

By: Taylor

S.B. No. 2415

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of freestanding emergency medical care
3 facilities.

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

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

7 (10) "Health care facility" means:

8 (A) a hospital;

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

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

13 (D) a renal dialysis facility;

14 (E) a birthing center;

15 (F) a rural health clinic;

16 (G) a federally qualified health center as
17 defined by 42 U.S.C. Section 1396d(1)(2)(B); ~~or~~

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

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

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

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

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

6 (1) states:

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

9 (B) the facility charges rates comparable to a
10 hospital emergency room and may charge a facility fee;

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

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

18 (2) either:

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

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

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

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

1 (2) in each patient treatment room;

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

4 (4) on the home page of the facility's Internet website
5 or on a different page available through a hyperlink hat is:

6 (A) entitled "Insurance Information"; and

7 (B) located prominently on the home page.

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

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

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

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

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

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

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

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

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

13 (c) The disclosure statement must be:

- 14 (1) printed in at least 16-point boldface type;
15 (2) in a contrasting color using a font that is easily
16 readable; and
17 (3) in English and Spanish.

18 (d) The disclosure statement:

- 19 (1) must include:
20 (A) the name and contact information of the
21 facility; and
22 (B) a place for the patient or the patient's
23 legally authorized representative and an employee of the facility
24 to sign and date the disclosure statement;
25 (2) may include information on the facility's
26 procedures for seeking reimbursement from the patient's health
27 benefit plan; and

1 (3) must state, as applicable:

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

4 "This facility charges an observation fee for medical
5 treatment. The average observation fee for patient treatment is
6 \$_____."

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

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

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

19 Sec. 241.254 CERTAIN ADVERTISING PROHIBITED. (a) A
20 facility may not advertise or hold itself out as a network provider,
21 including by stating that the facility "takes" or "accepts" any
22 insurer, health maintenance organization, health benefit plan, or
23 health benefit plan network, unless the facility is a network
24 provider of a health benefit plan issuer.

25 (b) A facility may not post the name or logo of a health
26 benefit plan issuer in any signage or marketing materials if the
27 facility is an out-of-network provider for any of the issuer's

1 health benefit plans.

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

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

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

13 SECTION 5. Section 254.155, Health and Safety Code, is
14 amended by amending Subsections (a), (b), and (d) and adding
15 Subsection (e) to read as follows:

16 (a) A facility shall post notice that:

17 (1) states:

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

20 (B) the facility charges rates comparable to a
21 hospital emergency room and may charge a facility fee;

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

26 (D) a physician providing medical care at the
27 facility may bill separately from the facility for the medical care

1 provided to a patient; and

2 (2) either:

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

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

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

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

12 (2) in each patient treatment room;

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

15 (4) on the home page of the facility's Internet website
16 or on a different page available through a hyperlink that is:

17 (A) entitled "Insurance Information"; and

18 (B) located prominently on the home page.

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

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

26 (2) provides to a patient written confirmation of
27 whether the facility is a network [~~participating~~] provider in the

1 patient's health benefit plan's provider network.

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

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

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

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

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

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

24 (c) The disclosure statement must be:

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

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

1 (3) in English and Spanish.

2 (d) The disclosure statement:

3 (1) must include:

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

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

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

12 (3) must state, as applicable:

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

15 "This facility charges an observation fee for medical
16 treatment. The average observation fee for patient treatment is
17 \$_____."

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

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

27 (g) A facility shall retain a copy of a signed disclosure

1 statement provided under this section until the first anniversary
2 of the date on which the disclosure was signed.

3 Sec. 254.157. CERTAIN ADVERTISING PROHIBITED. (a) A
4 facility may not advertise or hold itself out as a network provider,
5 including by stating that the facility "takes" or "accepts" any
6 insurer, health maintenance organization, health benefit plan, or
7 health benefit plan network, unless the facility is a network
8 provider of a health benefit plan issuer.

9 (b) A facility may not post the name or logo of a health
10 benefit plan issuer in any signage or marketing materials if the
11 facility is an out-of-network provider for any of the issuer's
12 health benefit plans.

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

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

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

25 (c) The [~~amount of the~~] penalty [~~may not exceed \$1,000~~] for
26 each violation may be in an amount not to exceed the maximum amount
27 provided by this subsection, and each day a violation continues or

1 occurs is a separate violation for purposes of imposing the [a]
2 penalty. The total amount of the penalty assessed for a violation
3 continuing or occurring on separate days under this subsection may
4 not exceed \$25,000 [~~\$5,000~~].

5 SECTION 8. This Act takes effect September 1, 2019.