

By: Smithee

H.B. No. 3867

A BILL TO BE ENTITLED

1 AN ACT
2 relating to unconscionable prices charged by certain health care
3 facilities for medical care.

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

5 SECTION 1. Subchapter E, Chapter 17, Business & Commerce
6 Code, is amended by adding Section 17.463 to read as follows:

7 Sec. 17.463. UNCONSCIONABLE PRICE FOR CARE AT EMERGENCY
8 FACILITY. (a) In this section:

9 (1) "Emergency care" means health care services
10 provided in an emergency facility to evaluate and stabilize medical
11 conditions of a recent onset and severity, including severe pain,
12 that would lead a prudent layperson possessing an average knowledge
13 of medicine and health to believe that the individual's condition,
14 sickness, or injury is of such a nature that failure to get
15 immediate medical care could:

16 (A) place the individual's health in serious
17 jeopardy;

18 (B) result in serious impairment to bodily
19 functions;

20 (C) result in serious dysfunction of a bodily
21 organ or part;

22 (D) result in serious disfigurement; or

23 (E) for a pregnant woman, result in serious
24 jeopardy to the health of the fetus.

1 (2) "Emergency facility" means a hospital emergency
2 room, freestanding emergency medical care facility, or comparable
3 facility providing emergency care.

4 (b) For purposes of Section 17.46(a), the term "false,
5 misleading, or deceptive acts or practices" includes an emergency
6 facility taking advantage of an individual's medical condition by:

7 (1) providing emergency care at an unconscionable
8 price; or

9 (2) demanding or charging an unconscionable price for
10 or in connection with emergency care or other care at the facility.

11 (c) The consumer protection division may not bring an action
12 under Section 17.47 for an act or practice described by Subsection
13 (b) if the price alleged to be unconscionable is less than 150
14 percent of the average charge for the same or substantially similar
15 care provided to other individuals by a hospital emergency room
16 according to data collected by the Department of State Health
17 Services under Chapter 108, Health and Safety Code, and made
18 available to the division, except as provided by Subsection (d).

19 (d) If the attorney general determines that the consumer
20 protection division is unable to obtain the charge data described
21 by Subsection (c), the attorney general may adopt rules designating
22 another source of hospital charge data for use by the division in
23 establishing the average charge for emergency or other care
24 provided by hospital emergency rooms for purposes of Subsection
25 (c).

26 (e) In an action brought under Section 17.47 to enforce this
27 section, the consumer protection division may request, and the

1 trier of fact may award the recovery of:

2 (1) reasonable attorney's fees and court costs; and

3 (2) the reasonable expenses incurred by the division
4 in obtaining any remedy available under Section 17.47, including
5 the cost of investigation, witness fees, and deposition expenses.

6 (f) This section does not create a private cause of action
7 for a false, misleading, or deceptive act or practice described by
8 Subsection (b).

9 SECTION 2. This Act takes effect September 1, 2017.