

By: Bonnen of Galveston

H.B. No. 3527

A BILL TO BE ENTITLED

AN ACT

relating to the requirement that certain medical facilities and physicians give patients a good faith estimate of the expected payment for facility-based health care services before the services are provided; providing an administrative penalty.

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

SECTION 1. Subtitle G, Title 4, Health and Safety Code, is amended by adding Chapter 326 to read as follows:

CHAPTER 326. GOOD FAITH ESTIMATE OF ACTUAL CHARGES FOR

FACILITY-BASED SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 326.001. DEFINITIONS. In this chapter:

(1) "Facility" means:

(A) an ambulatory surgical center licensed under Chapter 243;

(B) a birthing center licensed under Chapter 244;

(C) a hospital licensed under Chapter 241; or

(D) an imaging center that is not part of another facility.

(2) "Facility-based physician" means a radiologist, an anesthesiologist, a pathologist, or a neonatologist.

(3) "Health care provider" means a facility, a facility-based physician, or another physician required to provide a good faith estimate under this chapter.

1 (4) "Medical implant" means an item, other than a
2 suture, implanted in a patient's body.

3 SUBCHAPTER B. GOOD FAITH ESTIMATE BY FACILITY AND FACILITY-BASED
4 PHYSICIAN

5 Sec. 326.051. ESTIMATE BY FACILITY. (a) A facility shall
6 provide to a person a good faith estimate as provided by this
7 chapter if the person:

8 (1) is expected to be admitted to the facility on a
9 nonemergency basis or receive a nonemergency procedure or service
10 at the facility; or

11 (2) may be admitted to the facility on a nonemergency
12 basis or receive a nonemergency procedure or service at the
13 facility and the person requests a good faith estimate from the
14 facility.

15 (b) A facility must provide a good faith estimate before
16 scheduling an admission, procedure, or service described by
17 Subsection (a).

18 (c) A facility shall provide to a person described by
19 Subsection (a) a good faith estimate of the actual charges, as
20 provided by Subchapter D, for facility fees and all procedures and
21 services, including diagnostic imaging, expected to be performed by
22 the facility and by facility-based physicians with whom the
23 facility has an agreement under Section 326.052(b) based on the
24 person's medical orders. The estimate must be based on
25 Diagnosis-Related Groups codes. The facility shall include with
26 the estimate a statement that the actual services performed at the
27 facility may differ from those provided in the estimate based on the

1 person's medical needs.

2 (d) A facility is not required to include in a good faith
3 estimate provided by the facility procedures or services performed
4 by a physician who is not a facility-based physician.

5 Sec. 326.052. ESTIMATE BY FACILITY-BASED PHYSICIAN. (a) A
6 facility-based physician shall provide a good faith estimate to a
7 person described by Section 326.051(a).

8 (b) A facility-based physician by contract may agree to
9 allow a facility to provide a good faith estimate of procedures and
10 services performed by the physician at the facility. The
11 facility-based physician is responsible for the estimate provided
12 by the facility according to the terms of the contract.

13 (c) A facility-based physician who does not enter into a
14 contract as provided by Subsection (b) must provide a good faith
15 estimate to a person before performing a procedure or service at a
16 facility in the same manner as a facility under Section 326.051.

17 Sec. 326.053. ESTIMATE OF ANESTHESIOLOGY SERVICES. (a) A
18 good faith estimate for anesthesiology services must be in the form
19 of a charge per unit of time and the expected number of units of time
20 required to complete the procedure or service originally ordered.

21 (b) A facility or anesthesiologist that provides a good
22 faith estimate of anesthesiology charges shall include with the
23 estimate a statement that the actual number of units of time
24 required to complete the procedure or service may differ from the
25 number provided in the estimate based on the person's medical
26 needs.

27 Sec. 326.054. ESTIMATE OF PATHOLOGY SERVICES. (a) A good

1 faith estimate for pathology services must be in the form of a
2 charge per specimen and the expected number of specimens required
3 for the procedure or service originally ordered.

4 (b) A facility or pathologist that provides a good faith
5 estimate of pathology charges shall include with the estimate a
6 statement that the actual number of specimens required may differ
7 from the number provided in the estimate based on the person's
8 medical needs.

9 Sec. 326.055. ESTIMATE FOR MEDICAL IMPLANTS. A
10 facility-based physician who provides to a person a good faith
11 estimate for a medical implant or a facility that provides to a
12 person a good faith estimate that includes a medical implant to be
13 implanted by a facility-based physician shall provide to the person
14 a list of all available medical implants that meet the person's
15 medical needs, including a good faith estimate of the actual
16 charges for each medical implant as provided by Subchapter D.

17 SUBCHAPTER C. GOOD FAITH ESTIMATE BY PHYSICIAN WHO WILL PERFORM
18 PROCEDURE OR SERVICE AT FACILITY

19 Sec. 326.101. ESTIMATE BY PHYSICIAN. (a) A physician who
20 is not a facility-based physician and who will perform for a person
21 a nonemergency procedure or service at a facility shall provide to
22 the person a good faith estimate for the procedure or service as
23 provided by this chapter.

24 (b) A physician must provide a good faith estimate before
25 scheduling a procedure or service described by Subsection (a).

26 (c) A physician shall provide to a person described by
27 Subsection (a) a good faith estimate of the physician's actual

1 charges, as provided by Subchapter D, for the procedure or service.
2 The estimate must be based on Diagnosis-Related Groups codes,
3 Current Procedural Terminology codes, or other applicable medical
4 billing codes. The physician shall include with the estimate a
5 statement that the actual services performed by the physician may
6 differ from those provided in the estimate based on the person's
7 medical needs.

8 (d) A physician is not required to include in a good faith
9 estimate provided by the physician facility fees, procedures, or
10 services performed by a facility or by facility-based physicians.

11 Sec. 326.102. GOOD FAITH ESTIMATE FOR MEDICAL IMPLANTS. A
12 physician who is not a facility-based physician and who provides to
13 a person a good faith estimate for a medical implant shall provide
14 to the person a list of all available medical implants that meet the
15 person's medical needs, including a good faith estimate of the
16 actual charges for each medical implant as provided by Subchapter
17 D.

18 SUBCHAPTER D. GOOD FAITH ESTIMATE OF ACTUAL CHARGES

19 Sec. 326.151. DISCLOSURE OF EXPECTED PAYMENT METHOD. A
20 health care provider shall ask a person to disclose the person's
21 anticipated method of payment for purposes of complying with this
22 subchapter.

23 Sec. 326.152. GOOD FAITH ESTIMATE FOR INSURED PERSONS. If a
24 person has an individual, group, or other private or commercial
25 health insurance plan or policy, including coverage through a
26 preferred provider organization or health maintenance
27 organization, a health care provider shall provide the person a

1 good faith estimate of:

2 (1) the amount the insurance plan or policy will
3 actually pay the health care provider for the fees, procedures, and
4 services described by Subchapter B or C based on the relevant
5 billing codes, the terms of the person's insurance plan or policy,
6 and the negotiated rate between the health care provider and the
7 insurance plan or policy, if applicable; and

8 (2) the amount of any copayment, coinsurance, or other
9 amount the person is expected to pay the health care provider for
10 the fees, procedures, and services described by Subchapter B or C
11 based on the relevant billing codes, the terms of the person's
12 insurance plan or policy, and the negotiated rate between the
13 health care provider and the person's insurance plan or policy, if
14 applicable.

15 Sec. 326.153. GOOD FAITH ESTIMATE FOR RECIPIENTS OF
16 GOVERNMENT-SPONSORED PROGRAM. If a person receives benefits under
17 a government-sponsored health benefits program, including the
18 Medicaid program, the Medicare program, the Children's Health
19 Insurance Program (CHIP), and the TRICARE military health system, a
20 health care provider shall provide the person a good faith estimate
21 of:

22 (1) the amount the government-sponsored health
23 benefits program will actually pay the health care provider for the
24 fees, procedures, and services described by Subchapter B or C based
25 on the relevant billing codes; and

26 (2) any amount the person is expected to pay the health
27 care provider for fees, procedures, and services described by

1 Subchapter B or C based on the relevant billing codes under the
2 terms of the government-sponsored health benefits program.

3 Sec. 326.154. GOOD FAITH ESTIMATE FOR RECIPIENTS OF
4 WORKERS' COMPENSATION BENEFITS. If a person receives benefits
5 under a workers' compensation claim, a health care provider shall
6 provide the person a good faith estimate of:

7 (1) the amount the workers' compensation insurance
8 carrier, workers' compensation claims processor, employer, or
9 other payor will actually pay the health care provider for the fees,
10 procedures, and services described by Subchapter B or C based on the
11 relevant billing codes; and

12 (2) the amount the person is expected to pay the health
13 care provider for the fees, procedures, and services described by
14 Subchapter B or C based on the relevant billing codes, if any.

15 Sec. 326.155. STATEMENT FOR PERSONS PAYING CASH, PERSONS
16 RECEIVING CHARITY CARE, AND INDIGENT PERSONS. If a person will pay
17 cash or will receive charity care for an admission, procedure, or
18 service or if a person is indigent, a health care provider shall
19 provide the person with a statement of:

20 (1) the average amount the health care provider was
21 actually paid for the fees, procedures, and services described by
22 Subchapter B or C based on the relevant billing codes by the five
23 insurance carriers or government-sponsored programs described by
24 Sections 326.152, 326.153, and 326.154 that paid the health care
25 provider for the greatest number of the applicable fees,
26 procedures, and services in the preceding calendar year, or in the
27 current calendar year if the health care provider did not practice

1 in the preceding calendar year; and

2 (2) the average amount the health care provider was
3 actually paid by patients described by this section for the
4 applicable fees, procedures, and services in that year.

5 SUBCHAPTER E. ADMINISTRATIVE PENALTY

6 Sec. 326.201. ADMINISTRATIVE PENALTY AUTHORIZED. (a) The
7 commissioner of insurance may impose an administrative penalty on a
8 facility or physician that violates this chapter.

9 (b) The amount of the penalty may not exceed \$1,000 for each
10 violation.

11 (c) Chapter 84, Insurance Code, governs the imposition,
12 enforcement, and collection of the administrative penalty.

13 SECTION 2. The changes in law made by this Act apply only to
14 an admission, procedure, or service ordered or provided on or after
15 the effective date of this Act. An admission, procedure, or service
16 ordered or provided before the effective date of this Act is
17 governed by the law in effect on the date the admission, procedure,
18 or service was ordered or provided, and the former law is continued
19 in effect for that purpose.

20 SECTION 3. This Act takes effect January 1, 2016.