86R2159 JG-D

By:  Schwertner S.B. No. 1549

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain emergency care facilities.

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

SECTION 1.  Subchapter E, Chapter 17, Business & Commerce Code, is amended by adding Section 17.464 to read as follows:

Sec. 17.464.  UNCONSCIONABLE PRICE FOR CARE AT EMERGENCY CARE FACILITY. (a) In this section:

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

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

(B)  result in serious impairment to bodily functions;

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

(D)  result in serious disfigurement; or

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

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

(3)  "Freestanding emergency medical care facility" has the meaning assigned by Section 254.001, Health and Safety Code.

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

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

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

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

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

(e)  In an action brought under Section 17.47 to enforce this section, the consumer protection division may request, and the trier of fact may award the recovery of:

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

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

(f)  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.  Sections 241.252(b), (c), and (e), Health and Safety Code, are amended to read as follows:

(b)  A facility described by Section 241.251 shall post notice that:

(1)  states:

(A)  the facility is a freestanding emergency medical care facility;

(B)  the facility charges rates comparable to a hospital emergency room [~~and may charge a facility fee~~];

(C)  a facility or a physician providing medical care at the facility may [~~not~~] be an out-of-network [~~a participating~~] provider for [~~in~~] the patient's health benefit plan provider network; and

(D)  a physician providing medical care at the facility may bill separately from the facility for the medical care provided to a patient; and

(2)  either:

(A)  lists the health benefit plans in which the facility is a network [~~participating~~] provider in the health benefit plan's provider network; or

(B)  states the facility is an out-of-network [~~not a participating~~] provider for [~~in~~] any health benefit plan provider network.

(c)  The notice required by this section must be posted prominently and conspicuously:

(1)  at the primary entrance to the facility;

(2)  in each patient treatment room;

(3)  at each location within the facility at which a person pays for health care services; and

(4)  on the home page of the facility's Internet website in a font that is larger than and contrasts with the font on the remainder of the page.

(e)  Notwithstanding Subsection (c), a facility that is a network [~~participating~~] provider in one or more health benefit plan provider networks complies with Subsection (b)(2) if the facility:

(1)  provides notice on the home page of the facility's Internet website listing the health benefit plans in which the facility is a network [~~participating~~] provider in the health benefit plan's provider network; and

(2)  provides to a patient written confirmation of whether the facility is a network [~~participating~~] provider in the patient's health benefit plan's provider network.

SECTION 3.  Sections 254.155(a), (b), and (d), Health and Safety Code, are amended to read as follows:

(a)  A facility shall post notice that:

(1)  states:

(A)  the facility is a freestanding emergency medical care facility;

(B)  the facility charges rates comparable to a hospital emergency room [~~and may charge a facility fee~~];

(C)  a facility or a physician providing medical care at the facility may [~~not~~] be an out-of-network [~~a participating~~] provider for [~~in~~] the patient's health benefit plan provider network; and

(D)  a physician providing medical care at the facility may bill separately from the facility for the medical care provided to a patient; and

(2)  either:

(A)  lists the health benefit plans in which the facility is a network [~~participating~~] provider in the health benefit plan's provider network; or

(B)  states the facility is an out-of-network [~~not a participating~~] provider for [~~in~~] any health benefit plan provider network.

(b)  The notice required by this section must be posted prominently and conspicuously:

(1)  at the primary entrance to the facility;

(2)  in each patient treatment room;

(3)  at each location within the facility at which a person pays for health care services; and

(4)  on the home page of the facility's Internet website in a font that is larger than and contrasts with the font on the remainder of the page.

(d)  Notwithstanding Subsection (b), a facility that is a network [~~participating~~] provider in one or more health benefit plan provider networks complies with Subsection (a)(2) if the facility:

(1)  provides notice on the home page of the facility's Internet website listing the health benefit plans in which the facility is a network [~~participating~~] provider in the health benefit plan's provider network; and

(2)  provides to a patient written confirmation of whether the facility is a network [~~participating~~] provider in the patient's health benefit plan's provider network.

SECTION 4.  Subchapter D, Chapter 254, Health and Safety Code, is amended by adding Section 254.156 to read as follows:

Sec. 254.156.  REQUIREMENTS AND RESTRICTIONS ON OUT-OF-NETWORK FACILITIES. (a) A facility may not post the name or logo of a health benefit plan issuer on the facility's Internet website if the facility is an out-of-network provider for any of the issuer's health benefit plans.

(b)  If a facility is an out-of-network provider for a patient's health benefit plan provider network, the facility on the patient's arrival at the facility shall:

(1)  provide to the patient or the patient's legally authorized representative a written disclosure statement that outlines the range of fees, including facility and observation fees, that may result from the patient's visit; and

(2)  obtain the signature of the patient or the patient's legally authorized representative on the disclosure statement described by Subdivision (1) before providing health care services to the patient unless the patient's medical condition requires immediate medical intervention.

SECTION 5.  Section 254.205(c), Health and Safety Code, is amended to read as follows:

(c)  Each [~~The amount of the penalty may not exceed $1,000 for each violation, and each~~] day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed $25,000 [~~$5,000~~].

SECTION 6.  Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 260B to read as follows:

CHAPTER 260B. EMERGENCY CARE FACILITIES

Sec. 260B.0001.  DEFINITIONS. In this chapter:

(1)  "Emergency care" has the meaning assigned by Section 17.464, Business & Commerce Code.

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

(3)  "Freestanding emergency medical care facility" has the meaning assigned by Section 254.001.

Sec. 260B.0002.  FACILITY FEE PROHIBITED. An emergency care facility may not charge a patient who receives nonemergency health care services a facility fee.

Sec. 260B.0003.  DISSEMINATION OF CERTAIN FALSE OR MISLEADING INFORMATION PROHIBITED. An emergency care facility may not post on the facility's Internet website or disseminate by any method false or misleading information on whether the facility is a network provider in a health benefit plan provider network.

SECTION 7.  This Act takes effect September 1, 2019.