- Increases to public schools (\$6.5B) and funds to buy down property taxes (\$5.1B).
- \$6.1 Billion used from Rainy Day Fund
 - For Hurricane Harvey relief, leftover Medicaid expenses, future disaster preparedness, state hospital construction, school district safety upgrades.



Hospital Funding in State Budget

- No Provider Rate Cuts.
- Maintained funding for Medicaid rate enhancements:
 - \$360 million all funds for trauma hospitals.
 - \$300 million all funds for safety net hospitals.
 - \$60 million all funds for rural hospitals.
- New state funding for rate enhancements for:
 - \$35 million for rural hospitals' inpatient services.*
 - \$6.2 million for rural hospitals' labor and delivery services.*
 - \$50 million for children's hospitals.*
- \$15 million in new grant funding to support infrastructure improvements at trauma hospitals.*



Hospital Funding in State Budget

- Inpatient and outpatient behavioral health care:
 - \$445.4 million for phase II of the state psychiatric hospital redesign planning and construction (Rusk, Austin and San Antonio state hospitals).
 - \$26 million for 50 new inpatient beds at non-state psychiatric hospitals.*
 - \$5 million for substance use disorder treatment.*
- \$7 million for statewide maternal safety initiatives, which includes \$3 million for TexasAIM to reduce preventable maternal mortality and morbidity.*
- \$19.9 million to help reduce the nursing workforce shortage.*
- \$60 million expansion of graduate medical education for physician training.*



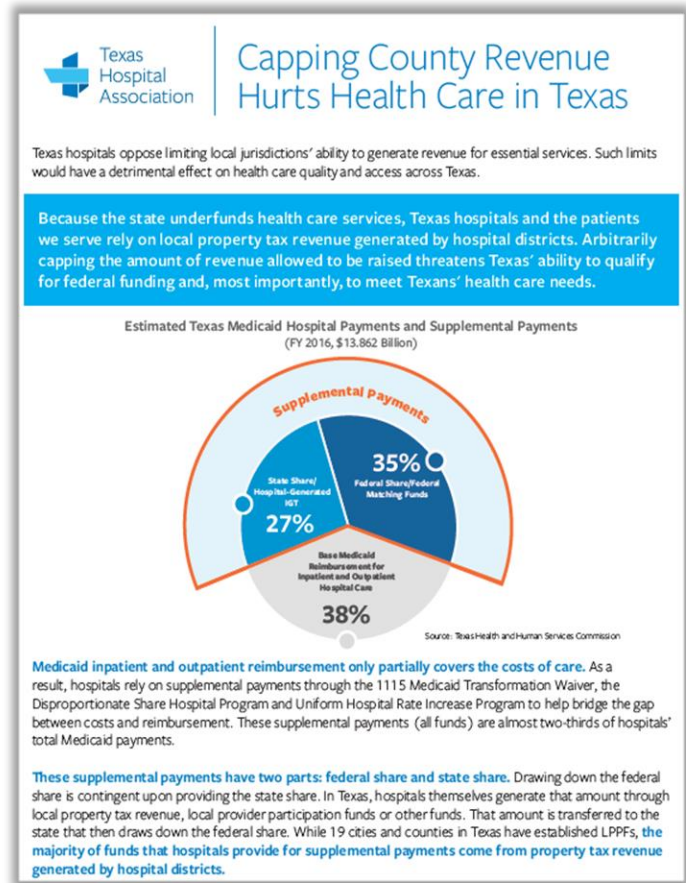
New Source of Trauma Funding

- HB 2048 repeals Driver Responsibility Program.
- Replaces the source of revenue for state's trauma fund (Account 5111), which provides:
 - \$176.4 million all funds to offset trauma hospitals' \$320 million in unreimbursed trauma care costs.
 - \$150.8 million all funds for safety net hospitals Medicaid payment.
- Revenue comes from:
 - increasing the existing state traffic fine from current \$30 to \$50.
 - increasing the administrative fee on issuers of motor vehicle insurance from the current \$2 to \$4.
 - increasing fines on individuals convicted of driving while intoxicated; fines would range from \$3,000 to \$6,000, depending on the circumstances.



Caps on Property Tax Revenue

- Limiting local governments' ability to raise property tax rates was a priority for Gov. Greg Abbott and state leadership.
- Proposed legislation sought to reduce the amount by which local governments, including hospital districts, could increase property taxes from 8% to 2.5%.
- Caps threatened hospitals' ability to generate revenue to provide the state share of hospitals' supplemental payments and support indigent health care programs.
- THA successfully worked to exempt hospital districts and county hospitals from SB 2, the property tax reform legislation that passed in May.



Local Provider Participation Funds

- 28 cities and counties now have legislative authority to create local provider participation funds to generate a source of the non-federal share of supplemental Medicaid payments.
- The 86th Legislature approved LPPFs for Bexar, Ellis, El Paso, Harris, Lubbock, Nueces, Taylor, Travis and Wichita counties and renewed LPPFs for Dallas and Tarrant counties.
- A new state law from the 2019 session now allows certain local government entities to temporarily establish an LPPF without waiting until 2021 for legislative approval. Authority to administer the LPPF lasts only until Sept. 1 following the second anniversary of its authorization, and maintaining the LPPF requires specific legislative authority the following session.



“Surprise” Billing Legislation Passes

Bipartisan and bicameral attention on eliminating surprise medical billing.

- SB 1264 by Sen. Kelly Hancock, Sen. John Whitmire, Rep. Trey Martinez Fischer, Rep. Tom Oliverson, M.D. – THA supported the final version of the bill.
- Prohibits out-of-network balance bills.
- Creates a dispute resolution process for:
 - out of network emergency care (facility’s bill or provider’s bill);
 - care provided at an in-network facility by an out-of-network provider (the provider’s bill)
 - diagnostic imaging or laboratory services provided in connection with an in network physician or provider.
- Gives regulatory agencies the authority to enforce violations through disciplinary action or AG referral
- Bifurcated payment dispute resolution process initiated by payor or provider, not patient
 - mediation process applicable to disputes between payers and facilities (no government set payment parameters other than usual and customary rate)
 - arbitration process applicable to disputes between payers and providers who are not facilities
- As the issue of surprise billing gains increasing attention in the U.S. Congress, Texas’ new surprise billing law can serve as a model for the nation.



Other Wins for Hospitals

- Streamline admission process at psychiatric hospitals for those seeking voluntary inpatient treatment (SB 1238)
- Delay implementation of the Prescription Drug Monitoring Program from 9/1/2019 to 3/1/2020. Funding of \$6 million in H.B. 1 will integrate hospital EMR with the PMP (HB 3284)
- Expanded liability protection for volunteer providers and their facilities to ensure timely access to essential health care during a natural or manmade disaster (SB 752)
- Alignment of state and federal reporting requirements for health care-associated infections so hospitals can better focus on infection control and prevention (SB 384)



Other Issues from the Session

- Licensed Freestanding Emergency Care Centers regulation and billing
- Health Care Coverage Expansion Efforts
- Nurse Safe Harbor Procedures
- Sexual Assault Forensic Exams, Evidence Collection, Storage and Reimbursement
- Telemedicine Standards, Requirements
- Definition of “Admission” for a Hospital Lien
- NICU and Maternal Designation Certifications and Regulation
- Public Health – Vaccines, Car Seats, Cigarette Age to 21
- Increased Medicaid Managed Care Oversight
- Abortion Affiliation Prohibitions
- Clarification of the Application of the Public Information Act
- Open Carry, Guns in Hospitals during a declared disaster
- Emergency Medical Care negligence standards



Texas Medicaid 1115 Waiver

- Texas' five-year Medicaid 1115 Waiver implements two major changes:
 - 1) Transitioning from use of the current "uncompensated care tool" to a modified S-10 Worksheet to calculate and distribute UC payments based on hospital charity care costs. Medicaid shortfall and bad debt costs no longer are allowed.
 - 2) Wind down of DSRIP funding.



MILESTONES FOR Texas' New Medicaid 1115 Waiver

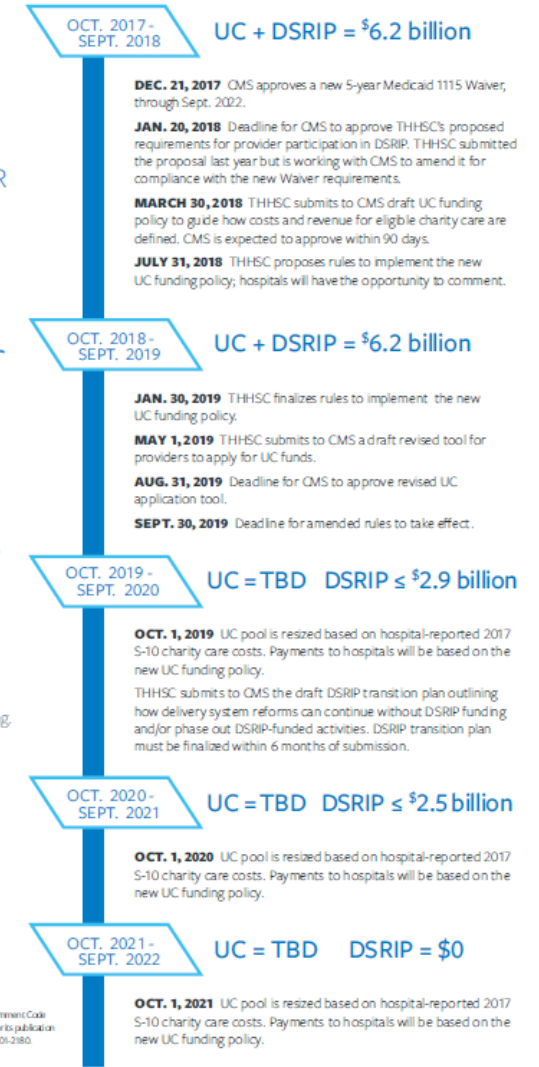
In late December, the Centers for Medicare & Medicaid Services approved a new five-year, approximately \$25 billion Medicaid 1115 Waiver for Texas. While maintaining significant funding for uncompensated care payments and Delivery System Reform Incentive Payments, the Waiver implements two major changes:

1. Transitioning from use of the current "UC tool" to a modified S-10 Worksheet to calculate and distribute UC payments based on hospital charity care costs alone. Medicaid shortfall and bad debt costs no longer will be allowed.
2. Winding down DSRIP projects and funding.

The terms of the new Waiver establish a timeline for Texas to implement these changes and penalties for not achieving milestones.

Additional information on the Medicaid 1115 Waiver is available from www.tha.org/waiver.

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UC Pool Resizing

- The new methodology to calculate UC payment is based on hospital-reported charity care costs and cannot include the Medicaid shortfall or bad debt.
- The waiver's terms also require the UC pool to be resized for fiscal years 2020-2022 (demonstration years 9-11) based on 2017 S-10 charity care costs.
- **In October, CMS approved a \$3.873 billion UC pool size based on the agreed-upon methodology for sizing (up from \$3.1 billion).**



DSRIP Wind Down

- DSRIP funding ends September 2021 – year five of the waiver.
- THHSC’s DSRIP transition plan outlining how health care delivery system reforms can continue without DSRIP funding was submitted to CMS on Oct. 1.
 - Includes deadlines for milestones.
 - “The plan is a plan for a plan.”
- THA is participating in THHSC’s DSRIP stakeholder meetings and provided feedback on the transition plan based on discussions with THA members.
- HHSC must submit a plan to CMS by March 2020



DSRIP Transition Discussion

- Opportunities THHSC is considering to build DSRIP reforms into the Medicaid program while leveraging existing waiver financing structures include:
 - Directed payments - in managed care.
 - Targeted enhancements of benefits.
 - Implementing quality initiatives that align with the transition plan's identified focus areas.
- Some of the key focus areas to direct all post-DSRIP initiatives include behavioral health, primary care, chronic care management, and patient navigation/care coordination for high utilizers.
- THHSC's ability to build on DSRIP successes likely will be limited by CMS' new methodology to calculate budget neutrality for Waiver programs.



THA-Suggested Interim Charges



Texas Hospitals Prepare for the 2021 Legislative Session
Suggested Interim Charges for 2019-2020

Providing the highest quality care and ensuring positive health outcomes are hallmarks of Texas hospitals' work. Texas hospitals support funding and programs that adequately reimburse providers for the care they provide and promote access to timely care for their patients. To support that work, THA suggests the following topics to study in advance of the 87th Texas Legislature in 2021.

Medicaid 1115 Transformation Waiver (*House Appropriations Committee, Senate Finance Committee*)

- Texas' current five-year Medicaid 1115 Transformation Waiver changes the way that uncompensated care is calculated for provider reimbursement payments and phases out the Delivery System Reform Incentive Payment program by 2021. The federal government requires the Texas Health and Human Services Commission to develop a DSRIP transition plan, and the committees should evaluate the plan to ensure the stability of the health care safety net. The committees also should study and report on the forthcoming federal changes in budget neutrality calculations that will impact any future Waiver renewals.

Health Care Coverage (*House Appropriations Committee, House County Affairs Committee, House Human Services Committee, House Insurance Committee, Senate Health & Human Services Committee*)

- Texas continues to have the highest percentage and number of uninsured individuals in the U.S., and the number of uninsured children is rising. The committees should evaluate the factors contributing to declining rates of health care coverage, especially among children, and study and report on the impact of the uninsured on communities, businesses, consumer health care costs and uncompensated care costs. The report should include recommendations for increasing the number of Texans with health care coverage and improving access to care.

Managed Care (*House Insurance Committee, House Human Services Committee, Senate Health & Human Services Committee, Senate State Affairs Committee*)

- Study the impact of the 30-day limit on hospital stays for Texas Medicaid's STAR + PLUS population. Evaluate how the limit impacts patients, hospitals and health plans. Study how the limit contributes to the uncompensated care costs and the overall cost of care.
- Study THHSC's oversight of Medicaid managed care organizations, specifically:
 - Review THHSC's policies related to quality metrics, particularly those related to the Hospital Quality-Based Potentially Preventable Readmissions and Complications Program. Identify which patient populations have a disproportionate rate of readmissions and the reasons for those readmissions and evaluate how managed care coordination impacts readmissions.
 - Evaluate the Pay-4-Quality Program and how it is working toward improving quality for patients.
 - Study care coordination programs and how THHSC evaluates whether care coordination occurs on a patient-by-patient basis. Review whether THHSC evaluates the accessibility of care coordinators for both patients and providers.
- Study THHSC's oversight of network adequacy standards for managed care plans. Make recommendations for how it can improve oversight and strengthen network participation.

Surprise Billing (*House Insurance Committee, Senate Business & Commerce Committee*)

- Monitor the Texas Department of Insurance's implementation of Senate Bill 1264, 86th Texas Legislature, the new state law banning surprise medical billing of patients for emergency or unplanned out-of-network health care services. Study trends in surprise billing as well as market and regulatory conditions that contribute to the prevalence of surprise medical bills in Texas.
- Evaluate how network adequacy impacts the prevalence of surprise medical bills and recommend opportunities to improve network adequacy in Texas.

THA recently suggested topics for state lawmakers to study in advance of the 2021 legislative session to help inform potential legislation or solutions for some of the challenges hospitals experience in providing care.

• THA's suggested topics include:

- The state's plan to transition DSRIP under the Medicaid 1115 Waiver and budget neutrality calculations.
- Opportunities to increase the number of Texans with health care coverage.
- Oversight of Medicaid managed care organizations.
- Implementation of the state's new surprise billing law.



Meanwhile, on Capitol Hill

ACA DSH cuts for Oct. 1 delayed to Nov. 21

- \$450 million cut to Texas for 2020 (23% loss)
- Texas has not seen reduction in uninsured or uncompensated care post-ACA

Surprise Billing

- Hospitals support protecting a patient from surprise medical bills.
- But providers and insurers should be permitted to negotiate payment rates for services provided. We strongly oppose approaches that would impose arbitrary rates on providers.



2020 Elections – They're Here....

- March 3 Primary / November 3 General Election
 - Candidates file starting November 9, ends December 9
 - Early Voting Starts February 18
- U.S. Congress
 - 5 GOP not returning (Olson, Conaway, Hurd, Marchant, Thornberry)
- Texas House
 - 83 - 67 GOP majority (9 seats to move majority)
 - 10 GOP House seats in districts that went Beto

VOTE.
Your Health Care
Depends On It.



One Stop For Legislative Information

The screenshot displays the Texas Hospital Association website with a focus on the 2019 Legislative Session. The header includes the THA logo, navigation menu (Home, Public Policy, Services, Publications, THA Foundation, About, Contact), and contact information (512/465-1000, info@tha.org). The main content area features a large banner for the 2019 Legislative Session with a background image of the Texas State Capitol dome. Below the banner, there are three columns of information: 'Advocacy in Action' with a 'Read More' button; 'Refresher from 85th Legislature' with links for 'Regular Session Report' and 'Special Session Report'; and 'Stay Engaged' with 'Follow on Twitter' and 'Follow on Facebook' buttons. A section titled 'Latest Information on Medicaid 1115 Waiver Renewal Request' includes a 'Read More' button and a photo of Gov. Greg Abbott. At the bottom, a 'Key Lawmakers' section features circular portraits and contact buttons for Gov. Greg Abbott (R) and Lt. Gov. Dan Patrick (R-Houston).

VISIT ONLINE

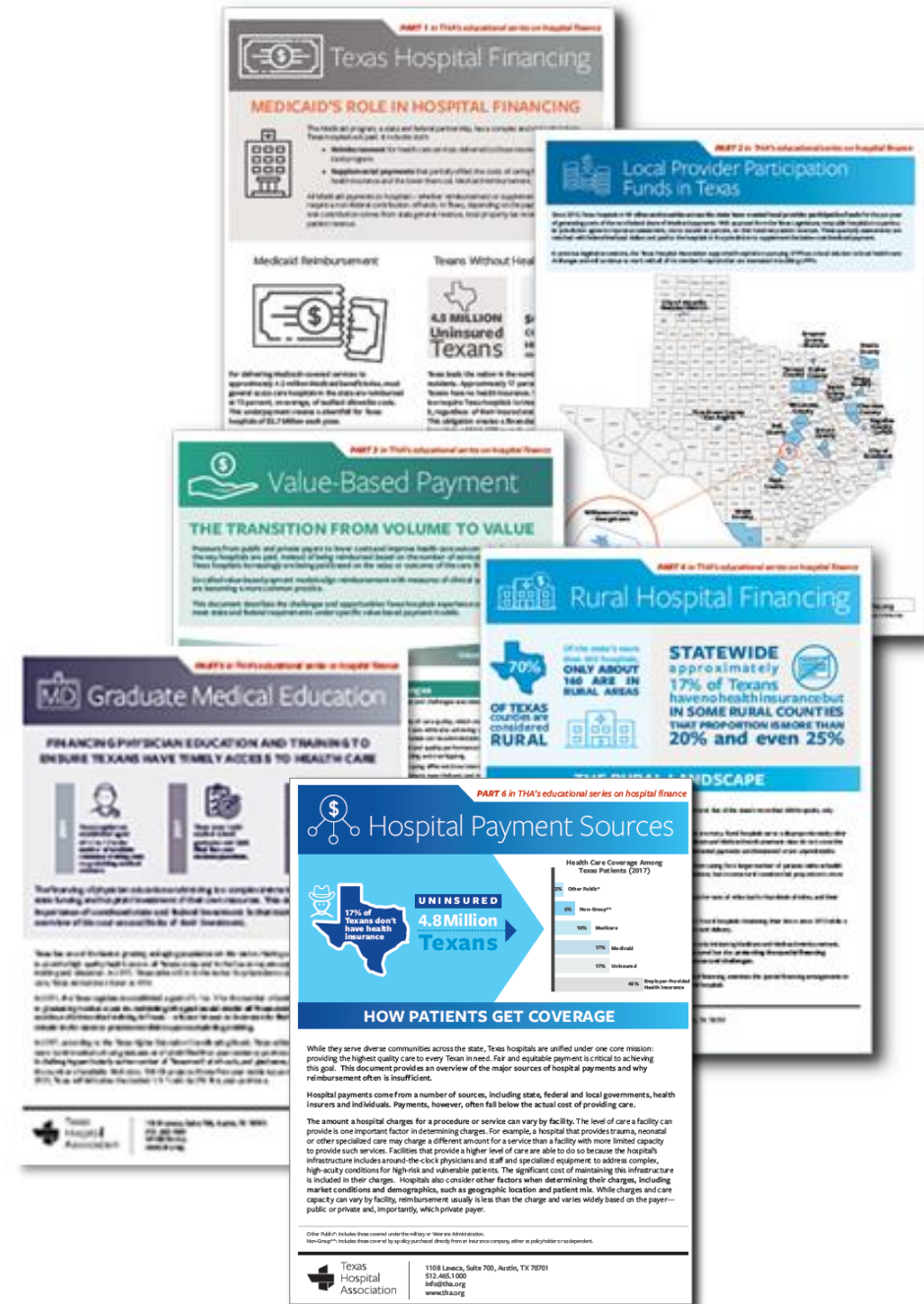
www.tha.org/2019legislativesession



Educational Series on Hospital Finance

- Medicaid's Role in Hospital Financing
- Local Provider Participation Funds in Texas
- Value-Based Payment
- Rural Hospital Financing
- Graduate Medical Education
- Hospital Payment Sources

www.tha.org/hospitalfinance



Thank you. Questions?

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