

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1941
By: Phelan et al. (Watson)
Business & Commerce
5/15/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 1941 amends current law relating to unconscionable prices charged by certain health care facilities for medical care.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas attorney general in SECTION 1 (Section 17.464, Business & Commerce Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 17, Business & Commerce Code, by adding Section 17.464, as follows:

Sec. 17.464. UNCONSCIONABLE PRICE FOR CARE AT EMERGENCY FACILITY.
(a) Defines "emergency care" and "emergency facility" for purposes of this section.

(b) Defines "false, misleading, or deceptive acts or practices" for purposes of Section 17.46(a) (relating to providing that false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful and are subject to certain action by the consumer protection division of the Office of the Attorney General (consumer protection division)).

(c) Prohibits the consumer protection division from bringing an action under Section 17.47 (Restraining Orders) for an act or practice described by Subsection (b) if the price alleged to be unconscionable is less than 200 percent of the average charge for the same or substantially similar care provided to other individuals by emergency rooms of hospitals located in the same county or nearest county in which the emergency facility is located, as applicable, according to data collected by the Department of State Health services under Chapter 108 (Health Care Data Collection), Health and Safety Code, and made available to the consumer division, except as provided by Subsection (d). Prohibits the consumer protection division from using data that includes prices for care provided in an urgent care setting or physician practice to establish the consumer protection division's authority to investigate and pursue an action under this subchapter (Deceptive Trade Practices and Consumer Protection).

(d) Authorizes the Texas attorney general (attorney general), if the attorney general determines that the consumer protection division is unable to obtain the charge data described by Subsection (c), to adopt rules designating another source of hospital charge data for use by the consumer protection division in establishing the average charge for emergency care or other care provided by hospital emergency rooms for purposes of Subsection (c).

(e) Authorizes the consumer protection division, in an action brought under Section 17.47 to enforce this section, to request, and authorizes the trier of fact to award the recovery of: (1) reasonable attorney's fees and court costs; and (2) the reasonable expenses incurred by the consumer protection division in obtaining

any remedy available under Section 17.47, including the cost of investigation, witness fees, and deposition expenses.

(f) Provides that this section does not create a private cause of action for a false, misleading, or deceptive act or practice described by Subsection (b).

SECTION 2. Effective date: September 1, 2019.