

A BILL TO BE ENTITLED

AN ACT

relating to the required disclosure by hospitals of prices for hospital services and items; providing administrative penalties.

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

SECTION 1. Chapter 311, Health and Safety Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. DISCLOSURE OF PRICES

Sec. 311.011. DEFINITIONS. In this subchapter:

(1) "Ancillary service" means a hospital item or service that a hospital customarily provides as part of a shoppable service.

(2) "Chargemaster" means the list of all hospital items or services maintained by a hospital for which the hospital has established a charge.

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

(4) "De-identified maximum negotiated charge" means the highest charge that a hospital has negotiated with all third party payors for a hospital item or service.

(5) "De-identified minimum negotiated charge" means the lowest charge that a hospital has negotiated with all third party payors for a hospital item or service.

(6) "Discounted cash price" means the charge that applies to an individual who pays cash, or a cash equivalent, for a

1 hospital item or service.

2 (7) "Gross charge" means the charge for a hospital
3 item or service that is reflected on a hospital's chargemaster,
4 absent any discounts.

5 (8) "Hospital" means a hospital:

6 (A) licensed under Chapter 241; or

7 (B) owned or operated by this state or an agency
8 of this state.

9 (9) "Hospital items or services" means all items and
10 services, including individual items and services and service
11 packages, that may be provided by a hospital to a patient in
12 connection with an inpatient admission or an outpatient department
13 visit for which the hospital has established a standard charge,
14 including:

15 (A) supplies and procedures;

16 (B) room and board;

17 (C) use of the facility and other areas,
18 generally referred to as facility fees;

19 (D) services of physicians and non-physician
20 practitioners, generally referred to as professional charges; and

21 (E) any other item or service for which a
22 hospital has established a standard charge.

23 (10) "Machine-readable format" means a digital
24 representation of information in a file that can be imported or read
25 into a computer system for further processing. The term includes
26 .XML, .JSON and .CSV formats.

27 (11) "Payor-specific negotiated charge" means the

1 charge that a hospital has negotiated with a third party payor for a
2 hospital item or service.

3 (12) "Service package" means an aggregation of
4 individual hospital items or services into a single service with a
5 single charge.

6 (13) "Shoppable service" means a service that may be
7 scheduled by a health care consumer in advance.

8 (14) "Standard charge" means the regular rate
9 established by the hospital for a hospital item or service provided
10 to a specific group of paying patients. The term includes all of
11 the following, as defined under this section:

- 12 (A) the gross charge;
13 (B) the payor-specific negotiated charge;
14 (C) the de-identified minimum negotiated charge;
15 (D) the de-identified maximum negotiated charge;
16 and
17 (E) the discounted cash price.

18 (15) "Third party payor" means an entity that is, by
19 statute, contract, or agreement, legally responsible for payment of
20 a claim for a hospital item or service.

21 Sec. 311.012. PUBLIC AVAILABILITY OF PRICE INFORMATION
22 REQUIRED. Notwithstanding any other law, a hospital must make
23 public:

24 (1) a digital file in a machine-readable format that
25 contains a list of all standard charges for all hospital items or
26 services as described by Section 311.013; and

27 (2) a consumer-friendly list of standard charges for a

1 limited set of shoppable services as provided in Section 311.014.

2 Sec. 311.013. LIST OF STANDARD CHARGES REQUIRED. (a) A
3 hospital shall:

4 (1) maintain a list of all standard charges for all
5 hospital items or services in accordance with this section; and

6 (2) ensure the list required under Subdivision (1) is
7 available at all times to the public, including by posting the list
8 electronically in the manner provided by this section.

9 (b) The standard charges contained in the list required to
10 be maintained by a hospital under Subsection (a) must reflect the
11 standard charges applicable to that location of the hospital,
12 regardless of whether the hospital operates in more than one
13 location or operates under the same license as another hospital.

14 (c) The list required under Subsection (a) must include the
15 following items, as applicable:

16 (1) a description of each hospital item or service
17 provided by the hospital;

18 (2) the following charges for each individual hospital
19 item or service when provided in either an inpatient setting or an
20 outpatient department setting, as applicable:

21 (A) the gross charge;

22 (B) the de-identified minimum negotiated charge;

23 (C) the de-identified maximum negotiated charge;

24 (D) the discounted cash price; and

25 (E) the payor-specific negotiated charge, listed
26 by the name of the third party payor and plan associated with the
27 charge and displayed in a manner that clearly associates the charge

1 with each third party payor and plan; and

2 (3) any code used by the hospital for purposes of
3 accounting or billing for the hospital item or service, including
4 the Current Procedural Terminology (CPT) code, the Healthcare
5 Common Procedure Coding System (HCPCS) code, the Diagnosis Related
6 Group (DRG) code, the National Drug Code (NDC), or other common
7 identifier.

8 (d) The information contained in the list required under
9 Subsection (a) must be published in a single digital file that is in
10 a machine-readable format.

11 (e) The list required under Subsection (a) must be displayed
12 in a prominent location on the home page of the hospital's publicly
13 accessible Internet website or accessible by selecting a dedicated
14 link that is prominently displayed on the home page of the
15 hospital's publicly accessible Internet website. If the hospital
16 operates multiple locations and maintains a single Internet
17 website, the list required under Subsection (a) must be posted for
18 each location the hospital operates in a manner that clearly
19 associates the list with the applicable location of the hospital.

20 (f) The list required under Subsection (a) must:

21 (1) be available:

22 (A) free of charge;

23 (B) without having to establish a user account or
24 password;

25 (C) without having to submit personal
26 identifying information; and

27 (D) without having to overcome any other

1 impediment, including entering a code to access the list;
2 (2) be digitally searchable; and
3 (3) use the following naming convention specified by
4 the Centers for Medicare and Medicaid Services, specifically:

5 <ein>_<hospital-name>_standardcharges.[json|xml|csv]

6 (g) The hospital must update the list required under
7 Subsection (a) at least once each year. The hospital must clearly
8 indicate the date on which the list was most recently updated,
9 either on the list or in a manner that is clearly associated with
10 the list.

11 Sec. 311.014. CONSUMER-FRIENDLY LIST OF SHOPPABLE
12 SERVICES. (a) Except as provided by Subsection (c), a hospital
13 shall maintain and make publicly available a list of the standard
14 charges described by Sections 311.013(c)(2)(B), (C), (D), and (E)
15 for each of at least 300 shoppable services provided by the
16 hospital. The hospital may select the shoppable services to be
17 included in the list, except that the list must include:

18 (1) the 70 services specified as shoppable services by
19 the Centers for Medicare and Medicaid Services; or

20 (2) if the hospital does not provide all of the
21 shoppable services described by Subdivision (1), as many of the
22 shoppable services described by that subdivision that the hospital
23 does provide.

24 (b) In selecting a shoppable service for purposes of
25 inclusion in the list required under Subsection (a), a hospital
26 must consider how frequently the hospital provides the service and
27 the hospital's billing rate for that service.

1 (c) If a hospital does not provide 300 shoppable services,
2 the hospital must maintain a list of the total number of shoppable
3 services that the hospital provides in a manner that otherwise
4 complies with the requirements of Subsection (a).

5 (d) The list required under Subsection (a) or (c), as
6 applicable, must:

7 (1) include:

8 (A) a plain-language description of each
9 shoppable service included on the list;

10 (B) the payor-specific negotiated charge that
11 applies to each shoppable service included on the list and any
12 ancillary service, listed by the name of the third party payor and
13 plan associated with the charge and displayed in a manner that
14 clearly associates the charge with the third party payor and plan;

15 (C) the discounted cash price that applies to
16 each shoppable service included on the list and any ancillary
17 service or, if the hospital does not offer a discounted cash price
18 for one or more of the shoppable or ancillary services on the list,
19 the gross charge for the shoppable service or ancillary service, as
20 applicable;

21 (D) the de-identified minimum negotiated charge
22 that applies to each shoppable service included on the list and any
23 ancillary service;

24 (E) the de-identified maximum negotiated charge
25 that applies to each shoppable service included on the list and any
26 ancillary service; and

27 (F) any code used by the hospital for purposes of

1 accounting or billing for each shoppable service included on the
2 list and any ancillary service, including the Current Procedural
3 Terminology (CPT) code, the Healthcare Common Procedure Coding
4 System (HCPCS) code, the Diagnosis Related Group (DRG) code, the
5 National Drug Code (NDC), or other common identifier; and

6 (2) if applicable:

7 (A) state each location at which the hospital
8 provides the shoppable service and whether the standard charges
9 included in the list apply at that location to the provision of that
10 shoppable service in an inpatient setting, an outpatient department
11 setting, or in both of those settings; and

12 (B) indicate if one or more of the shoppable
13 services specified by the Centers of Medicare and Medicaid Services
14 is not provided by the hospital.

15 (e) The list required under Subsection (a) or (c), as
16 applicable, must be:

17 (1) displayed in the manner prescribed by Section
18 311.013(e) for the list required under that section;

19 (2) available:

20 (A) free of charge;

21 (B) without having to register or establish a
22 user account or password;

23 (C) without having to submit personal
24 identifying information; and

25 (D) without having to overcome any other
26 impediment, including entering a code to access the list;

27 (3) searchable by service description, billing code,

1 and payor; and

2 (4) updated in the manner prescribed by Section
3 311.013(g) for the list required under that section.

4 (f) Notwithstanding any other provision of this section, a
5 hospital is considered to meet the requirements of this section if
6 the hospital maintains, as determined by the commission, an
7 Internet-based price estimator tool that:

8 (1) provides a cost estimate for each shoppable
9 service and any ancillary service included on the list maintained
10 by the hospital under Subsection (a);

11 (2) allows a person to obtain an estimate of the amount
12 the person will be obligated to pay the hospital if the person
13 elects to use the hospital to provide the service; and

14 (3) is:

15 (A) prominently displayed on the hospital's
16 publicly accessible Internet website; and

17 (B) accessible to the public:

18 (i) without charge; and

19 (ii) without having to register or
20 establish a user account or password.

21 Sec. 311.015. MONITORING AND ENFORCEMENT. (a) The
22 commission may monitor hospital compliance with the requirements of
23 this subchapter using any of the following methods:

24 (1) evaluating complaints made by persons to the
25 commission regarding noncompliance with this subchapter;

26 (2) reviewing any analysis prepared regarding
27 noncompliance with this subchapter; and

1 (3) auditing the Internet websites of hospitals for
2 compliance with this subchapter.

3 (b) If the commission determines that a hospital is not in
4 compliance with a provision of this subchapter, the commission may
5 take any of the following actions, without regard to the order of
6 the actions:

7 (1) provide a written notice to the hospital that
8 clearly explains the manner in which the hospital is not in
9 compliance with this subchapter;

10 (2) request a corrective action plan from the hospital
11 if the hospital has materially violated a provision of this
12 subchapter, as determined under Section 311.016; and

13 (3) impose an administrative penalty on the hospital
14 and publicize the penalty on the commission's Internet website if
15 the hospital fails to:

16 (A) respond to the commission's request to submit
17 a corrective action plan; or

18 (B) comply with the requirements of a corrective
19 action plan submitted to the commission.

20 Sec. 311.016. MATERIAL VIOLATION; CORRECTIVE ACTION PLAN.

21 (a) A hospital materially violates this subchapter if the
22 hospital:

23 (1) fails to comply with the requirements of Section
24 311.012; or

25 (2) fails to publicize the hospital's standard charges
26 in the form and manner required by Sections 311.013 and 311.014.

27 (b) If the commission determines that a hospital has

1 materially violated this subchapter, the commission may issue a
2 notice of material violation to the hospital and request that the
3 hospital submit a corrective action plan. The notice must indicate
4 the form and manner in which the corrective action plan must be
5 submitted to the commission, and clearly state the date by which the
6 hospital must submit the plan.

7 (c) A hospital that receives a notice under Subsection (b)
8 must:

9 (1) submit a corrective action plan in the form and
10 manner, and by the specified date, prescribed by the notice of
11 violation; and

12 (2) as soon as practicable after submission of a
13 corrective action plan to the commission, act to comply with the
14 plan.

15 (d) A corrective action plan submitted to the commission
16 must:

17 (1) describe in detail the corrective action the
18 hospital will take to address any violation identified by the
19 commission in the notice provided under Subsection (b); and

20 (2) provide a date by which the hospital will complete
21 the corrective action described by Subdivision (1).

22 (e) A corrective action plan is subject to review and
23 approval by the commission. After the commission reviews and
24 approves a hospital's corrective action plan, the commission may
25 monitor and evaluate the hospital's compliance with the plan.

26 (f) A hospital is considered to have failed to respond to
27 the commission's request to submit a corrective action plan if the

1 hospital fails to submit a corrective action plan:

2 (1) in the form and manner specified in the notice
3 provided under Subsection (b); or

4 (2) by the date specified in the notice provided under
5 Subsection (b).

6 (g) A hospital is considered to have failed to comply with a
7 corrective action plan if the hospital fails to address a violation
8 within the specified period of time contained in the plan.

9 Sec. 311.017. ADMINISTRATIVE PENALTY. (a) The commission
10 may impose an administrative penalty on a hospital in accordance
11 with Section 241.059 if the hospital fails to:

12 (1) respond to the commission's request to submit a
13 corrective action plan; or

14 (2) comply with the requirements of a corrective
15 action plan submitted to the commission.

16 (b) The commission may impose an administrative penalty on a
17 hospital for a violation of each requirement of this subchapter in
18 an amount not to exceed \$300 for each day in which one or more
19 violations occurred, regardless of whether the hospital violated
20 multiple requirements of this subchapter in the same day.

21 Sec. 311.018. LEGISLATIVE RECOMMENDATIONS. The commission
22 may propose to the legislature recommendations for amending this
23 subchapter, including recommendations in response to amendments by
24 the Centers for Medicare and Medicaid Services to 45 C.F.R. Part
25 180.

26 SECTION 2. This Act takes effect September 1, 2021.