

Hot Political and Legislative Topics for THIE Hot Topics



Jennifer Banda, J.D.
Texas Hospital Association

John Henderson, CEO
TORCH

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Today's Agenda

- Looking Ahead to 2025
- 88th Legislative Session (2023) Funding Outcomes
- Hospital Industry Legislative Challenges
- Addressing Health Care Cost Drivers
- Meanwhile, in Washington, D.C.
- Political Outcomes in a (Brutal) Election Year
- Wildfire Update



The 2025 Texas Legislative Session...

Texas Constitution

- Biennial Regular Session for **140 Days**
 - Second Tuesday in January, of odd years
- Special Sessions only called by Governor

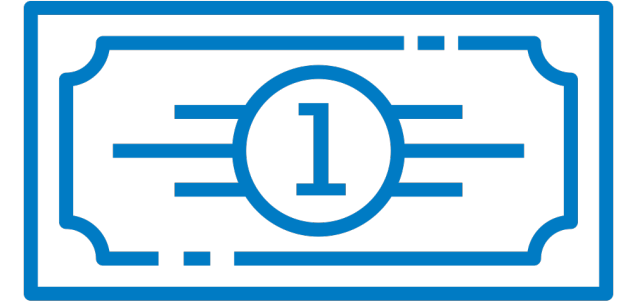
Runup to the Next Session

- March 5 Primary Election
 - Runoffs?
- Interim Studies in Texas House and Senate
- November 5 General Election
- November 11 Bill Filing for the 89th Session
- January 14 89th Session Begins



Hospital Funding in the 2023 State Budget

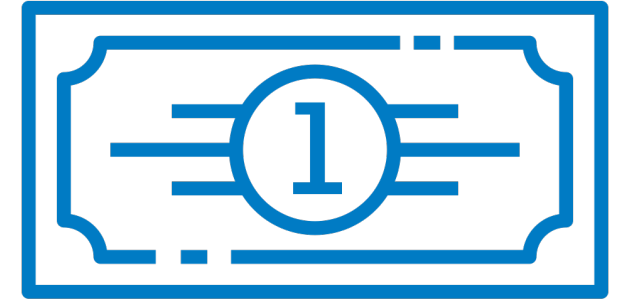
- Increased state funding of Medicaid:
 - All Medicaid funding \$12B increase over previous biennium
 - Trauma, safety net and rural (increased) hospitals add-ons
- **12 Month Post Partum Medicaid Coverage** began March 1
- **Trauma Fund Maintained** at \$226M over biennium
 - + \$3.3M AF more for RACS
 - 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.



Legislative Challenges Were Significant in 2023

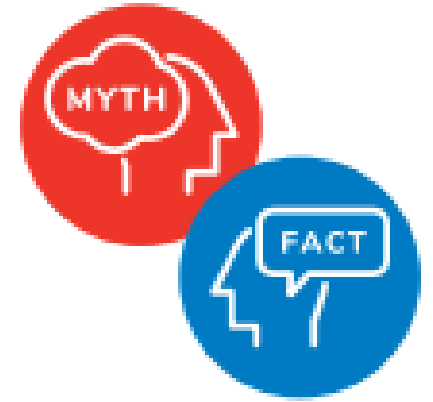
House Select Committee on Health Care, charged with looking at “excessive health care costs”:

- 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 government-set 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)



Legislator Quotes 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.



Continued Scrutiny of Hospitals

- Hospital Charges
- 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 complex 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 \$4.6 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.



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Art. IX Hospital Study Rider in State Budget

In H.B. 1, Article IX the Texas Legislature appropriated to HHSC \$5 million to contract with a third party to study and report on hospital finances and utilization. The report, due to the Legislature by **December 1, 2024**, will include:

- **Transparency Reporting:** Recommendations on ways to improve hospital reporting and transparency, including reducing duplicate reporting requirements.
- **Hospital Revenue including Supplemental Payment Programs:** A summary of all hospital revenue streams and their value, to include public revenue streams.
- **Charity Care and Community Benefit Compliance:** An examination of the value of charity care, bad debt expenses, unreimbursed costs and other community benefit information.
- **Tax-Exempt Status Values:** Information indicating the value of tax-exempt status, including a roster of all “nonprofit medical exempt” properties in the state belonging to hospitals and market and tax data relevant to these properties.
- **Operating Cost and Financial Assistance Information:** A statewide analysis of hospital operating costs, service area characteristics, and financial assistance practices.
- **Compliance with Charity Care Reporting:** An assessment of hospital compliance with required charity care disclosures and notices.

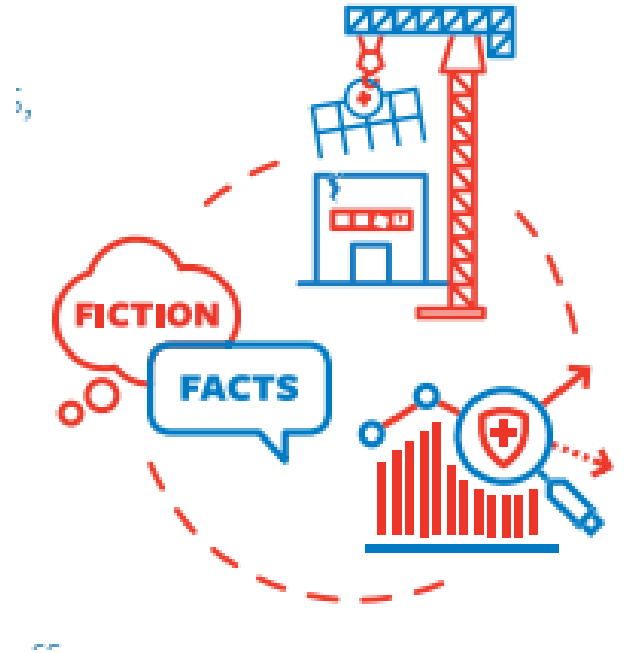


2024: Reframe and Drive the Narrative

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
 - THA Providing Template for Legislator Visits
 - White Papers on Priority Issues
 - Site Neutral, Facility Fees, Medicaid, Medicaid & Supplemental Payments, Etc.
- Motivated Adversary Engagement
- HOSPAC – donate to collectively support HOSPAC-Board endorsed candidates
- 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.



Effectively Addressing Cost Drivers

- **Increase the Texas health care workforce** 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.



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>



Meanwhile in Washington, D.C.

- Hospitals Challenges Persist There As Well:
 - Site Neutral for Drug Administration, Etc.
 - Increased Penalties, Requirements for Transparency Compliance
 - Hospital Merger and Acquisition Scrutiny
 - Charity Care Scrutiny
 - 340B Scrutiny
- DSH Cuts Delayed To March 2025
- Medicare Dependent and Low Volume now expire 2025
- Pending CMS Rule on Provider Financed Payments
 - Republican and Democratic Delegation Letters, Briefings
 - Amendment Attempt to Prohibit CMS Implementation
 - Explainers and Videos at
 - <https://www.tha.org/issues/medicare-and-medicaid/oppose-harmful-directed-payment-rule/>



Medicare Advantage

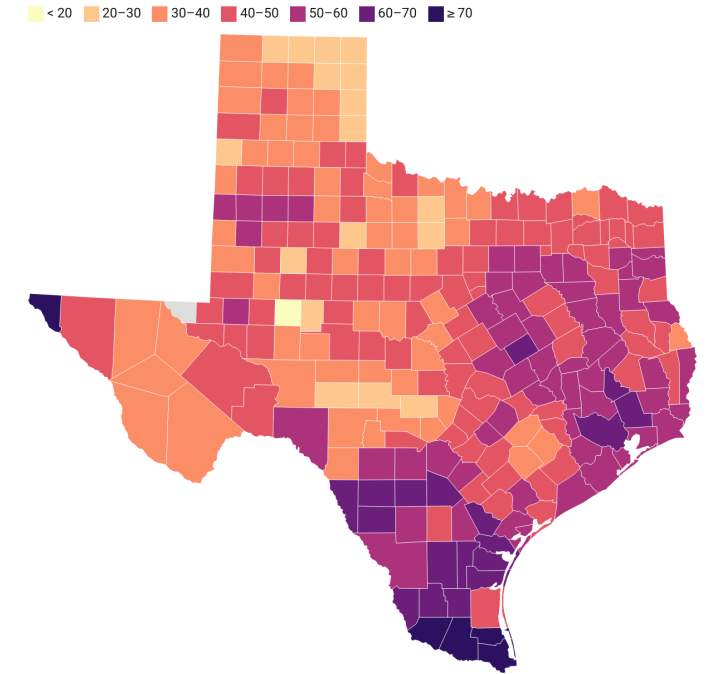
Advocacy:

- THA CMS Comment Letters
 - CY 24 Plan Year (CMS-4201)
 - Prior Auth and Interoperability (CMS-0057)
- THA Response to Ways & Means Rural RFI
- THA Response to House Budget Committee RFI
- Working with Cong. Arrington on bill to bring CAHs back to cost-based payments – THA & TORCH letter to W&M committee

Rules & Reports:

- AHA Analyses of MA Plans Defying Rule, AHA Letter
 - <https://www.aha.org/lettercomment/2023-11-20-aha-urges-cms-swiftly-correct-medicare-advantage-plan-policies-appear-violate-cy-2024-rule>
- CMS Rules on PA, Timing, Advertising
- OIG Report on Inappropriate Denials of Services and Payments in MA

% Medicare Advantage Penetration by County (2024)



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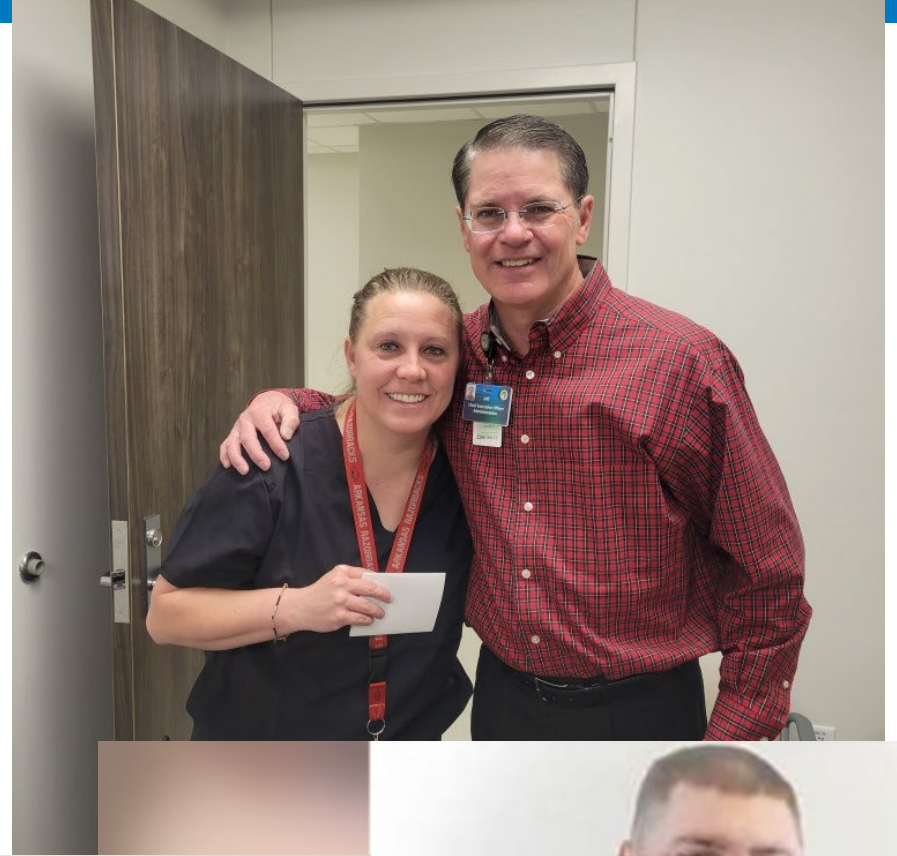
The Primary Campaign Results

- 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?



Panhandle Wildfires

- 3 Hospital (plus NH & clinic) Evacuations
- 13 rural hospital employees lost their homes





Thank you.

Questions?

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