

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

1 emergency room, freestanding emergency medical care facility, or
2 comparable facility providing emergency care.

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

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

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

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

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

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

1 (c).

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

- 5 (1) reasonable attorney's fees and court costs; and
6 (2) the reasonable expenses incurred by the division
7 in obtaining any remedy available under Section 17.47, including
8 the cost of investigation, witness fees, and deposition expenses.

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

12 SECTION 2. Sections 241.252(b), (c), and (e), Health and
13 Safety Code, are amended to read as follows:

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

- 16 (1) states:
- 17 (A) the facility is a freestanding emergency
18 medical care facility;
- 19 (B) the facility charges rates comparable to a
20 hospital emergency room [~~and may charge a facility fee~~];
- 21 (C) a facility or a physician providing medical
22 care at the facility may [~~not~~] be an out-of-network [~~a~~
23 ~~participating~~] provider for [~~in~~] the patient's health benefit plan
24 provider network; and
- 25 (D) a physician providing medical care at the
26 facility may bill separately from the facility for the medical care
27 provided to a patient; and

1 (2) either:

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

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

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

10 (1) at the primary entrance to the facility;

11 (2) in each patient treatment room;

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

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

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

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

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

27 SECTION 3. Sections [254.155](#)(a), (b), and (d), Health and

1 Safety Code, are amended to read as follows:

2 (a) A facility shall post notice that:

3 (1) states:

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

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

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

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

15 (2) either:

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

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

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

24 (1) at the primary entrance to the facility;

25 (2) in each patient treatment room;

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

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

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

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

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

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

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

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

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

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

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

8 (c) Each [~~The amount of the penalty may not exceed \$1,000~~
9 ~~for each violation, and each~~] day a violation continues or occurs is
10 a separate violation for purposes of imposing a penalty. The total
11 amount of the penalty assessed for a violation continuing or
12 occurring on separate days under this subsection may not exceed
13 \$25,000 [~~\$5,000~~].

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

16 CHAPTER 260B. EMERGENCY CARE FACILITIES

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

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

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

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

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

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

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