

By: Martinez

H.B. No. 4045

A BILL TO BE ENTITLED

AN ACT

relating to the cost, payment, and collection of health care expenses.

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

SECTION 1. Subtitle A, Title 4, Health and Safety Code, is amended by adding Chapter 226 to read as follows:

CHAPTER 226. COST, PAYMENT, AND COLLECTION OF HEALTH CARE EXPENSES
FOR SERVICES PROVIDED BY CERTAIN HEALTH CARE FACILITIES AND
PROFESSIONALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 226.001. PURPOSE. The purpose of this chapter is to reduce burdensome medical debt and to protect patients in their dealings with medical creditors, medical debt collectors, and medical debt buyers in connection with medical debt.

Sec. 226.002. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to effect its purposes.

Sec. 226.003. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Consumer report" has the meaning assigned by Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. Section 1681a).

(3) "Consumer reporting agency" means a person who regularly engages wholly or partly in the practice of assembling or

1 evaluating consumer credit information or other information on
2 individuals to furnish consumer reports to third parties for
3 monetary fees, for dues, or on a cooperative nonprofit basis.

4 (4) "Executive commissioner" means the executive
5 commissioner of the Health and Human Services Commission.

6 (5) "Health care facility":

7 (A) means:

8 (i) a hospital licensed under Chapter 241;

9 (ii) an outpatient clinic or facility
10 affiliated with or operating under the license of a hospital
11 described by Subparagraph (i);

12 (iii) an ambulatory surgical center
13 licensed under Chapter 243; or

14 (iv) a facility licensed in this state that
15 provides outpatient health care services and has revenues of at
16 least \$20 million annually; and

17 (B) includes a health care professional licensed
18 in this state who provides health care services in one or more of
19 the facilities or other health care settings described by Paragraph
20 (A) and who bills patients independently.

21 (6) "Health care services" means services for the
22 diagnosis, prevention, treatment, cure, or relief of a physical,
23 dental, behavioral, substance use disorder or mental health
24 condition, illness, injury, or disease. The term includes any
25 procedures, products, devices, or medications.

26 (7) "Medical creditor" means a health care facility or
27 other entity that provides health care services and to whom an

1 individual:

2 (A) owes money for those services; or

3 (B) previously owed money for those services if

4 the medical debt has been purchased by a medical debt buyer.

5 (8) "Medical debt" means a debt arising from the
6 receipt of health care services.

7 (9) "Medical debt buyer" means a person who purchases
8 a medical debt for collection purposes from a medical creditor or
9 other subsequent owner of the medical debt, regardless of whether
10 the person collects the medical debt, hires a third party to collect
11 the medical debt, or hires an attorney to pursue collection
12 litigation in connection with the medical debt.

13 (10) "Medical debt collector" means a person who
14 regularly collects or attempts to collect, directly or indirectly,
15 a medical debt originally owed or due another or asserted to be owed
16 or due another. The term includes a medical debt buyer.

17 Sec. 226.004. RULES. (a) The executive commissioner shall
18 adopt rules to administer this chapter.

19 (b) In adopting rules under this section, the executive
20 commissioner shall consult with the Texas Medical Board, the State
21 Board of Dental Examiners, and the commissioner of insurance as
22 appropriate and necessary.

23 SUBCHAPTER B. PRICE INFORMATION AND PAYMENTS

24 Sec. 226.051. PRICE INFORMATION ONLINE. (a) In this
25 section, "gross charges" means a health care facility's full
26 established price for a health care service that the facility
27 charges patients who do not have health benefit plan coverage

1 before applying any contractual allowances, discounts, or
2 deductions.

3 (b) A health care facility shall post price information of
4 the facility's health care services on its Internet website. The
5 information must be accessible from a link on the website's home
6 page, and at a minimum must:

7 (1) list the gross charges for each health care
8 service provided by the facility;

9 (2) list the Medicare reimbursement amount for the
10 health care service, next to the relevant gross charges; and

11 (3) use plain language titles or descriptions of
12 health care services that can be understood by the average
13 individual.

14 Sec. 226.052. ITEMIZED BILL. On a patient's written or oral
15 request and without charge, a medical creditor or medical debt
16 collector shall provide an itemized bill to the patient not later
17 than the 60th day after the date of the request. The bill must
18 contain:

19 (1) the name and address of the medical creditor;

20 (2) the date a health care service was provided;

21 (3) the date the medical debt was incurred, if
22 different from the date of service;

23 (4) a detailed list of the specific health care
24 services provided to the patient;

25 (5) a list of all health care professionals who
26 treated the patient;

27 (6) the amount of principal for any medical debt

1 incurred;

2 (7) any adjustment to the bill, such as negotiated
3 insurance rates or other discounts;

4 (8) the amount of any payments received from the
5 patient or any other person on the patient's behalf; and

6 (9) any interest or fees.

7 Sec. 226.053. INTEREST ON MEDICAL DEBT. (a)

8 Notwithstanding any agreement to the contrary or other law,
9 interest on medical debt is limited to the rate of interest equal to
10 the weekly average one-year constant maturity treasury yield, but
11 not less than two percent per year and not more than five percent
12 per year, as published by the Board of Governors of the Federal
13 Reserve System, for the calendar week preceding the date when the
14 patient was first provided with a bill for payment of the health
15 care services. If the Board of Governors of the Federal Reserve
16 System ceases to publish this interest rate, the executive
17 commissioner by rule shall substitute another measure for
18 determining a reasonable interest rate of not more than five
19 percent per year.

20 (b) Notwithstanding any agreement to the contrary or other
21 law, the rate of interest specified by Subsection (a) applies to a
22 judgment on medical debt.

23 Sec. 226.054. RECEIPT FOR PAYMENTS. Not later than the 10th

24 business day after the date payment of a medical debt is received,
25 the medical creditor or medical debt collector shall provide to the
26 person making the payment a receipt showing:

27 (1) the amount paid;

- 1 (2) the date payment is received;
- 2 (3) the outstanding balance of the patient's account
3 before the most recent payment;
- 4 (4) the new balance after application of the payment;
- 5 (5) the interest rate and interest accrued since the
6 last payment;
- 7 (6) the patient's account number;
- 8 (7) the name of the current owner of the debt and, if
9 different, the name of the medical creditor; and
- 10 (8) whether the payment is accepted as payment in full
11 of the debt.

12 Sec. 226.055. LIABILITY FOR MEDICAL DEBT. (a) Parents and
13 legal guardians are jointly liable for any medical debt incurred by
14 a child under 18 years of age.

15 (b) A spouse or other person is not liable for the medical
16 debt of a person 18 years of age or older. A person may consent to
17 assume liability, if the consent is:

- 18 (1) on a separate document signed by the person;
- 19 (2) not solicited in an emergency room or during an
20 emergency situation; and
- 21 (3) not required as a condition of providing emergency
22 or nonemergency health care services.

23 SUBCHAPTER C. MEDICAL DEBT COLLECTIONS

24 Sec. 226.101. PROHIBITED COLLECTION ACTIONS. To collect a
25 medical debt, a medical creditor or medical debt collector may not:

- 26 (1) cause an individual's arrest;
- 27 (2) cause an individual to be the subject of a capias

1 as defined by Article 23.01, Code of Criminal Procedure; or

2 (3) foreclose on an individual's real property.

3 Sec. 226.102. EXTRAORDINARY COLLECTION ACTIONS. (a) In
4 this section, "extraordinary collection action," with respect to a
5 patient, means:

6 (1) selling the patient's medical debt to another
7 party, unless, before the sale, the medical creditor enters into a
8 written agreement with the medical debt buyer providing that:

9 (A) the medical debt buyer may not engage in an
10 extraordinary collection action as provided by this section to
11 obtain payment of the debt; and

12 (B) the medical debt collector may not charge
13 interest on the debt at a rate in excess of the limit prescribed by
14 Section 226.053;

15 (2) reporting adverse information about the patient to
16 a consumer reporting agency; or

17 (3) initiating an action that requires a legal or
18 judicial process, including:

19 (A) placing a lien on the patient's property;

20 (B) seizing the patient's bank account or any
21 other personal property; or

22 (C) bringing a civil action against the patient.

23 (b) Except as provided by Section 226.103, a medical
24 creditor or medical debt collector may not engage in an
25 extraordinary collection action against a patient until the 180th
26 day after the date the first bill for an amount owed for receipt of
27 health care services has been sent to the patient.

1 (c) At least 30 days before taking an extraordinary
2 collection action, a medical creditor or medical debt collector
3 shall provide to the patient a notice containing:

4 (1) the extraordinary collection actions that will be
5 initiated to obtain payment; and

6 (2) a deadline after which extraordinary collection
7 actions will be initiated, which may not be earlier than the 30th
8 day after the date notice is provided.

9 (d) A health care facility or medical debt collector
10 collecting medical debt for services provided at a health care
11 facility may not use any extraordinary collection action not
12 described in the facility's billing and collections policy.

13 Sec. 226.103. REPORTING TO CONSUMER REPORTING AGENCY. (a)
14 A medical creditor or medical debt collector may not communicate
15 with or report information to a consumer reporting agency regarding
16 a patient's medical debt during the one-year period beginning on
17 the date when the patient was first given a bill for the health care
18 service to which the debt pertains.

19 (b) After expiration of the one-year period prescribed by
20 Subsection (a), a medical creditor or medical debt collector shall
21 give the patient at least one additional bill before reporting the
22 medical debt to a consumer reporting agency. The amount reported
23 must be the same as the amount stated in the additional bill, and
24 the bill must state that the debt is being reported to a consumer
25 reporting agency.

26 (c) A medical debt collector shall also provide the notice
27 required by 15 U.S.C. Section 1692g before reporting a medical debt

1 to a consumer reporting agency.

2 Sec. 226.104. COLLECTION OF MEDICAL DEBT DURING HEALTH
3 BENEFIT PLAN REVIEW PROHIBITED. (a) In this section:

4 (1) "External review" means a review of an adverse
5 benefit determination conducted under Chapter 4201, Insurance
6 Code, a federal external review process as described by 42 U.S.C.
7 Section 300gg-19, a review conducted under 29 U.S.C. Section 1133,
8 a Medicare appeals process, a Medicaid appeals process, or another
9 applicable external appeals process.

10 (2) "Internal review" means a review of an adverse
11 benefit determination conducted by a health benefit plan issuer or
12 other insurer.

13 (b) A medical creditor or medical debt collector that knows
14 or should have known about an internal review, external review, or
15 other appeal of a health benefit plan decision that concerns a
16 medical debt and is pending or was pending during the 60 days
17 preceding the date of the review or appeal may not:

18 (1) provide information regarding unpaid charges for
19 health care services to a consumer reporting agency;

20 (2) communicate with the patient regarding the medical
21 debt for the purpose of seeking to collect the debt; or

22 (3) initiate a lawsuit or arbitration proceeding
23 against the patient regarding the medical debt.

24 (c) If a medical debt has already been reported to a
25 consumer reporting agency and the medical creditor or medical debt
26 collector who reported the information learns of an internal
27 review, external review, or other appeal of a health benefit plan

1 decision that concerns the debt and is pending or was pending during
2 the 60 days preceding the date of the review or appeal, the creditor
3 or collector shall instruct the consumer reporting agency to delete
4 information about the debt.

5 (d) A medical creditor described by Subsection (b) may not
6 refer, sell, or send the medical debt to a medical debt collector,
7 including selling the debt to a medical debt buyer.

8 Sec. 226.105. FORGIVEN COST-SHARING AMOUNTS RELATED TO
9 HEALTH BENEFIT PLAN COVERAGE NOT BREACH OF CONTRACT. Forgiveness
10 of a patient's copayment, coinsurance, deductible, facility fee,
11 out-of-network charge, or other cost-sharing amounts related to a
12 patient's health benefit plan coverage is not a breach of contract
13 or other violation of an agreement between the medical creditor and
14 the health benefit plan issuer or payor.

15 SUBCHAPTER D. ENFORCEMENT AND REMEDIES

16 Sec. 226.151. DECEPTIVE TRADE PRACTICE. A violation of
17 this chapter constitutes a deceptive trade practice in addition to
18 the practices described by Subchapter E, Chapter 17, Business &
19 Commerce Code, and is actionable under that subchapter.

20 Sec. 226.152. INJUNCTIVE RELIEF. An individual may bring
21 an action for injunctive relief or other appropriate equitable
22 relief to enforce compliance with this chapter.

23 Sec. 226.153. WAIVER OF RIGHTS OR REMEDIES PROHIBITED. (a)
24 An agreement between a patient and a health care facility or medical
25 debt collector may not contain a provision that, before a dispute
26 arises, waives or has the effect of waiving the rights of a patient
27 to resolve the dispute by:

1 (1) obtaining:
2 (A) injunctive, declaratory, or other equitable
3 relief;
4 (B) monetary damages; or
5 (C) attorney's fees and costs; or
6 (2) requesting a hearing at which the patient can
7 present evidence in person.

8 (b) A provision that violates Subsection (a) is void and
9 unenforceable.

10 (c) A waiver by a patient or other individual of any
11 protection provided by or any right of the patient or other
12 individual granted under this chapter is void and unenforceable.

13 (d) The remedies provided by this section are not exclusive
14 remedies, and a patient is not required to exhaust any
15 administrative remedies provided by this chapter or any other
16 applicable law.

17 Sec. 226.154. COMPLAINT PROCESS. (a) The commission shall
18 establish a complaint process by which a patient or other member of
19 the public may file a complaint against a medical creditor or
20 medical debt collector who violates this chapter.

21 (b) A complaint filed under this section is public
22 information, except for the name or address of a complainant or
23 other personal identifying information.

24 SECTION 2. As soon as practicable after the effective date
25 of this Act, the executive commissioner of the Health and Human
26 Services Commission shall adopt rules as required to administer,
27 implement, and enforce Chapter 226, Health and Safety Code, as

1 added by this Act, including rules relating to establishing a
2 complaint process as required by Section 226.154, Health and Safety
3 Code, as added by this Act.

4 SECTION 3. The changes in law made by this Act apply only to
5 a health care service provided on or after the effective date of
6 this Act. A health care service provided before the effective date
7 of this Act is governed by the law in effect on the date the service
8 was provided, and the former law is continued in effect for that
9 purpose.

10 SECTION 4. This Act takes effect September 1, 2021.