

By: Bonnen of Galveston, et al.

H.B. No. 2360

Substitute the following for H.B. No. 2360:

By: Bonnen of Galveston

C.S.H.B. No. 2360

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the disclosure of health care prices and related
3 information.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle F, Title 8, Insurance Code, is amended
6 by adding Chapter 1470 to read as follows:

7 CHAPTER 1470. DISCLOSURE OF PAYMENT AND COMPENSATION METHODOLOGY

8 Sec. 1470.001. DEFINITIONS. In this chapter, unless the
9 context otherwise requires:

10 (1) "Edit" means a practice or procedure under which
11 an adjustment is made regarding procedure codes that results in:

12 (A) payment for some, but not all, of the health
13 care procedures performed under a procedure code;

14 (B) payment made under a different procedure
15 code;

16 (C) a reduced payment as a result of services
17 provided to a patient that are claimed under more than one procedure
18 code on the same service date;

19 (D) a reduced payment related to a modifier used
20 with a procedure code; or

21 (E) a reduced payment based on multiple units of
22 the same procedure code billed for a single date of service.

23 (2) "Health benefit plan issuer" means:

24 (A) an insurance company, association,

1 organization, health maintenance organization, or pharmacy benefit
2 manager that delivers or issues for delivery an individual, group,
3 blanket, or franchise insurance policy or insurance agreement or an
4 evidence of coverage that provides health insurance or health care
5 benefits and includes:

6 (i) a life, health, or accident insurance
7 company operating under Chapter 841 or 982;

8 (ii) a general casualty insurance company
9 operating under Chapter 861;

10 (iii) a fraternal benefit society operating
11 under Chapter 885;

12 (iv) a mutual life insurance company
13 operating under Chapter 882;

14 (v) a local mutual aid association
15 operating under Chapter 886;

16 (vi) a statewide mutual assessment company
17 operating under Chapter 881;

18 (vii) a mutual assessment company or mutual
19 assessment life, health, and accident association operating under
20 Chapter 887;

21 (viii) a mutual insurance company operating
22 under Chapter 883 that writes coverage other than life insurance;

23 (ix) a Lloyd's plan operating under Chapter
24 941;

25 (x) a reciprocal exchange operating under
26 Chapter 942;

27 (xi) a stipulated premium insurance company

- 1 operating under Chapter 884;
2 (xii) an exchange operating under Chapter
3 942;
4 (xiii) a Medicare supplemental policy as
5 defined by Section 1882(g)(1), Social Security Act (42 U.S.C.
6 Section 1395ss(g)(1));
7 (xiv) a Medicaid managed care program
8 operated under Chapter 533, Government Code;
9 (xv) a health maintenance organization
10 operating under Chapter 843;
11 (xvi) a multiple employer welfare
12 arrangement that holds a certificate of authority under Chapter
13 846; and
14 (xvii) an approved nonprofit health
15 corporation that holds a certificate of authority under Chapter
16 844;
17 (B) the state Medicaid program operated under
18 Chapter 32, Human Resources Code, or the state child health plan or
19 health benefits plan for children under Chapter 62 or 63, Health and
20 Safety Code;
21 (C) the Employees Retirement System of Texas or
22 another entity issuing or administering a basic coverage plan under
23 Chapter 1551;
24 (D) the Teacher Retirement System of Texas or
25 another entity issuing or administering a basic plan under Chapter
26 1575 or a primary care coverage plan under Chapter 1579;
27 (E) The Texas A&M University System or The

1 University of Texas System or another entity issuing or
2 administering basic coverage under Chapter 1601; and

3 (F) an entity issuing or administering medical
4 benefits provided under a workers' compensation insurance policy or
5 otherwise under Title 5, Labor Code.

6 (3) "Health care contract" means a contract entered
7 into or renewed between a health care contractor and a physician or
8 health care provider for the delivery of health care services to
9 others.

10 (4) "Health care contractor" means an individual or
11 entity that has as a business purpose contracting with physicians
12 or health care providers for the delivery of health care services.
13 The term includes a health benefit plan issuer, an administrator
14 regulated under Chapter 4151, and a pharmacy benefit manager that
15 administers or manages prescription drug benefits.

16 (5) "Health care provider" means an individual or
17 entity that furnishes goods or services under a license,
18 certificate, registration, or other authority issued by this state
19 to diagnose, prevent, alleviate, or cure a human illness or injury.
20 The term does not include a physician, hospital, or other health
21 care facility.

22 (6) "Physician" means:

23 (A) an individual licensed to engage in the
24 practice of medicine in this state; or

25 (B) an entity organized under Subchapter B,
26 Chapter 162, Occupations Code.

27 (7) "Procedure code" means an alphanumeric code used

1 to identify a specific health procedure performed by a health care
2 provider. The term includes:

3 (A) the American Medical Association's Current
4 Procedural Terminology code, also known as the "CPT code";

5 (B) the Centers for Medicare and Medicaid
6 Services Health Care Common Procedure Coding System; and

7 (C) other analogous codes published by national
8 organizations and recognized by the commissioner.

9 Sec. 1470.002. DEFINITION OF MATERIAL CHANGE. For purposes
10 of this chapter, "material change" means a change to a contract that
11 decreases the health care provider's or physician's payment or
12 compensation.

13 Sec. 1470.003. APPLICABILITY OF CHAPTER. (a) Except as
14 otherwise provided by Subsection (c), this chapter applies only to
15 contracts between a health care contractor and:

16 (1) a physician; or

17 (2) a health care provider who has filed a form
18 described by Section 118.002, Occupations Code, with the
19 commissioner.

20 (b) This chapter does not apply to an employment contract or
21 arrangement between health care providers or physicians.

22 (c) Notwithstanding Subsection (a), this chapter applies to
23 contracts for health care services between a medical group and
24 other medical groups.

25 Sec. 1470.004. RULEMAKING AUTHORITY. The commissioner may
26 adopt reasonable rules as necessary to implement the purposes and
27 provisions of this chapter.

1 Sec. 1470.005. DISCLOSURE TO THIRD PARTY. A health care
2 contract may not preclude the use of the contract or disclosure of
3 the contract to a third party to enforce this chapter or other state
4 or federal law. The third party is bound by any applicable
5 confidentiality requirements, including those stated in the
6 contract.

7 Sec. 1470.006. REQUIRED DISCLOSURE OF PAYMENT AND
8 COMPENSATION TERMS. (a) Each health care contract must include a
9 disclosure form that states, in plain language, payment and
10 compensation terms. The form must include information sufficient
11 for a health care provider or physician to determine the
12 compensation or payment for the provider's or physician's services.

13 (b) The disclosure form under Subsection (a) must include:

14 (1) the manner of payment, such as fee-for-service,
15 capitation, or risk sharing;

16 (2) the methodology used to compute any fee schedule,
17 such as the use of a relative value unit system and conversion
18 factor, percentage of Medicare payment system, or percentage of
19 billed charges;

20 (3) the fee schedule for procedure codes reasonably
21 expected to be billed by the health care provider or physician for
22 services provided under the contract and, on request, the fee
23 schedule for other procedure codes used by, or that may be used by,
24 the health care provider or physician; and

25 (4) the effect of edits, if any, on payment or
26 compensation.

27 (c) As applicable, the methodology disclosure under

1 Subsection (b)(2) must include:

2 (1) the name of any relative value system used;

3 (2) the version, edition, or publication date of that
4 system;

5 (3) any applicable conversion or geographic factors;

6 and

7 (4) the date by which compensation or fee schedules
8 may be changed by the methodology, if allowed under the contract.

9 (d) The fee schedule described by Subsection (b)(3) must
10 include, as applicable, service or procedure codes and the
11 associated payment or compensation for each code. The fee schedule
12 may be provided electronically.

13 (e) A health care contractor shall provide the fee schedule
14 described by Subsection (b)(3) to an affected health care provider
15 or physician when a material change related to payment or
16 compensation occurs. Additionally, a health care provider or
17 physician may request that a written fee schedule be provided up to
18 twice annually, and the health care contractor must provide the
19 written fee schedule promptly.

20 (f) A health care contractor may satisfy the requirement
21 under Subsection (b)(4) regarding the effect of edits by providing
22 a clearly understandable, readily available mechanism that allows a
23 health care provider or physician to determine the effect of an
24 edit on payment or compensation before a service is provided or a
25 claim is submitted.

26 Sec. 1470.007. ENFORCEMENT. (a) The commissioner shall
27 adopt rules as necessary to enforce the provisions of this chapter.

1 (b) A violation of Section 1470.006 is a deceptive act or
2 practice in insurance under Subchapter B, Chapter 541.

3 SECTION 2. Subtitle A, Title 3, Occupations Code, is
4 amended by adding Chapter 118 to read as follows:

5 CHAPTER 118. DISCLOSURE OF HEALTH CARE PRICES

6 Sec. 118.001. DEFINITIONS. In this chapter:

7 (1) "Consumer" means an individual who seeks or
8 acquires health care goods, including drugs or devices, or services
9 from a health care provider or physician.

10 (2) "Health care contractor" has the meaning assigned
11 by Section 1470.001, Insurance Code.

12 (3) "Health care good" or "health care service" means
13 a good or service, as applicable, to diagnose, prevent, alleviate,
14 cure, or heal a health condition, sickness, or injury that is
15 provided to a consumer by a physician or health care provider.

16 (4) "Health care provider" means a person who
17 furnishes goods or services under a license, certificate,
18 registration, or other authority issued by this state to diagnose,
19 prevent, alleviate, or cure a human illness or injury. The term
20 does not include a physician, hospital, or other health care
21 facility.

22 Sec. 118.002. APPLICABILITY. (a) This chapter applies
23 only to:

24 (1) a physician; and

25 (2) a health care provider who elects to comply with
26 this chapter and files a form evidencing that election with the
27 commissioner of insurance.

1 (b) The commissioner of insurance shall adopt a form to be
2 used to comply with Subsection (a).

3 Sec. 118.003. DISCLOSURE OF HEALTH CARE PRICES. (a) A
4 health care provider who elects to comply with this chapter and a
5 physician must disclose to a consumer before the commencement of a
6 health care service or the transfer of a health care good, including
7 a drug or device, the price of the service or good.

8 (b) The disclosure may be made through the health care
9 provider's or physician's Internet website or in writing given to
10 the consumer before the commencement of the health care service or
11 the transfer of the health care good. If the disclosure was given
12 through the provider's or physician's Internet website, the
13 provider or physician shall inform the consumer in writing, before
14 the commencement of the service or transfer of the good, that health
15 care prices are disclosed on the website.

16 Sec. 118.004. FAILURE TO DISCLOSE. (a) A health care
17 provider or physician who fails to disclose the information as
18 described by this section cannot recover a fee, a deductible, a
19 copayment, or any other payment or obligation from the consumer
20 related to a health care service or good for which the provider or
21 physician did not disclose the price.

22 (b) Notwithstanding Subsection (a), a health care provider
23 or physician may recover the amount of a payment or other obligation
24 owed to the provider or physician from a consumer if the cause of
25 the failure to disclose was a health care contractor's failure to
26 disclose information under Section 1470.005, Insurance Code.

27 SECTION 3. (a) Chapter 1470, Insurance Code, as added by

1 this Act, applies only to a health care contract that is entered
2 into or renewed on or after January 1, 2014. A health care contract
3 entered into before January 1, 2014, is governed by the law as it
4 existed immediately before the effective date of this Act, and that
5 law is continued in effect for that purpose.

6 (b) Chapter 118, Occupations Code, as added by this Act,
7 applies only to a health care service that is commenced or a health
8 care good that is transferred on or after the effective date of this
9 Act. A health care service that is commenced or a health care good
10 that is transferred before the effective date of this Act is
11 governed by the law in effect immediately before the effective date
12 of this Act, and that law is continued in effect for that purpose.

13 SECTION 4. This Act takes effect September 1, 2013.