

1-1 By: Seliger S.B. No. 1229
 1-2 (In the Senate - Filed March 11, 2015; March 17, 2015, read
 1-3 first time and referred to Committee on Business and Commerce;
 1-4 April 28, 2015, reported favorably by the following vote: Yeas 8,
 1-5 Nays 0; April 28, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7	X			
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to restrictions on the use of credit card payments to
 1-20 settle claims for health care services.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. (a) The legislature finds and declares that
 1-23 this Act is necessary to:

1-24 (1) remove barriers that hinder physicians and other
 1-25 health care providers from exercising their right to receive
 1-26 payments, upon request, from health plans through Health Insurance
 1-27 Portability and Accountability Act-standard automated
 1-28 clearinghouse electronic fund transfers;

1-29 (2) eliminate unnecessary and excessive fees imposed
 1-30 on physicians and other health care providers by certain licensees
 1-31 and their contracted vendors who use credit card payments, rather
 1-32 than automated clearinghouse electronic fund transfer payments, to
 1-33 settle claims for health care services; and

1-34 (3) eliminate the unnecessary administrative hassle
 1-35 that licensee use of credit card payments in the settlement of
 1-36 claims for health care services imposes on physicians and other
 1-37 health care providers.

1-38 (b) The legislature finds and declares that:

1-39 (1) despite the potential benefits associated with
 1-40 electronic funds transfer payments, many physicians and other
 1-41 health care providers are being subjected to fees associated with
 1-42 credit card payments that essentially:

1-43 (A) reduce the contracted fee amounts of
 1-44 physicians and other health care providers; and

1-45 (B) shift the costs of transferring money
 1-46 electronically from the licensee to the physician or other health
 1-47 care provider;

1-48 (2) physicians and other health care providers are
 1-49 often unaware of these high fees when accepting credit card
 1-50 payments from licensees and their contracted vendors;

1-51 (3) physicians and other health care providers also
 1-52 are often unaware:

1-53 (A) of their right to receive, upon request,
 1-54 Health Insurance Portability and Accountability Act-standard
 1-55 automated clearinghouse electronic fund transfer payments from
 1-56 health plans; and

1-57 (B) that the only fee that should be assessed in
 1-58 association with an automated clearinghouse electronic fund
 1-59 transfer payment is a nominal banking fee;

1-60 (4) licensees often receive cash-back incentives from
 1-61 credit card companies for credit card payment transactions;

2-1 (5) the use of virtual credit cards for payment is an
 2-2 administrative hassle in that it requires the staff of physicians
 2-3 and other health care providers to manually enter payments into
 2-4 their own credit card processing system or devote staff time to
 2-5 write or call the licensee to assert the right to be paid by
 2-6 automated clearinghouse electronic fund transfer; and

2-7 (6) unlike payments made by patients using credit
 2-8 cards, credit card payments made by licensees or their contracted
 2-9 vendors do not offer significant risk reduction for physicians and
 2-10 other health care providers, but nonetheless carry increased
 2-11 processing charges.

2-12 SECTION 2. Subtitle C, Title 5, Insurance Code, is amended
 2-13 by adding Chapter 564 to read as follows:

2-14 CHAPTER 564. PROHIBITED PRACTICES RELATED TO PAYMENT FOR
 2-15 HEALTH CARE SERVICES

2-16 Sec. 564.001. CERTAIN CREDIT CARD PAYMENTS PROHIBITED.

2-17 (a) In this section:

2-18 (1) "Administrator" has the meaning assigned by
 2-19 Section 4151.001. Notwithstanding that section or any other law,
 2-20 the term includes:

2-21 (A) a joint fund, risk management pool, or
 2-22 self-insurance pool composed of political subdivisions of this
 2-23 state that participate in a fund or pool through interlocal
 2-24 agreements, any nonprofit administrative agency or governing body
 2-25 or other nonprofit entity that acts solely on behalf of a fund,
 2-26 pool, agency, or body, or any other fund, pool, agency, or body
 2-27 established under or for the purpose of implementing an interlocal
 2-28 governmental agreement; and

2-29 (B) a self-insured political subdivision.

2-30 (2) "Credit card payment" means a type of electronic
 2-31 funds transfer by which a licensee or a contracted vendor of a
 2-32 licensee sends credit card payment information and instructions
 2-33 through or on any medium to the health care provider, who then
 2-34 processes the payments using standard credit card technology. The
 2-35 term includes a virtual credit card payment.

2-36 (3) "Health care provider" means any person,
 2-37 partnership, professional association, corporation, facility, or
 2-38 institution duly licensed, certified, registered, or chartered by
 2-39 this state to provide health care services, including:

2-40 (A) a physician;

2-41 (B) an officer, director, shareholder, member,
 2-42 partner, manager, owner, or affiliate of a physician or other
 2-43 health care provider; and

2-44 (C) an employee, independent contractor, or
 2-45 agent of a physician or other health care provider acting in the
 2-46 course and scope of the employment or contractual relationship.

2-47 (4) "Health care services" means services provided to
 2-48 an individual to prevent, alleviate, cure, or heal human illness or
 2-49 injury, including:

2-50 (A) pharmaceutical services;

2-51 (B) medical, chiropractic, or dental care
 2-52 services;

2-53 (C) hospitalization; and

2-54 (D) care or services incidental to the health
 2-55 care services described by Paragraphs (A)-(C).

2-56 (5) "Licensee" means:

2-57 (A) an insurer as defined by Section 1301.001;

2-58 (B) a health maintenance organization as defined
 2-59 by Section 843.002;

2-60 (C) a person required to register under Section
 2-61 1458.051;

2-62 (D) an administrator;

2-63 (E) an officer, director, shareholder, member,
 2-64 partner, manager, owner, or affiliate of a licensee described by
 2-65 Paragraphs (A)-(D); and

2-66 (F) an employee, independent contractor, or
 2-67 agent of a licensee described by Paragraphs (A)-(D) acting in the
 2-68 course and scope of the employment or contractual relationship.

2-69 (6) "Physician" means:

- 3-1 (A) an individual licensed to practice medicine
- 3-2 in this state;
- 3-3 (B) a professional association organized by an
- 3-4 individual physician or group of physicians;
- 3-5 (C) a partnership or limited liability
- 3-6 partnership formed by a group of physicians;
- 3-7 (D) a nonprofit health corporation certified by
- 3-8 the Texas Medical Board under Chapter 162, Occupations Code;
- 3-9 (E) a limited liability company formed by a group
- 3-10 of physicians; or
- 3-11 (F) a single legal entity authorized to practice
- 3-12 medicine owned by a group of physicians.

3-13 (7) "Virtual credit card payment" means a credit card
 3-14 payment for which no physical credit card is presented to the health
 3-15 care provider and the single-use credit card expires upon payment
 3-16 processing.

3-17 (b) A licensee or contracted vendor of a licensee may not
 3-18 use a credit card payment to settle a claim for health care services
 3-19 with a health care provider.

3-20 (c) The provisions in this section may not be waived,
 3-21 voided, nullified, or modified by contract.

3-22 (d) Nothing in this section may be construed to prohibit:

3-23 (1) the use of an automated clearinghouse electronic
 3-24 funds transfer to settle a claim for health care services with a
 3-25 health care provider;

3-26 (2) the use of a credit card to settle a claim for
 3-27 health care services with a health care provider, if the payment
 3-28 using a credit card is made:

3-29 (A) directly by the patient; or

3-30 (B) by an individual on behalf of the patient for
 3-31 the purpose of paying the patient's out-of-pocket
 3-32 responsibilities; or

3-33 (3) the use of a flexible spending account or health
 3-34 savings account, without regard to whether a credit card is issued
 3-35 to the patient under the account.

3-36 SECTION 3. The change in law made by this Act applies only
 3-37 to charges for health care services provided on or after the
 3-38 effective date of this Act. Charges for health care services
 3-39 provided before the effective date of this Act are governed by the
 3-40 law in effect immediately before that date, and that law is
 3-41 continued in effect for that purpose.

3-42 SECTION 4. This Act takes effect September 1, 2015.

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