

SENATE AMENDMENTS

2nd Printing

By: Phelan, Raymond, Canales, Metcalf,
Martinez Fischer

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.

ADOPTED

MAY 22 2019

Letty Spaul
Secretary of the Senate

By: Watson

H.B. No. 1941

Substitute the following for ___B. No. _____:

By: Robert Lee Nichols

C.S.H.B. No. 1991

A BILL TO BE ENTITLED

1

AN ACT

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

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SECTION 1. Subchapter E, Chapter 17, Business & Commerce

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FACILITY. (a) In this section:

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organ or part;

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(D) result in serious disfigurement; or

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(E) for a pregnant woman, result in serious

23

jeopardy to the health of the fetus.

24

1 (2) "Emergency facility" means:

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

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

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

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

12 (2) demands or charges an unconscionable price for or
13 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 200
17 percent of the average charge for the same or substantially similar
18 care provided to other individuals by emergency rooms of hospitals
19 located in the same county or nearest county in which the emergency
20 facility is located, as applicable, according to data collected by
21 the Department of State Health Services under Chapter 108, Health
22 and Safety Code, and made available to the division, except as
23 provided by Subsection (d). The consumer protection division may
24 not use data that includes prices for care provided in an urgent
25 care setting or physician practice to establish the division's
26 authority to investigate and pursue an action under this
27 subchapter.

1 (d) If the attorney general determines that the consumer
2 protection division is unable to obtain the charge data described
3 by Subsection (c), the attorney general may adopt rules designating
4 another source of hospital charge data for use by the division in
5 establishing the average charge for emergency care or other care
6 provided by hospital emergency rooms for purposes of Subsection
7 (c).

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

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

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

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

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

ADOPTED

MAY 22 2019

Leta Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Theresa Watson*

1 Amend C.S.H.B. No. 1941 (senate committee printing), in
2 SECTION 1 of the bill, by striking added Section 17.464(a)(2),
3 Business & Commerce Code (page 1, lines 44 through 49), and
4 substituting the following:

5 (2) "Emergency facility":

6 (A) means:

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

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

12 (B) does not include a hospital that:

13 (i) has been operating as a hospital for
14 less than one year;

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

19 (iii) has not failed an accreditation for
20 certification.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 22, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: **HB1941** by Phelan (Relating to unconscionable prices charged by certain health care facilities for medical care.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

Based on analysis by the Health and Human Services Commission, and the Department of State Health Services, there would be no fiscal impact to the state related to the provisions of the bill.

Based on analysis by the Office of the Attorney General, any costs associated with the provisions of the bill relating to consumer protection enforcement could be absorbed using existing state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 529 Health and Human Services Commission, 537 State Health Services, Department of

LBB Staff: WP, CLo, JMO, NV

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 13, 2019

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1941 by Phelan (Relating to unconscionable prices charged by certain health care facilities for medical care.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

Based on analysis by the Health and Human Services Commission, and the Department of State Health Services, there would be no fiscal impact to the state related to the provisions of the bill.

Based on analysis by the Office of the Attorney General, any costs associated with the provisions of the bill relating to consumer protection enforcement could be absorbed using existing state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 529 Health and Human Services Commission, 537 State Health Services, Department of

LBB Staff: WP, CLo, JMO, NV

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 16, 2019

TO: Honorable Trey Martinez Fischer, Chair, House Committee on Business & Industry

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1941 by Phelan (Relating to unconscionable prices charged by certain health care facilities for medical care.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

Based on analysis by the Health and Human Services Commission, and the Department of State Health Services, there would be no fiscal impact to the state related to the provisions of the bill.

Based on analysis by the Office of the Attorney General, any costs associated with the provisions of the bill relating to consumer protection enforcement could be absorbed using existing state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 529 Health and Human Services Commission, 537 State Health Services, Department of

LBB Staff: WP, JMO, CLo, NV

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 1, 2019

TO: Honorable Trey Martinez Fischer, Chair, House Committee on Business & Industry

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1941 by Phelan (Relating to unconscionable prices charged by certain health care facilities for medical care.), **As Introduced**

No significant fiscal implication to the State is anticipated.

Based on analysis by the Health and Human Services Commission, and the Department of State Health Services, there would be no fiscal impact to the state related to the provisions of the bill.

Based on analysis by the Office of the Attorney General, any costs associated with the provisions of the bill relating to consumer protection enforcement could be absorbed using existing state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 529 Health and Human Services Commission, 537 State Health Services, Department of

LBB Staff: WP, CLo, NV, JMO