

BILL ANALYSIS

C.S.H.B. 1460
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Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Air ambulances are aircraft staffed with medical personnel that transport patients both between hospitals and from the scene of an incident to a hospital. Some air ambulances are operated by companies that sell subscription memberships. These are intended to protect against high out-of-pocket costs for out-of-network services, which can be very expensive. There are concerns that air ambulance subscription providers are unethically marketing their services to Texans whose insurance carrier already covers these services, resulting in an unnecessary duplication of coverage. C.S.H.B. 1460 seeks to increase transparency and accountability for air ambulance subscription providers by requiring providers to establish websites that provide easily accessible information to consumers and to include certain disclosures regarding potential coverage of air ambulance services by insurance in their marketing, advertisements, and contract documents.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of State Health Services in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1460 amends the Health and Safety Code to provide for the regulation of air ambulance subscription providers. The bill defines "air ambulance" and "air ambulance subscription provider."

C.S.H.B. 1460 requires an air ambulance subscription provider to maintain a website and to include the website address to the patient portal or patient advocacy section on each piece of communication provided or made available to a consumer. The bill requires the provider to make the following information accessible by one click from the website's home page:

- frequently asked questions and answers;
- information on the procedure for filing a complaint with the Department of State Health Services (DSHS);
- contact information for the Emergency Medical Services Compliance Unit of DSHS and for the U.S. Department of Transportation's Office of Aviation Consumer Protection; and
- contact information for other health consumer informational resources as prescribed by DSHS rule.

The bill requires a subscription provider to provide an email address and a dedicated telephone hotline number for consumers to submit questions, complaints, and concerns on the provider's website and on each piece of communication provided or made available to a consumer.

C.S.H.B. 1460 sets out specified disclosure statements that a subscription provider must include in 14-point or larger bold type on each marketing, advertisement, or contract document related to an air ambulance subscription relating to the following:

- the fact that membership purchase is not required to receive air medical services;
- coverage of air ambulance bills by Medicaid;
- coverage of air ambulance services by Medicare, a Medicare Advantage plan, or a Medigap plan and potential out-of-pocket costs under those plans; and
- the potential for air ambulance services to be covered by private health insurance.

C.S.H.B. 1460 applies only to an air ambulance subscription contract delivered, issued for delivery, or renewed on or after September 1, 2022, and an air ambulance subscription provider is not required to comply with the bill's provisions before that date.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1460 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the original and the substitute establish certain regulations relating to air ambulance subscriptions, the scope of their provisions differ. The substitute retains only certain disclosure and transparency requirements from the original while omitting the following provisions:

- a provision establishing that an air ambulance subscription provider engages in the business of insurance;
- an authorization to make coverage of transportation in an air ambulance by an air ambulance subscription provider secondary to an insurance policy or health benefit plan in which the consumer is enrolled; and
- requirements for subscription providers regarding the implementation of a financial assistance program, the designation of personnel to provide certain services, and the provision of mandatory consumer advocacy training for certain provider personnel.

With respect to the requirement for subscription providers to maintain a website, the substitute revises the original's provisions as follows:

- omits the requirement for the provider to include on the website a section that is clearly marked "patient portal" or "patient advocacy" and certain requirements regarding the content and ease of access of that section, including a requirement for it to provide a layperson's explanation of what to expect during the claims process; and
- replaces the requirement for the patient portal or patient advocacy section of the website to include frequently asked questions and answers, information on how to file a complaint, and certain contact information with a requirement for that information to be accessible by one click from the website's home page.

Additionally, by establishing its provisions under the Health and Safety Code instead of the Insurance Code as in the original, the substitute changes the entity responsible for prescribing rules regarding the health consumer informational resources to be included on the website from the Texas Department of Insurance to DSHS.

With respect to the requirement for subscription providers to provide certain consumer disclosures, the substitute revises the original's provisions as follows:

- increases the minimum font size for the disclosures from 12-point font to 14-point font;
- requires two additional disclosures not in the original regarding the fact that a membership is not required to receive air medical services and regarding the potential coverage of the services by private health insurance; and
- revises the disclosure regarding Medicare and related plans.