

BILL ANALYSIS

C.S.H.B. 2041
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns that freestanding emergency medical care facilities may provide inadequate or misleading information to consumers about health insurance network coverage. C.S.H.B. 2041 seeks to address these concerns by requiring these facilities to provide additional written disclosures regarding the facility's fees and health plan network status.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2041 amends the Health and Safety Code to require an independent freestanding emergency medical care facility and a hospital-affiliated freestanding emergency medical care facility to provide to a patient or a patient's legally authorized representative a written disclosure statement listing the facility's observation and facility fees that may result from a patient's visit and the health benefit plans in which the facility is a network provider or stating that the facility is an out-of-network provider for all health benefit plans.

C.S.H.B. 2041 sets out the required contents and form of that disclosure statement, which must include a place for the patient or the patient's legally authorized representative and a facility employee to sign and date the disclosure, and limits the information that may be included in the statement to the information that is specified by the bill. The bill requires the facility to update the statement annually and to provide each patient with a physical copy of the disclosure statement even if the patient refuses or is unable to sign the statement. The bill requires a facility to indicate in the patient's file that the patient failed to sign if the patient refuses or is unable to sign the statement. The bill requires the facility to retain a copy of a signed disclosure statement until the first anniversary of the date on which the disclosure was signed. The bill expressly does not require the facility to provide notice if the facility determines before providing emergency health care services to the patient that the patient will not be billed for the services. The bill establishes that a facility complies with these disclosure statement requirements if the facility posts its standard charges on the facility's website in a manner that is easily accessible and readable and requires the facility to post updated standard charges on its website at least annually or more frequently if appropriate.

C.S.H.B. 2041 prohibits a facility from advertising or holding itself out as a network provider, including by stating that the facility "takes" or "accepts" any insurer, health maintenance

organization, health benefit plan, or health benefit plan network, unless the facility is a network provider of a health benefit plan issuer. The bill prohibits a facility from posting the name or logo of a health benefit plan issuer in any signage or marketing materials if the facility is an out-of-network provider for any of the issuer's health benefit plans. The bill makes a violation of these provisions a false, misleading, or deceptive act or practice under the Deceptive Trade Practices-Consumer Protection Act and makes such a violation actionable under that act.

C.S.H.B. 2041 revises requirements relating to a certain notice of fees posted online and in certain places in each independent freestanding emergency medical care facility and prohibits a facility from adding to or altering the required language of such a notice.

C.S.H.B. 2041 changes the fund to which an administrative penalty imposed on an independent freestanding emergency medical care facility is deposited from the general revenue fund to the freestanding emergency medical care facility licensing fund and limits the use of the money collected from those penalties to the administration and enforcement of the provisions relating to freestanding emergency medical care facilities by the Department of State Health Services (DSHS). The bill removes the cap on the total amount of the penalty assessed for a violation continuing or occurring on separate days.

C.S.H.B. 2041 includes independent and hospital-associated freestanding emergency medical care facilities in the definition of "health care facility" for purposes of statutory provisions relating to health care data collection. The bill expressly does not require DSHS to collect data from such facilities unless money is available for that purpose.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2041 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute makes its provisions relating to a written disclosure statement and a prohibition on certain advertising applicable to a hospital-associated freestanding emergency medical facility.

The substitute revises the content of the written disclosure statement, includes conditions under which a facility is not required to provide the disclosure statement, and includes provisions stating that a facility complies with the disclosure requirements if the facility keeps updated information about its standard charges on its website.

The substitute revises certain administrative penalty amounts and removes the cap on penalties for a violation continuing or occurring on separate days.

The substitute includes a hospital-associated freestanding emergency medical care facility in the definition of "health care facility" for purposes of statutory provisions relating to health care data collection and establishes that DSHS is not required to collect applicable data unless money is available for that purpose.