

**House Bill 1941**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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.

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

(b) For purposes of Section 17.46(a), the term "false,

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

(2) "Emergency facility":

(A) means:

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

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

(B) does not include a hospital that:

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

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

(iii) has not failed an accreditation for certification. [FA1]

(b) For purposes of Section 17.46(a), the term "false,

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misleading, or deceptive acts or practices" includes an emergency facility that:

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

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

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

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

(1) reasonable attorney's fees and court costs; and  
(2) the reasonable expenses incurred by the division in

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

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obtaining any remedy available under Section 17.47, including the cost of investigation, witness fees, and deposition expenses.

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

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

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obtaining any remedy available under Section 17.47, including the cost of investigation, witness fees, and deposition expenses.

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

SECTION 2. Same as House version.

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