

Regular Session, 2014

SENATE BILL NO. 495

BY SENATOR HEITMEIER

HOSPITALS. Provides for a public benefit assessment by the Department of Health and Hospitals. (8/1/14)

1 AN ACT

2 To enact Subpart C of Part II of Chapter 11 of Title 40 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 40:2115.31, relative to a public benefit assessment; to
4 provide for a public benefit assessment process; to provide the department with rule
5 making authority; to provide the department with criteria to consider in the
6 assessment process; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Subpart C of Part II of Chapter 11 of Title 40 of the Louisiana Revised
9 Statutes of 1950, comprised of R.S. 40:2115.31 is hereby enacted to read as follows:

10 **SUBPART C. PUBLIC BENEFIT ASSESSMENT**

11 **§2115.31. Public benefit assessment**

12 **A. The Department of Health and Hospitals, in accordance with the**
13 **Administrative Procedure Act, shall establish a public benefit assessment**
14 **process consistent with the regulations for licensure of a hospital, as defined in**
15 **R.S. 40:2102, and an ambulatory surgical center, as defined in R.S. 40:2133, and**
16 **consistent with the regulations issued pursuant to Title XIX of the Social**
17 **Security Act.**

1 **B. The department shall promulgate rules and regulations in accordance**
2 **with the Administrative Procedure Act to provide for public benefit assessment.**

3 **The rules and regulations shall include but not be limited to the following:**

4 **(1) Criteria the department shall consider when assessing a new hospital**
5 **or ambulatory surgical center. Such criteria shall include but not be limited to**
6 **the following:**

7 **(a) The extent to which the proposed hospital or ambulatory surgical**
8 **center will provide or increase access to needed services for residents of the area**
9 **to be served and the effects that the proposed hospital or surgical center may**
10 **have on access to needed services in areas having distinct and unique**
11 **geographic, socioeconomic, cultural, transportation, and other barriers to**
12 **access to care.**

13 **(b) The extent to which the proposed hospital or ambulatory surgical**
14 **center will meet the needs of the residents of the area to be served, as**
15 **demonstrated by each of the following:**

16 **(i) The level of community support for the project demonstrated by**
17 **citizens, businesses, and governmental leaders representing the area to be**
18 **served.**

19 **(ii) The availability of reasonable alternatives to the proposed hospital**
20 **or ambulatory surgical center that would meet the needs of the population in**
21 **a less costly, more efficient, or more effective manner.**

22 **(iii) The costs and benefits of the proposed hospital or ambulatory**
23 **surgical center.**

24 **(iv) The financial accessibility of the proposed hospital or ambulatory**
25 **surgical center to the residents of the area to be served, including indigent**
26 **residents, and whether the proposed hospital or ambulatory surgical center will**
27 **accept Medicaid.**

28 **(v) Whether the proposed hospital or ambulatory surgical center would**
29 **require its employed physicians, or if an exclusive arrangement will be used,**

1 whether the proposed hospital or ambulatory surgical center based physicians
2 would be required to contract with the same payors that contract with the
3 proposed hospital or ambulatory surgical center.

4 (c) The extent to which the proposed hospital or ambulatory surgical
5 center fosters institutional competition that benefits the area to be served while
6 improving access to health care services for all individuals in the area to be
7 served.

8 (d) The relationship of the project to the existing health care system of
9 the area to be served, including the utilization and efficiency of existing services
10 or facilities.

11 (e) The feasibility of the proposed hospital or ambulatory surgical center,
12 including the financial benefits of the proposed hospital or ambulatory surgical
13 center to the applicant, the cost of construction, the availability of financial and
14 human resources, and the cost of capital.

15 (f) The extent to which the proposed hospital or ambulatory surgical
16 center provides improvements or innovations in the financing and delivery of
17 health services, as demonstrated by:

18 (i) The introduction of new technology that promotes quality and cost
19 effectiveness, or both, in the delivery of health care services.

20 (ii) The potential for provision of services on an outpatient basis.

21 (iii) Any cooperative efforts to meet regional health care needs.

22 (iv) Any other factors the secretary of the department deems may be
23 appropriate.

24 (g) In the case of a proposed hospital or ambulatory surgical center
25 affecting a teaching hospital associated with a public institution or medical
26 school in the area to be served, the unique research, training, and clinical
27 mission of the teaching hospital or medical school and any contribution the
28 teaching hospital or medical school may provide in the delivery, innovation, and
29 improvement of health care for residents of this state, including those eligible

- 1 **for Medicaid, the indigent, and the underserved.**
- 2 **(2) Appropriate methodology for the collection of data necessary for the**
- 3 **administration of the program.**
- 4 **(3) Procedures to grant and revoke approvals.**
- 5 **(4) Procedures for review of applications by the department.**
- 6 **(5) Procedures to request a fair hearing from a determination made by**
- 7 **the department.**
- 8 **(6) Provisions for judicial review from the decision rendered after a fair**
- 9 **hearing.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christopher D. Adams.

DIGEST

Heitmeier (SB 495)

Proposed law provides the Department of Health and Hospitals (the department), in accordance with the Administrative Procedure Act (APA), shall establish a public benefit assessment process consistent with the regulations for licensure of a hospital, as defined in present law, and an ambulatory surgical center, as defined in present law, and consistent with the regulations issued pursuant to Title XIX of the Social Security Act.

Proposed law provides the department shall promulgate rules and regulations in accordance with the APA to provide for public benefit review.

Proposed law provides the rules and regulations shall include but not be limited to the following:

- (1) Criteria the department shall consider when assessing a new hospital or ambulatory surgical center. Such criteria shall include but not be limited to the following:
 - (a) The extent to which the proposed hospital or ambulatory surgical center will provide or increase access to needed services for residents of the area to be served and the effects that the proposed hospital or surgical center may have on access to needed services in areas having distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care.
 - (b) The extent to which the proposed hospital or ambulatory surgical center will meet the needs of the residents of the area to be served, as demonstrated by each of the following:
 - (i) The level of community support for the project demonstrated by citizens, businesses, and governmental leaders representing the area to be served.
 - (ii) The availability of reasonable alternatives to the proposed hospital or ambulatory surgical center that would meet the needs of the population in a less costly, more efficient, or more effective manner.

- (iii) The costs and benefits of the proposed hospital or ambulatory surgical center.
 - (iv) The financial accessibility of the proposed hospital or ambulatory surgical center to the residents of the area to be served, including indigent residents, and whether the proposed hospital or ambulatory surgical center will accept Medicaid.
 - (v) Whether the proposed hospital or ambulatory surgical center would require its employed physicians, or if an exclusive arrangement will be used, whether the proposed hospital or ambulatory surgical center based physicians would be required to contract with the same payors that contract with the proposed hospital or ambulatory surgical center.
- (c) The extent to which the proposed hospital or ambulatory surgical center fosters institutional competition that benefits the area to be served while improving access to health care services for all individuals in the area to be served.
 - (d) The relationship of the project to the existing health care system of the area to be served, including the utilization and efficiency of existing services or facilities.
 - (e) The feasibility of the proposed hospital or ambulatory surgical center, including the financial benefits of the proposed hospital or ambulatory surgical center to the applicant, the cost of construction, the availability of financial and human resources, and the cost of capital.
 - (f) The extent to which the proposed hospital or ambulatory surgical center provides improvements or innovations in the financing and delivery of health services, as demonstrated by:
 - (i) The introduction of new technology that promotes quality and cost effectiveness, or both, in the delivery of health care services.
 - (ii) The potential for provision of services on an outpatient basis.
 - (iii) Any cooperative efforts to meet regional health care needs.
 - (iv) Any other factors the secretary of the department deems may be appropriate.
 - (g) In the case of a proposed hospital or ambulatory surgical center affecting a teaching hospital associated with a public institution or medical school in the area to be served, the unique research, training, and clinical mission of the teaching hospital or medical school and any contribution the teaching hospital or medical school may provide in the delivery, innovation, and improvement of health care for residents of this state, including those eligible for Medicaid, the indigent, and the underserved.
- (2) Appropriate methodology for the collection of data necessary for the administration of the program.
 - (3) Procedures to grant and revoke approvals.
 - (4) Procedures for review of applications by the department.

- (5) Procedures to request a fair hearing from a determination made by the department.
- (6) Provisions for judicial review from the decision rendered after a fair hearing.

Effective August 1, 2014.

(Adds R.S. 40:2115.31)