

AN ACT

relating to unconscionable prices charged by certain health care facilities for medical care.

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 FACILITY. (a) In this section:

(1) "Emergency care" means health care services provided in an emergency 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 a nature 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.

1 (2) "Emergency facility":

2 (A) means:

3 (i) a freestanding emergency medical care
4 facility licensed under Chapter 254, Health and Safety Code; or

5 (ii) a hospital that does not meet the
6 conditions of participation for certification under Title XVIII of
7 the Social Security Act (42 U.S.C. Section 1395 et seq.); and

8 (B) does not include a hospital that:

9 (i) has been operating as a hospital for
10 less than one year;

11 (ii) has submitted an application to a
12 federally recognized accreditation program for certification under
13 Title XVIII of the Social Security Act (42 U.S.C. Section 1395 et
14 seq.); and

15 (iii) has not failed an accreditation for
16 certification.

17 (b) For purposes of Section 17.46(a), the term "false,
18 misleading, or deceptive acts or practices" includes an emergency
19 facility that:

20 (1) provides emergency care at an unconscionable
21 price; or

22 (2) demands or charges an unconscionable price for or
23 in connection with emergency care or other care at the facility.

24 (c) The consumer protection division may not bring an action
25 under Section 17.47 for an act or practice described by Subsection

26 (b) if the price alleged to be unconscionable is less than 200
27 percent of the average charge for the same or substantially similar

1 care provided to other individuals by emergency rooms of hospitals
2 located in the same county or nearest county in which the emergency
3 facility is located, as applicable, according to data collected by
4 the Department of State Health Services under Chapter 108, Health
5 and Safety Code, and made available to the division, except as
6 provided by Subsection (d). The consumer protection division may
7 not use data that includes prices for care provided in an urgent
8 care setting or physician practice to establish the division's
9 authority to investigate and pursue an action under this
10 subchapter.

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

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

21 (1) reasonable attorney's fees and court costs; and
22 (2) the reasonable expenses incurred by the division
23 in obtaining any remedy available under Section 17.47, including
24 the cost of investigation, witness fees, and deposition expenses.

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

1 SECTION 2. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 1941 was passed by the House on May 8, 2019, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1941 on May 24, 2019, by the following vote: Yeas 141, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1941 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor