

By: Seliger

S.B. No. 1229

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to restrictions on the use of credit card payments to  
3 settle claims for health care services.

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

5 SECTION 1. (a) The legislature finds and declares that  
6 this Act is necessary to:

7 (1) remove barriers that hinder physicians and other  
8 health care providers from exercising their right to receive  
9 payments, upon request, from health plans through Health Insurance  
10 Portability and Accountability Act-standard automated  
11 clearinghouse electronic fund transfers;

12 (2) eliminate unnecessary and excessive fees imposed  
13 on physicians and other health care providers by certain licensees  
14 and their contracted vendors who use credit card payments, rather  
15 than automated clearinghouse electronic fund transfer payments, to  
16 settle claims for health care services; and

17 (3) eliminate the unnecessary administrative hassle  
18 that licensee use of credit card payments in the settlement of  
19 claims for health care services imposes on physicians and other  
20 health care providers.

21 (b) The legislature finds and declares that:

22 (1) despite the potential benefits associated with  
23 electronic funds transfer payments, many physicians and other  
24 health care providers are being subjected to fees associated with

1 credit card payments that essentially:

2 (A) reduce the contracted fee amounts of  
3 physicians and other health care providers; and

4 (B) shift the costs of transferring money  
5 electronically from the licensee to the physician or other health  
6 care provider;

7 (2) physicians and other health care providers are  
8 often unaware of these high fees when accepting credit card  
9 payments from licensees and their contracted vendors;

10 (3) physicians and other health care providers also  
11 are often unaware:

12 (A) of their right to receive, upon request,  
13 Health Insurance Portability and Accountability Act-standard  
14 automated clearinghouse electronic fund transfer payments from  
15 health plans; and

16 (B) that the only fee that should be assessed in  
17 association with an automated clearinghouse electronic fund  
18 transfer payment is a nominal banking fee;

19 (4) licensees often receive cash-back incentives from  
20 credit card companies for credit card payment transactions;

21 (5) the use of virtual credit cards for payment is an  
22 administrative hassle in that it requires the staff of physicians  
23 and other health care providers to manually enter payments into  
24 their own credit card processing system or devote staff time to  
25 write or call the licensee to assert the right to be paid by  
26 automated clearinghouse electronic fund transfer; and

27 (6) unlike payments made by patients using credit

1 cards, credit card payments made by licensees or their contracted  
2 vendors do not offer significant risk reduction for physicians and  
3 other health care providers, but nonetheless carry increased  
4 processing charges.

5 SECTION 2. Subtitle C, Title 5, Insurance Code, is amended  
6 by adding Chapter 564 to read as follows:

7 CHAPTER 564. PROHIBITED PRACTICES RELATED TO PAYMENT FOR  
8 HEALTH CARE SERVICES

9 Sec. 564.001. CERTAIN CREDIT CARD PAYMENTS PROHIBITED.

10 (a) In this section:

11 (1) "Administrator" has the meaning assigned by  
12 Section 4151.001. Notwithstanding that section or any other law,  
13 the term includes:

14 (A) a joint fund, risk management pool, or  
15 self-insurance pool composed of political subdivisions of this  
16 state that participate in a fund or pool through interlocal  
17 agreements, any nonprofit administrative agency or governing body  
18 or other nonprofit entity that acts solely on behalf of a fund,  
19 pool, agency, or body, or any other fund, pool, agency, or body  
20 established under or for the purpose of implementing an interlocal  
21 governmental agreement; and

22 (B) a self-insured political subdivision.

23 (2) "Credit card payment" means a type of electronic  
24 funds transfer by which a licensee or a contracted vendor of a  
25 licensee sends credit card payment information and instructions  
26 through or on any medium to the health care provider, who then  
27 processes the payments using standard credit card technology. The

1 term includes a virtual credit card payment.

2 (3) "Health care provider" means any person,  
3 partnership, professional association, corporation, facility, or  
4 institution duly licensed, certified, registered, or chartered by  
5 this state to provide health care services, including:

6 (A) a physician;

7 (B) an officer, director, shareholder, member,  
8 partner, manager, owner, or affiliate of a physician or other  
9 health care provider; and

10 (C) an employee, independent contractor, or  
11 agent of a physician or other health care provider acting in the  
12 course and scope of the employment or contractual relationship.

13 (4) "Health care services" means services provided to  
14 an individual to prevent, alleviate, cure, or heal human illness or  
15 injury, including:

16 (A) pharmaceutical services;

17 (B) medical, chiropractic, or dental care  
18 services;

19 (C) hospitalization; and

20 (D) care or services incidental to the health  
21 care services described by Paragraphs (A)-(C).

22 (5) "Licensee" means:

23 (A) an insurer as defined by Section [1301.001](#);

24 (B) a health maintenance organization as defined  
25 by Section [843.002](#);

26 (C) a person required to register under Section  
27 [1458.051](#);

1                   (D) an administrator;

2                   (E) an officer, director, shareholder, member,  
3 partner, manager, owner, or affiliate of a licensee described by  
4 Paragraphs (A)-(D); and

5                   (F) an employee, independent contractor, or  
6 agent of a licensee described by Paragraphs (A)-(D) acting in the  
7 course and scope of the employment or contractual relationship.

8                   (6) "Physician" means:

9                   (A) an individual licensed to practice medicine  
10 in this state;

11                   (B) a professional association organized by an  
12 individual physician or group of physicians;

13                   (C) a partnership or limited liability  
14 partnership formed by a group of physicians;

15                   (D) a nonprofit health corporation certified by  
16 the Texas Medical Board under Chapter 162, Occupations Code;

17                   (E) a limited liability company formed by a group  
18 of physicians; or

19                   (F) a single legal entity authorized to practice  
20 medicine owned by a group of physicians.

21                   (7) "Virtual credit card payment" means a credit card  
22 payment for which no physical credit card is presented to the health  
23 care provider and the single-use credit card expires upon payment  
24 processing.

25                   (b) A licensee or contracted vendor of a licensee may not  
26 use a credit card payment to settle a claim for health care services  
27 with a health care provider.

1       (c) The provisions in this section may not be waived,  
2 voided, nullified, or modified by contract.

3       (d) Nothing in this section may be construed to prohibit:

4           (1) the use of an automated clearinghouse electronic  
5 funds transfer to settle a claim for health care services with a  
6 health care provider;

7           (2) the use of a credit card to settle a claim for  
8 health care services with a health care provider, if the payment  
9 using a credit card is made:

10                   (A) directly by the patient; or

11                   (B) by an individual on behalf of the patient for  
12 the purpose of paying the patient's out-of-pocket  
13 responsibilities; or

14           (3) the use of a flexible spending account or health  
15 savings account, without regard to whether a credit card is issued  
16 to the patient under the account.

17       SECTION 3. The change in law made by this Act applies only  
18 to charges for health care services provided on or after the  
19 effective date of this Act. Charges for health care services  
20 provided before the effective date of this Act are governed by the  
21 law in effect immediately before that date, and that law is  
22 continued in effect for that purpose.

23       SECTION 4. This Act takes effect September 1, 2015.