



86th Texas Legislature: THA Policy Priorities

Status as of March 29

This document summarizes some of the more than 1,500 bills the advocacy staff at the Texas Hospital Association are tracking, monitoring, supporting or opposing. It is not intended to be an exhaustive analysis of every bill of importance. The information below is current as of March 29, 2019. Visit www.tha.org/2019legislativesession for the most current information. May 27 is the last day of the 86th Texas Legislature, and the governor has until June 16 to sign or veto bills passed during the regular session.

As part of THA's comprehensive advocacy strategy, the advocacy team often works behind the scenes with legislative staff to improve legislation so that the bill eventually brought forth represents the best possible option for Texas hospitals. Being able to delay or slow down legislation not in hospitals' best interests also is critical.

THA initiates member engagement campaigns through its Voter Voice system when support or opposition is needed to pass or kill a particular bill. Information is sent via emailed action alerts and through THA's legislative app.

Appropriations for Texas Hospitals

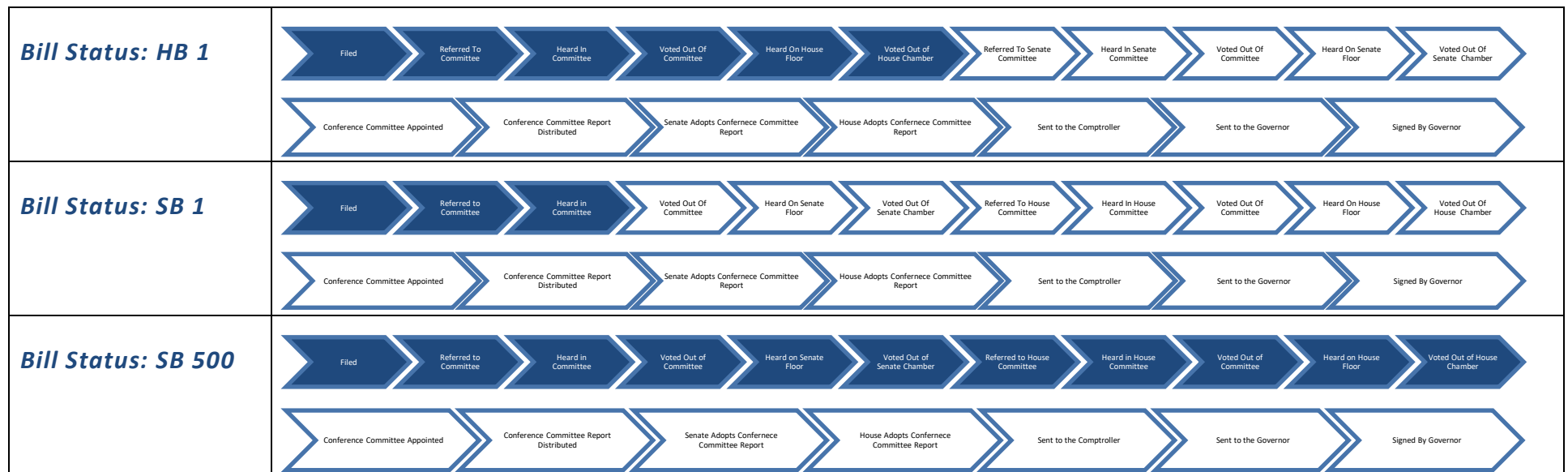
Issue: Hospital Funding

- Through various versions of the 2019 and 2020-2021 state budget proposals and bills to cover state expenses left unpaid from the 85th Legislature, state lawmakers are considering various funding enhancements for Texas hospitals. These include:
 - Preserved Medicaid rate enhancements for trauma, safety net and rural hospitals.
 - New funding increases for trauma, rural and children's hospitals.
 - \$4.4 billion to cover the 2019 Medicaid budget shortfall.
 - Several hundred million dollars for the second of a three-phase plan to expand, renovate and transform the state inpatient psychiatric hospital system.
 - Funding to integrate the Prescription Monitoring Program database with patients' existing electronic medical records.
 - Stipends to increase hospitals' TexasAIM efforts to reduce preventable maternal mortality and morbidity.
- Background

- The Texas House of Representatives passed its version ([House Bill 1](#)) of the 2020-2021 budget on March 28. Meanwhile, the Texas Senate Finance Committee has been working on the Senate version ([Senate Bill 1](#)). The Senate Finance Committee will meet April 3 to substitute the contents of HB 1 out for its version of the budget. After the Senate Committee Substitute to HB 1 passes the Senate Finance Committee, the full Senate will vote on it. Shortly thereafter, the Speaker of the Texas House and the Lt. Governor will appoint conferees to reconcile the House and Senate versions of the budget into one must-pass document. In addition to work on the 2020-2021 budget, lawmakers in both chambers have passed a supplemental budget to pay for expenses that were not covered during the 2017 legislative session. [Senate Bill 500](#) is a vehicle for the supplemental budget. The House's version is [Committee Substitute to SB 500](#). After the conference committees reconcile the base budget and supplemental budget bill, the full Senate and full House must pass the final bills. The comptroller will certify appropriations do not exceed the revenue forecast and the bill goes to the Governor, who has the power to line-item veto individual spending items.

THA Position: THA currently supports both versions of the 2020-2021 General Appropriations Act as both preserve Medicaid rate enhancements for rural, trauma and safety net hospitals and include new funding for certain classes of hospitals. THA also supports both versions of the supplemental budget, which appropriate \$4.4 billion for the 2019 Medicaid budget shortfall.

Take ACTION: Reminding lawmakers of the importance of sustainable Medicaid funding is critical as is the importance of base Medicaid funding as the future of the Medicaid 1115 Waiver is uncertain. The final budget bill likely will not become law until close to the end of the legislative session as the conference committee discussions to negotiate differences between the House and Senate versions of the bill often involve complex issues.



Contacts: John Hawkins/Jennifer Banda, J.D./Kate Hendrix

Method of Finance

Issue: *Local provider participation funds*

- 26 bills related to LPPFs are making their way through various committees.
 - 16 bills create nine new LPPFs in areas that have not previously had LPPFs.
 - Four bills extend two existing LPPFs that had “sunset” or expiration dates, and two bills make changes to an existing LPPF. These “sunset” dates were added to the bills to ensure the viability of the agreements and afford hospitals the ability to amend them before creating new LPPFs in perpetuity.
 - Two bills provide statewide authority for local jurisdictions to create LPPFs after the state legislature adjourns from session. These bills are a means of giving regions the ability to act if the federal government disallows or questions additional local IGT arrangements.
 - Two bills provide authority for counties without a hospital district or public hospital to create LPPFs.

THA Position: THA supports the county-based LPPF legislation.

Contacts: John Hawkins/Jennifer Banda, J.D./Kate Hendrix

Property Tax Revenue Caps

Issue: *Capping the amount of revenue local jurisdictions can raise.*

- Capping the amount of revenue local jurisdictions can raise from property taxes is a priority for the Texas Legislature and state leadership. The issue narrowly failed during the special legislative session in 2017. Sen. Paul Bettencourt (R-Houston), chair of the Senate Property Taxes Committee, filed Senate Bill 2 to reduce the amount by which local governments, including hospital districts, would be able to increase property taxes each tax year from 8 to 2.5 percent. SB 2 has been voted out of the Senate committee and will be scheduled for a vote before the full Senate once Senate lawmakers gather the necessary votes to pass the bill out of the chamber. On March 27, the House Ways & Means Committee passed its version, [House Bill 2](#) by Rep. Dustin Burrows (R-Lubbock), chair of the House Ways & Means Committee. Like SB 2, HB 2 includes a 2.5 percent rollback rate but exempts special districts, including hospitals districts, from the caps. Although hospitals are excluded from the House version, the Texas Association of Counties and key other stakeholders have suggested changes to HB 2. THA will continue to monitor the tax cap bills to ensure favorable language remains for Texas hospitals.

THA Position: THA is closely monitoring HB 2 and has testified on the importance of local flexibility to raise sufficient revenue to fund vital programs, including access to health care services.

Bill Status: HB 2	
Bill Status: SB 2	

Contacts: John Hawkins/Jennifer Banda, J.D./Kate Hendrix

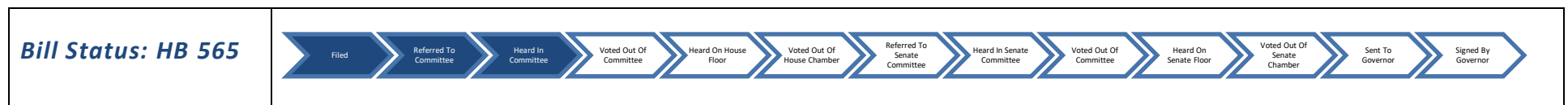
Reducing the Number of Uninsured Texans

Issue: Increasing access to affordable, comprehensive health care coverage

- While reducing the number of uninsured Texans poses political challenges, Texas hospitals are continuing to educate lawmakers on the issue, particularly considering the terms of Texas' new Medicaid 1115 Waiver and the challenges Texas hospitals will experience with reduced federal supplemental payments from impending Medicaid Disproportionate Share Hospital payment cuts and the expiration of the current Waiver in 2022.
- THA's longstanding efforts to educate lawmakers on this issue have yielded some success as state lawmakers have filed legislation and proposed amendments to begin to address, at least in part, coverage for Texas' uninsured population.
- Rep. Garnet Coleman (D-Houston) filed [House Bill 565](#) to expand Medicaid coverage for uninsured and low-income Texans who earn up to 100 percent of the federal poverty limit. THA [testified](#) March 7 before the House Insurance Committee in support of HB 565 and emphasized the need to provide health care coverage for vulnerable populations, as the costs of care for these individuals are passed on to local taxing districts and the private health insurance market.
- Sen. Lois Kolkhorst (R-Brenham) filed [Senate Concurrent Resolution 57](#), which would establish a joint interim committee on state health care coverage as well as [Senate Bill 2480](#) to establish a Joint Medicaid 1115 Waiver Renewal Legislative Oversight Committee to provide needed guidance and oversight. The Senate Health & Human Services Committee, chaired by Sen. Kolkhorst, will consider SB 2480 on April 2.
- Numerous bills have been filed to expand Medicaid (HB 590, Rep. Celia Israel (D-Austin); HB 816, Rep. Diego Bernal (D-San Antonio); HB 840, Rep. John Bucy (D-Austin); HB 1210 Rep. Michelle Beckley (D-Carrollton); HB 1395, Rep. Ron Reynolds (D-Missouri City); HB 2308, Rep. Beckley; HB 3591, Rep. Erin Zweiner (R-Driftwood); HB 3698, Rep. Sergio Munoz (D-Palmview); HJR 40, Rep. Israel; HJR 46, Rep. Bucy; HJR 92, Rep. Reynolds; SB 327, Sen. Carol Alvarado (D-Houston); SB 524, Sen. Nathan Johnson (D-Dallas); SB 1321, Sen. Borris Miles (D-Houston); SB 1839 Sen. Royce West (D-Houston); SJR 34, Sen. Johnson).
- Rep. Bucy proposed an amendment to the House budget bill that would have put Medicaid expansion on voters' ballots in a referendum. The amendment failed on a party line vote.

- Bills also have been filed to extend postpartum Medicaid eligibility from two months to 12 months (HB 241, Rep. Jessica Farrar (D-Houston); HB 411, Rep. Shawn Thierry (D-Houston); HB 610, Rep. Armando Walle (D-Houston); HB 744, Rep. Toni Rose (D-Dallas); HB 1110, Rep. Sarah Davis (R-West University Place)).
- Other bills have been filed to create a high-risk pool to help with the uninsured (HB 4435, Rep. Eddie Lucio, III (D-Brownsville)/SB 1087, Sen. Johnson as well as extend the sunset date of authority for Texas Department of Insurance to apply for federal funds to administer a temporary health insurance risk pool (HB 3325, Rep. Tom Oliverson (R-Cypress)/SB 1940, Sen. Kelly Hancock (R-North Richland Hills)).

THA Position: THA supports increasing access to health care coverage for low-income and uninsured Texans through private health plans available through the state's existing managed care programs. Such coverage would reduce uncompensated care in Texas and hospitals' reliance on shrinking federal supplemental payments.



Contacts: John Hawkins/Jennifer Banda, J.D./Kate Hendrix

Trauma Hospital Funding

Issue: *Preserve critical funding for Texas trauma hospitals*

- Various bills have been filed to repeal and replace the Driver Responsibility Program, the primary source of revenue for the state trauma fund (Account 5111) that feeds add-on payments for trauma hospitals, and even more have been filed to reform the DRP. THA's efforts focus primarily on supporting [House Bill 2048](#)/[Senate Bill 918](#) by Rep. John Zerwas (R-Richmond)/Sen. Joan Huffman (R-Houston), which would eliminate the DRP, provides amnesty to those with fees and fines under the current program, increases certain fines and fees and adds an additional fee onto monthly automobile insurance premiums. The revenue collected will cover any hole created in state general revenue or the dedicated trauma account by repealing the DRP. THA will testify in support of both bills when they are heard in committee. HB 2048 is anticipated to be heard by the House Homeland Security and Public Safety Committee on April 3. A committee hearing has been requested for SB 918 in Senate Finance.
- Multiple bills have been filed to eliminate red light cameras, which also raise revenue for the trauma fund. A contingency rider was placed in HB 1 to cover \$28 million that would be lost if red light camera programs are prohibited.

THA Position: THA supports efforts to repeal the DRP but only if a stable, reliable and consistent alternative source of funding for trauma hospitals is identified.

Bill Status: HB 2048	
Bill Status: SB 918	

Contacts: Carrie Kroll/Cameron Duncan, III, J.D./Sharon Beasley

End-of-Life Issues

Issue: *Protecting patients’ autonomy in making end-of-life care decisions and health care professionals’ ethical responsibilities to honor those choices.*

- THA, in coordination with a coalition of stakeholder groups, worked with Rep. James Frank (R-Wichita Falls) to file [House Bill 3332](#) to address the revocation language in the new in-hospital do-not-resuscitate order statute (created by SB 11 from the special legislative session in 2017) and to address hospital ethics committee composition. HB 3332 seeks to ensure health care professionals honor patients’ end-of-life care decisions by allowing a physician to revoke an inpatient DNR order only at the request of the patient or individual who originally authorized it, or through a valid revocation of the patient’s directive.
- THA actively is monitoring legislation that would infringe on patients’ rights and health care providers’ ability to honor patients end-of-life care decisions.

THA Position: THA supports HB 3332.

Bill Status: HB 3332	
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Contacts: Carrie Kroll/Cesar Lopez, J.D./Sharon Beasley

Quality and Patient Safety

Issue: Ensuring the highest quality patient care and safety.

THA worked closely with state lawmakers to file several bills to improve hospitals' ability to focus on infection control and prevention as well as provide care to patients during a disaster. THA also is actively monitoring and working with lawmakers to improve legislation that would relax the existing prohibition on guns in hospitals.

- [Senate Bill 752/House Bill 1353](#) by Sen. Joan Huffman (R-Houston)/Rep. Tom Oliverson (R-Cypress) is a joint initiative between THA and TMA to expand liability protections for volunteer health care professionals and health care facilities during a disaster. This issue was brought to THA's attention after Hurricane Harvey. The legislation would liability protection to a volunteer health care professional or the facility sponsoring the care, regardless of their tax status. The bill has been approved by the Senate and has had a hearing in the House. THA testified in favor of the legislation in the [House](#) and [Senate](#).
- [Senate Bill 384](#) by Sen. Jane Nelson (R-Flower Mound) would align state health care acquired infection reporting with federal requirements. It was filed at the request of THA and has been heard in committee. The bill has a small fiscal note so that the Texas Department of State Health Services can update their technology to capture the data once its reported via the portal to the federal government. THA [testified](#) in support of the bill.
- [Senate Bill 749](#) by Sen. Lois Kolkhorst (R-Brenham) seeks to address issues hospitals have experienced during the NICU and maternal designation process by setting up a waiver process that allows a hospital to waiver one required element, creates independent appeals process, allows for the use of telemedicine and creates a contingent designation process. THA [testified](#) in support of the bill. The bill is currently on the Senate intent calendar and should be debated the week of April 1.
- [House Bill 1177/Senate Bill 506](#) by Rep. Dade Phelan (R-Beaumont)/Sen. Brandon Creighton (R-Conroe) would allow an administrator (or their designee) of a hospital serving as emergency medical shelter during a disaster to waive the hospital's 46.035 handgun prohibition. This would allow guns to be carried on the hospital campus. THA has been in conversations with Rep. Phelan's office, [testified](#) against the bill in committee and have asked to be carved out of the bill.
- [House Bill 302/Senate Bill 19](#) by Rep. Dennis Paul (R-Houston)/Sen. Bryan Hughes (R-Mineloia) is a priority of Lt. Governor Dan Patrick (R) would restrict hospitals from including language in lease agreements for buildings that the hospital owns prohibiting the carrying of handguns that are in close proximity to but not a component of the hospital campus. THA has communicated its opposition to both lawmakers, [testified](#) in committee and has requested a narrow amendment that exempts leased space within the hospital or within 250 yards of the hospital (the distance that determines whether a department is on-campus or off-campus of a hospital under federal Medicare regulations). On April 1, the Senate State Affairs Committee voted out a committee substitute to SB 19, which removes previous references to commercial space. THA is working to confirm whether or not the author of the House version will follow suit.

THA Position: THA supports SB 384 and SB 752/HB 1353.

Bill Status: SB 384	
Bill Status: SB 752	
Bill Status: HB 1353	

Contacts: Carrie Kroll/Cameron Duncan, III, J.D./Sharon Beasley

Physician Relations

Issue: Regulation of 501(a) physician group practices and hospitals' ability to require that physicians maintain specialty certification.

- Multiple bills were filed this session that would further regulate nonprofit health care organizations, such as 501(a) physician group practices, and hospitals' ability to require physicians to maintain board certification.
- [House Bill 1532](#)/[Senate Bill 1985](#) by Rep. Morgan Meyer (R-Dallas)/Sen. Bryan Hughes (R-Mineola) is a priority legislation for TMA. The legislation would address alleged abuses of the corporate practice of medicine. The bill would strengthen the Texas Medical Board's oversight of health organizations, also known as 501(a) physician employment entities. Similar legislation was filed last session and was especially onerous, creating a cause of action against the 501(a). That bill died in the last weeks of the 2017 legislative session. The legislation this session has been reworked and strengthens oversight of the TMB over complaints filed against the 501(a) for allegations of retaliatory actions. The bill also codifies current 501(a) reporting to the TMB. HB 1532 is currently pending in the House Committee on Public Health. THA [testified](#) on the bill at the public hearing, noting that the bill is improved from last session but outlining several concerns about the potential for abuse at the TMB.
- [Senate Bill 1882](#)/[House Bill 4215](#) by Sen. Dawn Buckingham, M.D. (R-Lakeway)/Rep. Greg Bonnen, M.D. (R-Friendswood) builds on the legislation passed by Sen. Buckingham in 2017 that limited the scope of hospitals' ability to require the medical staff to maintain board certification. The 2017 legislation left the decision up to the medical staff and the medical staff bylaw process. Sen. Buckingham filed SB 1882 to require hospitals to further inform their medical staff about the process to amend the medical staff bylaws to trigger a discussion and/or vote on maintenance of board certification. The intent of SB 1182 as filed was unclear – whether to define the bylaws process for the medical staff or to require every medical staff to readopt bylaws related to MOC. THA has provided alternate language to Sen. Buckingham that would set out a process for clearly notifying a medical staff about the existing process in bylaws to raise an issue for consideration.

THA Position: THA is closely monitoring both the 501(a) and maintenance of certification bills to make sure they do not become onerous for hospital operations.

Bill Status: HB 1532	
Bill Status: SB 1985	
Bill Status: SB 1882	
Bill Status: HB 4215	

Contacts: Jennifer Banda, J.D./Cameron Duncan, III, J.D.

Behavioral Health

Issue: *Ensuring quick access to voluntary inpatient mental health treatment for all Texans.*

- THA worked with Sen. Nathan Johnson (D-Dallas) and Rep. Toni Rose (D-Dallas) to file [Senate Bill 1238](#) and [House Bill 3536](#), which would streamline the process for psychiatric hospitals to admit an individual requesting voluntary inpatient mental health treatment and expedite access to and increase continuity of care. This legislation would get Texans needing inpatient mental health treatment the care they need more quickly. SB 1238/HB 3536 is a priority for THA's Behavioral Health Council. THA [testified](#) in support of SB 1238 before the Senate Health & Human Services Committee. The Senate HHS Committee voted SB 1238 out on March 28. The bill soon will be scheduled for a vote before the full Senate.
- Sen. Jane Nelson (R-Flower Mount) filed [Senate Bill 10](#), which would establish a Mental Health Care Consortium to enhance the state's ability to address mental health needs through collaboration and institutional alignment of the health-related institutions of higher education. The legislation is intended to increase access to psychiatrists through telemedicine, create the Child Psychiatry Access Network and Telemedicine and Telehealth Programs.
- Rep. Senfronia Thompson (D-Houston) filed similar legislation, [House Bill 10](#), which would offer a different approach to address mental health research, increase residency slots for child psychiatrists, and create a grant for child and adolescent psychiatric nursing program. In

addition, the bill would create the Texas Behavioral Health Research Institute to enable health care professionals to connect to child and adolescent psychiatrists through electronic means.

- THA’s Behavioral Health Council supports both bill’s efforts. Senate Bill 10 has passed out of the full Senate and has been referred to the House Pubic Health Committee. HB 10 has been voted out of the House Public Health Committee, chaired by Rep. Thompson. Lawmakers are expected to reconcile the bills’ differences and agree on a single version now that both bills are in the Texas House.

THA Position: THA supports SB 1238/HB 3536 and SB 10/HB 10.

Bill Status: SB 1238	
Bill Status: HB 3536	
Bill Status: SB 10	
Bill Status: HB 10	

Contacts: Sara Gonzalez/Steve Wohleb, J.D./Sharon Beasley

Balance Billing and Managed Care Issues

Issue: *Surprise billing and managed care issues.*

- “Balance billing” is being discussed at both the federal and state levels. Multiple bills were filed at the state level to regulate and/or prohibit “balance billing” or “surprise billing” and attempt to create a dispute resolution process for providers and payors that would remove the consumer from the process. Balance billing is a priority for Sen. Kelly Hancock (R-North Richland Hills), chair of the Senate Business & Commerce Committee. THA is tracking two bills that seek to eliminate the practice of balance billing, but they differ on the resolution process with one utilizing arbitration and the other using mediation, and on the standard used to determine the price of service.
- Sen. Hancock/Rep. Trey Martinez-Fischer (D-San Antonio) filed [Senate Bill 1264](#)/[House Bill 3933](#) to eliminate the practice of balance billing patients when services are provided in an out-of-network facility or are provided at an in-network hospital by an out-of-network physician. The bill intends for providers and facilities to enter into mediation if they would like to dispute the initial payment received by the health plan for those out-of-network services.

- Rep. Tom Oliverson (R-Cypress)/ Sen. John Whitmire (D-Houston) filed [House Bill 2967](#)/[Senate Bill 1591](#) to prohibit balance billing and set out a “baseball style” binding arbitration process between payors and providers through the Texas Department of Insurance for out-of-network services. The bill also incorporates a new definition of usual, customary and reasonable rate, the 80th percentile of charges in a benchmarking database as chosen by TDI.
- Other bills have been filed to ensure network adequacy.
- THA and other industry stakeholders have been involved in negotiations with the bill sponsors, and it appears that compromise legislation is forthcoming before the bills are voted out of their respective committees.

THA Position:

THA supports protecting consumers in emergency health care situations from financial obligations beyond their known cost-sharing requirements, while also maintaining consumer responsibility for cost-sharing, including copayments, coinsurance and deductibles. THA also supports fair and balanced negotiations between insurers and health care providers on reimbursement for out-of-network claims. THA also supports granting TDI additional authority to enforce network adequacy standards and abusers of mediation, particularly for unreasonably low payments by health plans.

Bill Status: SB 1264	
Bill Status: HB 3933	
Bill Status: HB 2967	
Bill Status: SB 1591	

Contacts: John Hawkins/Sara Gonzalez/Cameron Duncan, III, J.D./Cesar Lopez, J.D.