

# What Matters to Hospitals Now

---

**Cameron Duncan**  
**Assistant General Counsel**  
**Texas Hospital Association**

Texas Hospital Association



## Trauma System Funding

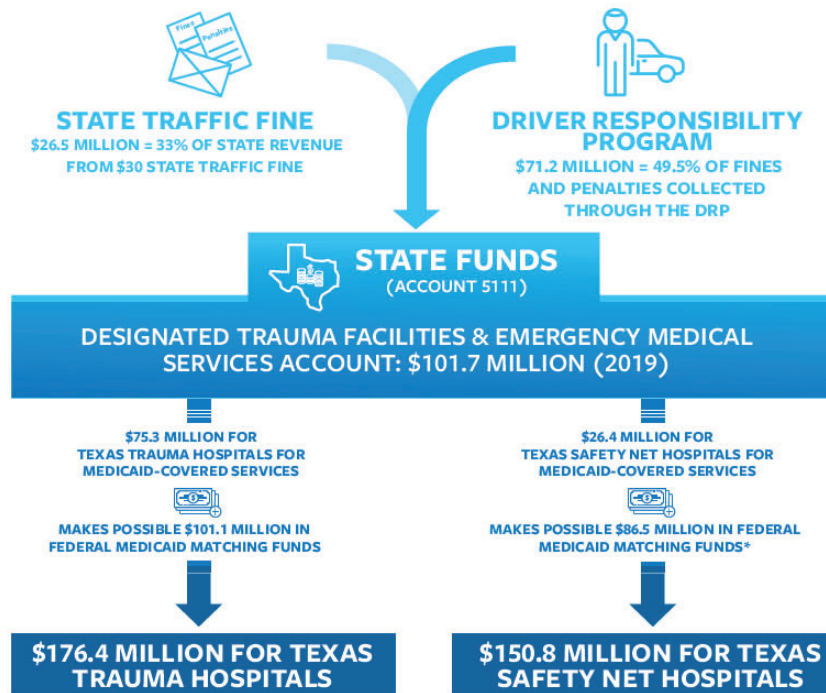
- THA's priority is to maintain a dedicated funding source for the state's network of trauma hospitals to compensate for some of their unreimbursed costs of providing life-saving trauma care.
- Driver Responsibility Program
- DPS collects the fees tied to the DRP, which is the current source of funding for the trauma fund (Account 5111) and also a substantial amount of general revenue (49.5 percent goes to GR).
- DRP fees are assessed based on accumulating six or more points for traffic fines and for certain convictions.
- Fees must be paid within 105 days or an individual's driver license will be suspended for failure to comply.
- 17 bills already filed on DRP in 2019!
  - Bills range from cleanups to outright repeal.

Texas Hospital Association



## Securing the State Trauma Fund to Protect Patient Care

Texas Hospitals Rely on \$327.2 Million in State and Federal Funding Made Possible Because of State's Trauma Fund (Account 5111)



Medicaid underpays Texas hospitals for medically necessary covered services. On average, Medicaid payments cover approximately 70 percent of the audited allowable costs of providing services. At the same time, designated trauma hospitals incur more than \$320 million in unreimbursed trauma care costs annually.

Since 2015, the Texas Legislature has appropriated funds to increase Medicaid payments for certain particularly high-need hospitals – rural, safety net and trauma hospitals – to offset part of the Medicaid shortfall and unreimbursed trauma care.

State funds for the payment increase for safety net and trauma hospitals come in large part from the state's trauma fund (Account 5111), fed mostly by fines and penalties imposed on drivers for excessive speed, driving while intoxicated or other reckless behaviors, through the Driver Responsibility Program. These state funds leverage federal funds, which combined contribute \$327.2 million to Texas trauma and safety net hospitals.

Maintaining state funding for Account 5111, whether through the DRP or another source, is critical.

## Salinas v. State

523 S.W.3d 103 (Tex. Crim. App. 2017).

- In *Salinas*, the defendant was convicted of a felony (injury to an elderly individual).
- A variety of Texas statutes require defendants convicted of criminal offenses to pay court costs, one of which is a single fee that is subsequently allocated among several different state accounts.
- The defendant challenged the percentage of court costs transferred to two specific accounts—one for **comprehensive rehabilitation** and one for **abused children's counseling**.
- Issue: permissible under Texas law for a court to collect fees for the purposes served by each account?

## Salinas (cont'd)

- Under the Separation of Powers provision in the Texas Constitution, it is unconstitutional for one branch of government to assume a power more properly attached to another.
- The ability to tax is a function of the executive branch, not the judicial branch.
- However, courts are allowed to collect fees (and they don't count as taxes) if they are part of the judicial function, meaning for "legitimate criminal justice purposes."
- Case by case examination of "what the governing statute says about the intended use of the funds, not whether funds are actually used for a criminal justice purpose."

Texas Hospital Association



## Review of Branches of Texas Government

Legislative  
*House and Senate*  
**Makes the Laws**

Executive  
*Governor, Executive Offices and Agencies*  
**Enforces the Laws**

Judicial  
*Court System*  
**Interprets the Laws**

Texas Hospital Association



Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: What Matters to Hospitals Now

Also available as part of the eCourse

[2019 Health Law eConference](#)

First appeared as part of the conference materials for the

31<sup>st</sup> Annual Health Law Conference session

"Operational Hot Button Issues"