My Tilting Nursing Policy Cap: 84th Legislative Session and Regulatory Update

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Resources

- **New Health Care Laws: A Report on the 84th Texas Legislature**
  - [www.tha.org](http://www.tha.org)
    - Healthcare Providers
      - Products and Services
        - Featured Product (online access for THA members in upper right-hand corner)

- Texas Legislature Online
  - [www.capitol.state.tx.us](http://www.capitol.state.tx.us)
Significant Changes in State Leadership

- New Governor, Lt. Governor, Attorney General, Comptroller, Land Commission and Agriculture Commissioner
- Major changes in the Legislature
  - New presiding officer in the Senate (Lt. Governor)
  - 8 new Senators (out of 31 total)
  - New chairs of Finance, HHS, State Affairs (Big 3 of Health)
  - Sen. Nelson moves to Finance and Sen. Schwertner is new chair of HHS Committee
  - Speaker Straus re-elected BUT Committee Chairmen shuffle
  - About 2/3rds of the House had 2 or less sessions of experience
- Legislature, particularly Senate, more conservative
Bill Statistics

- Filed---6,276
  (*83rd Legislature – 5868)

- **Vetoed** by the Governor---44
  (* 83rd Legislature – 28)

- Passed---1323
  (*83rd Legislature – 1437)
Sunset Advisory Commission 2014-15

- State Office of Administrative Hearings Tax Division
- State Office of Administrative Hearings
- **Department of Aging and Disability Services**
- **Department of Assistive and Rehabilitative Services**
- Interagency Task Force for Children With Special Needs
- Texas Council for Developmental Disabilities
- Texas Education Agency (Limited Scope Review)
- Texas Facilities Commission (Re-review)
- **Department of Family and Protective Services**
- **Health and Human Services Commission**
- **Texas Health Care Information Division** (Special Purpose Review)
• Texas Health Services Authority
• Department of State Health Services
• Governor’s Committee on People with Disabilities
• Texas Council on Purchasing from People with Disabilities
• Entry Criteria for Self-Directed Semi-Independent Agencies (Special Review)
• State Soil and Water Conservation Board (Limited Scope Review)
• University Interscholastic League
• Texas Workforce Commission, Texas
• Texas Workforce Investment Council

- 2017 Legislation—Board of Nursing Review
State Budget

- $712.6 million AF (all but $5 million GR comes from trauma fund) - Supplemental Hospital Financing through Add-ons for Trauma, Safety-Net, and Rural hospitals (* critical to the renegotiation of the 1115 Medicaid Transformation Waiver)

- $137.8 million GR – Transfer of Expanded Primary Health Care Program and Family Planning Program

- Almost $34 million for Professional Nursing Shortage Reduction Program and continuation of $10 million in tobacco earnings for nursing school innovation grants

- $20 million GR increase to implement grant program for mental health services to veterans
$53 million GR – **Increase in GME** (ensures a residency spot for every medical school graduate) and $33 million for **physician education loan repayment program**

$50 million GR for **inpatient community beds** (100 new beds in 2016 and 150 beds in 2017); $46.5 million GR to **expand outpatient capacity**; $31 million GR in **Crisis Service alternative programs**

**Quality-based reforms** – Quality-based payment systems for providers and/or facilities; Bundled payment Medicaid initiative, including a shared savings component for providers that meet quality-based outcomes
Behavioral Health

- **SB 359—VETOED**: “lays the groundwork for future erosion of constitutional liberties”.
  - Would have allowed physicians to initiate a temporary hold on a mentally ill patient suspected of being a danger to themselves or others, if the governing body of a facility adopted a policy permitting a hold. The hold could last four hours unless the facility called a peace officer for an emergency detention.
HB 3433 – Extends implementation delay of designation process by one year for neonatal standards (2018) and maternal standards (2020) to address scope and timeline of process; current law requires designation to receive Medicaid payments. Rulemaking.

HB 2131 – Establishes designation of Centers of Excellence in Fetal Diagnosis and Therapy. Rulemaking and 2017 legislation.

HB 3374 – Requires a health care provider who administers a test for Down Syndrome or who initially diagnoses a child with Down Syndrome to distribute information developed by DSHS.
Children’s Health Care

- HB 791 – Requires education for congenital cytomegalovirus (CMV); Texas Department of State Health Services and Texas Medical Board must develop materials re: incidence and transmission of disease.

- HB 2574 – Requires hospitals and other health care providers to distribute information on dangers of heatstroke of a child left unattended in a motor vehicle; must be included in resource pamphlet distributed to new parents at time of discharge.
Emergency/Trauma Care

- SB 1899/HB 2020 – Based on facility policy, allows EMT/paramedics to provide advanced life support in a facility’s emergency or urgent care setting (including a hospital ER and freestanding ER). Also includes additional licensure procedures for EMS providers.

- HB 1446 – Provides increased reimbursement for victims of sexual assault and creates the Governor’s Program for Victims of Child Sex Trafficking.
Emergency/Trauma Care

**DID NOT PASS**

- SB 93 – Repeal of the Driver Responsibility Program (DRP) **Interim Charge** and 2017 legislation.

- HB 80 – Prohibition on Texting While Driving

- SB 715 – Repeal of Red Light Cameras
HB 3074 – Addresses “artificially administered nutrition and hydration” (AANH) as ordinary care, unless becomes extraordinary care as described by elements in law:

- hastens patient’s death;
- medically contraindicated such that provision seriously exacerbates condition not outweighed by benefit of treatment;
- medically ineffective in prolonging life; or
- contrary to patient’s or surrogate’s clearly documented desire not to receive AANH.

Revises conflict resolution process §166.046, Texas Advance Directives Act (requires copy of medical records).
HB 1874 – Establishes the Palliative Care Interdisciplinary Advisory Council to develop a report to educate Texans about role and availability of palliative care, as well as policies and rights related to such care, life-sustaining treatments and advance directives.

HB 21 – The “Right to Try” bill allows terminally ill patients, with their physicians' approval and after meeting certain criteria, access to not yet approved drugs that are in a clinical trial phase.
HB 2351 – Would have required that policies of hospital ethics committees engaged in the conflict resolution process under the Texas Advance Directives Act include provisions that members would not discriminate against patients and have no conflicts of interest.

HB 3095 – Would have amended Medical Power of Attorney to allow co-agents with equal authority, more than one approved form and confusing retroactive date.
Health Care Data

- HB 764 – Requires all health care providers to give notice to patients whose health data is being collected by the THCIC program; THCIC was charged to create the notice and make available for provider use.

- [http://www.dshs.state.tx.us/thcic/Patient-Notification-of-Data-Collection.pdf](http://www.dshs.state.tx.us/thcic/Patient-Notification-of-Data-Collection.pdf)
Health Care Professionals

- SB 1753 – The “Badge Bill” requires addition of “plain language” descriptors on 29 health care professionals’ hospital badges in expectation to create better transparency in care of patients. Example: “RN” and “registered nurse”; “M.D.” and “physician”. Four-year implementation due to recent re-badging of professionals based on bill that passed in 2013.
SB 460 – Authorizes a pharmacist during a natural or man-made disaster to dispense not more than a 30-day supply of a dangerous drug without practitioner authorization if failure to “refill” may result in interruption of a therapeutic regimen.

- Allows the Pharmacy Board to inspect financial records of the pharmacy.
- Requires a pharmacist to provide to Pharmacy Board “records of the pharmacist’s practice that occurs outside of a pharmacy.”
- Disqualifies an applicant for pharmacy license (not pharmacist license) if an owner of the pharmacy has had a pharmacist license in any state restricted, suspended or revoked. Also, if an owner has “surrendered license for any reason” the application is disqualified.
Health Care Professionals

**DID NOT PASS**

- HB 1069 – Certification of Interpreters for Persons Deaf or Hard of Hearing 2017 legislation.

- HB 848 – Licensing of Radiologist Assistants 2017 legislation.

Hospital Operations

- HB 910 – Allows open carry of handguns, but did not eliminate the current prohibition against carrying handguns in hospitals, nursing homes and churches.

- SB 11 – Allows CHL holders to carry concealed handguns on grounds of a publically operated technical institute, college or university. However, prohibits possession of handguns on premises of a hospital operated by these public institutions of higher education.
SB 425 – Requires notice/notification by freestanding ERs – both independent and operating under a hospital license. Facilities must:

- post a notice that there is a facility fee and that fee is comparable to fees in a hospital emergency room;
- provide notice on the facility website, at the entrance of the facility, in each patient exam room and at the location where a patient pays for services; and
- notify persons that the physicians at the facility charge separately for services and may not be in-network.
Hospital Operations

- SB 1881 – Establishes a supported decision-making agreement as an alternative to limit or avoid guardianship. Allows an adult with a physical or mental impairment that limits one or more major life activities to voluntarily enter into an agreement with a supporter to do a number of activities, including:
  - Assistance in understanding responsibilities of adult’s life decisions;
  - Assistance in collecting/obtaining information relevant to a given life decision re: medical, psychological, financial, educational or treatment records from any person.

- Supporter must ensure PHI under HIPAA is kept privileged and confidential.

- Agreement may be in any form as long as not inconsistent with the form in the law.
Hospital Operations

**DID NOT PASS**


- SB 424 – New Procedures re: Hospital Surveys/Inspections; Emergency Suspension of License; Administrative Penalties

- HB 3903 – Caregivers Act
Nursing Education

- HB 505 – Allows students enrolled in dual credit courses to simultaneously earn credit toward a high school diploma and a college degree or certificate. Removes limits on how many dual credit courses students could take thus allowing them to earn a higher education degree in less time.

- HB 3078 – Establishes a Uniform Pre-Nursing Curriculum Advisory Committee to develop and make recommendations on a uniform pre-nursing curriculum for undergraduate professional nursing programs.
HB 2696 – Requires study to determine next legislative and regulatory steps re: violence against nurses in the workplace (hospitals, nursing facilities, home health agencies and freestanding emergency medical care facilities). The Texas Center for Nursing Workforce Studies, funded by a designated amount included in nursing licensure fees, will conduct one nursing and one facility survey to assess the prevalence and types of workforce violence occurring and strategies successfully preventing workplace violence. 2017 legislation
Nursing Practice

- **DID NOT PASS**

  - SB 1160 – Workplace Violence *2017 legislation.*
  - HB 3820 – Safe Patient Handling *2017 legislation.*

  - HB 2602 – APRNs’ Scope of Practice relating to Schedule II Controlled Substances to address:
    - Palliative Care
    - Psych/Behavioral Health
    - Hospital Discharge Prescriptions
SB 373 – Requires hospitals that have committed a potentially preventable adverse event (PPE) to develop and implement a plan for approval by the Texas Department of State Health Services to address deficiencies that contributed to the event.
Public Health

- HB 2171 – Requires the immunization registry to maintain immunization information until a person reaches age 26.
  - After age 18, two attempts to provide notice to individual that their information is in the registry and will remain in registry until age 26, unless the individual withdraws consent or provides consent to remain in registry beyond age 26.
  - After age 25, two attempts must be made to contact an individual and provide notice.
  - DSHS notice attempts may be made by telephone, e-mail, regular mail, or general outreach efforts through individual’s health care provider, school district, or institution of higher education.
SB 1128 – Requires a physician, during a patient’s gestation or at delivery – but not earlier than 28\textsuperscript{th} week – to submit to a laboratory a sample of a woman’s blood for diagnostic testing for the presence of syphilis. 

– DSHS must report to the legislature the number of early congenital syphilis and late congenital syphilis diagnosed in Texas.
Women’s Health Care

- HB 635 – Requires hospitals to release fetal remains upon a parent’s request; fetal remains are not classified as pathologic waste.

- HB 1670 – Requires hospitals and birthing centers to permit a woman (or her spouse in some instances) to take her placenta from the hospital if certain conditions are met.
Commercial Insurance

- SB 481 – Balance Billing Protections
- HB 574 – Prohibition Against “De-Listing” Network Providers for OON Referrals
- HB 1514 – QHP health insurance identification cards - for plans sold through the exchange the ID Card must contain the letters “QHP”
- HB 1621 – UR for Prescription Drugs & Infusion Therapy
- HB 1624 – Health Plan Network Transparency
Medicaid Managed Care

- SB 760 – Medicaid Network Adequacy

- HB 3523 – “SB 7 Clean Up” – IDD Waiver Transition and Nursing Home Carve-in
Miscellaneous

- SB 304 – Nursing Home Violations
- SB 239 – Loan Repayment for Mental Health Professionals
- Medicaid 1115 Waiver
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QUESTIONS?

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