

By: Phelan

H.B. No. 1941

Substitute the following for H.B. No. 1941:

By: Darby

C.S.H.B. No. 1941

A BILL TO BE ENTITLED

1 AN ACT
2 relating to unconscionable prices charged by certain health care
3 facilities for medical care.

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

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

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

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

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

18 (B) result in serious impairment to bodily
19 functions;

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

22 (D) result in serious disfigurement; or

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

1 (2) "Emergency facility" means a freestanding
2 emergency medical care facility licensed under Chapter 254, Health
3 and Safety Code.

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

7 (1) provides emergency care at an unconscionable
8 price; or

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

11 (c) The consumer protection division may not bring an action
12 under Section 17.47 for an act or practice described by Subsection
13 (b) if the price alleged to be unconscionable is less than 200
14 percent of the average charge for the same or substantially similar
15 care provided to other individuals by emergency rooms of hospitals
16 located in the same county or nearest county in which the emergency
17 facility is located, as applicable, according to data collected by
18 the Department of State Health Services under Chapter 108, Health
19 and Safety Code, and made available to the division, except as
20 provided by Subsection (d).

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

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

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

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

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

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