By:  Taylor S.B. No. 2415

A BILL TO BE ENTITLED

AN ACT

 relating to the regulation of freestanding emergency medical care facilities.

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

SECTION 1.  Section 108.002(10), Health and Safety Code, is amended to read as follows:

(10)  "Health care facility" means:

(A)  a hospital;

(B)  an ambulatory surgical center licensed under Chapter 243;

(C)  a chemical dependency treatment facility licensed under Chapter 464;

(D)  a renal dialysis facility;

(E)  a birthing center;

(F)  a rural health clinic;

(G)  a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B); [~~or~~]

(H)  a freestanding [~~free-standing~~] imaging center; or

(I)  a freestanding emergency medical care facility licensed under Chapter 254.

SECTION 2.  Section 241.252, Health and Safety Code, is amended by amending Subsections (b), (c), and (e) and adding Subsection (f) to read as follows:

Sec. 241.252.  NOTICE OF FEES. (a) In this section, "provider network" has the meaning assigned by Section 1456.001, Insurance Code.

(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 all [~~in any~~] health benefit plans [~~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 or on a different page available through a hyperlink hat is:

(A)  entitled "Insurance Information"; and

(B)  located prominently on the home 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 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.

(f)  A facility may not add to or alter the language of a notice required by this section.

SECTION 3.  Subchapter J, Chapter 241, Health and Safety Code, is amended by adding Sections 241.253 and 241.254 to read as follows:

Sec. 241.253  DISCLOSURE STATEMENT REQUIRED. (a) In addition to the notice required under Section 241.252, a facility shall provide to a patient or a patient's legally authorized representative a written disclosure statement in accordance with this section that:

(1)  lists the facility's observation and facility fees that may result from the patient's visit; and

(2)  lists the health benefit plans in which the facility is a network provider in the health benefit plan's provider network or states that the facility is an out-of-network provider for all health benefit plans.

(b)  A facility shall provide the disclosure statement before providing health care services to the patient unless the patient's medical condition requires immediate medical intervention. If the patient's medical condition requires immediate medical intervention, the facility shall provide the disclosure statement as soon as practicable.

(c)  The disclosure statement must be:

(1)  printed in at least 16-point boldface type;

(2)  in a contrasting color using a font that is easily readable; and

(3)  in English and Spanish.

(d)  The disclosure statement:

(1)  must include:

(A)  the name and contact information of the facility; and

(B)  a place for the patient or the patient's legally authorized representative and an employee of the facility to sign and date the disclosure statement;

(2)  may include information on the facility's procedures for seeking reimbursement from the patient's health benefit plan; and

(3)  must state, as applicable:

"This facility charges a facility fee for medical treatment. The average facility fee for patient treatment is $\_\_\_\_."

"This facility charges an observation fee for medical treatment. The average observation fee for patient treatment is $\_\_\_\_."

(e)  A facility may include only the information described by Subsection (d) in the required disclosure statement and may not include any additional information in the statement. The facility annually shall update the statement.

(f)  A facility shall provide each patient with a physical copy of the disclosure statement even if the patient refuses or is unable to sign the statement. If a patient refuses or is unable to sign the statement, as required by this section, the facility shall indicate in the patient's file that the patient failed to sign.

(g)  A facility shall retain a copy of a signed disclosure statement provided under this section until the first anniversary of the date on which the disclosure was signed.

Sec. 241.254  CERTAIN ADVERTISING PROHIBITED. (a) A facility may not advertise or hold 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.

(b)  A facility may not post 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.

(c)  A violation of this section is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17, Business & Commerce Code, and is actionable under that subchapter.

SECTION 4.  Section 254.104, Health and Safety Code, is amended to read as follows:

Sec. 254.104.  FREESTANDING EMERGENCY MEDICAL CARE FACILITY LICENSING FUND. All fees and administrative penalties collected under this chapter shall be deposited in the state treasury to the credit of the freestanding emergency medical care facility licensing fund and may be appropriated to the department only to administer and enforce this chapter.

SECTION 5.  Section 254.155, Health and Safety Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (e) 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 all [~~in any~~] health benefit plans [~~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 or on a different page available through a hyperlink that is:

(A)  entitled "Insurance Information"; and

(B)  located prominently on the home 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 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.

(e)  A facility may not add to or alter the language of a notice required by this section.

SECTION 6.  Subchapter D, Chapter 254, Health and Safety Code, is amended by adding Sections 254.156 and 254.157 to read as follows:

Sec. 254.156.  DISCLOSURE STATEMENT REQUIRED. (a) In addition to the notice required under Section 254.155, a facility shall provide to a patient or a patient's legally authorized representative a written disclosure statement in accordance with this section that:

(1)  lists the facility's observation and facility fees that may result from the patient's visit; and

(2)  lists the health benefit plans in which the facility is a network provider in the health benefit plan's provider network or states that the facility is an out-of-network provider for all health benefit plans.

(b)  A facility shall provide the disclosure statement before providing health care services to the patient unless the patient's medical condition requires immediate medical intervention. If the patient's medical condition requires immediate medical intervention, the facility shall provide the disclosure statement as soon as practicable.

(c)  The disclosure statement must be:

(1)  printed in at least 16-point boldface type;

(2)  in a contrasting color using a font that is easily readable; and

(3)  in English and Spanish.

(d)  The disclosure statement:

(1)  must include:

(A)  the name and contact information of the facility; and

(B)  a place for the patient or the patient's legally authorized representative and an employee of the facility to sign and date the disclosure statement;

(2)  may include information on the facility's procedures for seeking reimbursement from the patient's health benefit plan; and

(3)  must state, as applicable:

"This facility charges a facility fee for medical treatment. The average facility fee for patient treatment is $\_\_\_\_."

"This facility charges an observation fee for medical treatment. The average observation fee for patient treatment is $\_\_\_\_."

(e)  A facility may include only the information described by Subsection (d) in the required disclosure statement and may not include any additional information in the statement. The facility annually shall update the statement.

(f)  A facility shall provide each patient with a physical copy of the disclosure statement even if the patient refuses or is unable to sign the statement. If a patient refuses or is unable to sign the statement, as required by this section, the facility shall indicate in the patient's file that the patient failed to sign.

(g)  A facility shall retain a copy of a signed disclosure statement provided under this section until the first anniversary of the date on which the disclosure was signed.

Sec. 254.157.  CERTAIN ADVERTISING PROHIBITED. (a) A facility may not advertise or hold 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.

(b)  A facility may not post 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.

(c)  A violation of this section is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17, Business & Commerce Code, and is actionable under that subchapter.

SECTION 7.  Sections 254.205(a) and (c), Health and Safety Code, are amended to read as follows:

(a)  The department may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter. A penalty collected under this section or Section 254.206 shall be deposited in the state treasury to the credit of the freestanding emergency medical care facility licensing [~~in the general revenue~~] fund described by Section 254.104.

(c)  The [~~amount of the~~] penalty [~~may not exceed $1,000~~] for each violation may be in an amount not to exceed the maximum amount provided by this subsection, and each day a violation continues or occurs is a separate violation for purposes of imposing the [~~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 8.  This Act takes effect September 1, 2019.