

By: Bonnen

H.B. No. 1617

A BILL TO BE ENTITLED

AN ACT

relating to recovery of medical or health care expenses in civil actions.

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

SECTION 1. Section 41.0105, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 41.0105. EVIDENCE RELATING TO AMOUNT OF ECONOMIC DAMAGES. (a) In addition to any other limitation under law, recovery of medical or health care expenses incurred is limited to the amount actually paid or incurred by or on behalf of the claimant.

(b) Subject to Subsection (a), a party in an action in which a claimant seeks recovery of medical or health care expenses may introduce evidence of the reasonableness of the amount charged for medical or health care services provided to the claimant, including:

(1) the amount actually paid for the medical or health care services provided to the claimant, unless there is a formal or informal agreement that the medical or health care provider will wholly or partly refund, rebate, or remit the amount paid to the payer or another person, in which case the amount actually paid is not admissible in evidence;

(2) the amount billed by the medical or health care provider for the medical or health care services provided to the

1 claimant;

2 (3) the amount paid, the amount that would have been  
3 paid, or the amount likely to be paid for the medical or health care  
4 services provided to the claimant by a health benefit plan,  
5 workers' compensation insurance, an employer-provided plan,  
6 Medicaid, Medicare, or another similar source available to pay for  
7 services provided to the claimant at the time the services were  
8 provided or available to pay for the services after the services  
9 were provided, as applicable;

10 (4) the average amount typically paid or allowed by  
11 health benefit plan issuers or governmental payers at or near the  
12 time the medical or health care services were provided to the  
13 claimant to medical or health care providers who:

14 (A) are located in the same geographic area as  
15 the medical or health care provider who provided the services to the  
16 claimant; and

17 (B) offer the same type of medical or health care  
18 services as the services provided to the claimant; or

19 (5) the average of the amounts actually accepted for  
20 payment in the previous 12 months by the medical or health care  
21 provider who provided medical or health care services to the  
22 claimant for the same services provided to patients other than the  
23 claimant.

24 SECTION 2. Section 41.0105, Civil Practice and Remedies  
25 Code, as amended by this Act, applies only to an action commenced on  
26 or after the effective date of this Act. An action commenced before  
27 the effective date of this Act is governed by the law applicable to

1 the action immediately before the effective date of this Act, and  
2 that law is continued in effect for that purpose.

3 SECTION 3. This Act takes effect September 1, 2021.