

By: Buckingham

S.B. No. 2014

A BILL TO BE ENTITLED

AN ACT

relating to a health care entity's disclosure to patients and prospective patients of charges for certain health care services, goods, or procedures; authorizing administrative penalties.

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

SECTION 1. Title 2, Health and Safety Code, is amended by adding Subtitle J to read as follows:

SUBTITLE J. MEDICAL BILLING AND CHARGES

CHAPTER 185. CHARGE TRANSPARENCY

Sec. 185.001. DEFINITIONS. In this chapter:

(1) "Bundled health care services, goods, or procedures" means the grouping of multiple health care services, goods, or procedures provided by a health care entity or multiple health care entities represented as a single charge.

(2) "Charge" means the dollar amount set by the health care entity as the cost for a health care service, good, or procedure, before any applicable discount or negotiated rate is applied. The term does not include any applicable discount, including a discount:

(A) for prompt payment;

(B) under a written charity care policy; or

(C) under a health care entity's contract with a health benefit plan issuer.

(3) "Charge list" means:

1           (A) for a health care professional or provider, a  
2 list of charges for the health care professional's or provider's  
3 health care services, goods, or procedures that the professional or  
4 provider billed at least 50 times in the preceding calendar year; or

5           (B) for a health care facility, a list of charges  
6 for the health care facility's:

7                   (i) outpatient health care services, goods,  
8 or procedures that the facility billed at least 50 times in the  
9 preceding calendar year; and

10                   (ii) inpatient health care services, goods,  
11 or procedures that exceed \$500 and the facility billed at least 50  
12 times in the preceding calendar year.

13           (4) "Health care entity" means:

14                   (A) a health care professional;

15                   (B) a health care provider; or

16                   (C) a health care facility.

17           (5) "Health care facility" means a facility that  
18 provides a health care service, good, or procedure in this state for  
19 which a license, certificate, registration, or other authority  
20 issued by this state is required. The term includes:

21                   (A) an institutional health care provider;

22                   (B) a hospital licensed under Chapter 241;

23                   (C) an ambulatory surgical center licensed under  
24 Chapter 243;

25                   (D) a birthing center licensed under Chapter 244;

26                   (E) a freestanding emergency medical care  
27 facility licensed under Chapter 254; or

1           (F) a chemical dependency treatment facility  
2 licensed under Chapter 464.

3           (6) "Health care professional" means an individual who  
4 provides a health care service, good, or procedure in this state  
5 under a license, certificate, registration, or other authority  
6 issued by an agency of this state to diagnose, prevent, alleviate,  
7 or cure a human illness or injury, including a physician, dentist,  
8 or pharmacist.

9           (7) "Health care provider" means a person who provides  
10 to patients in this state ancillary health care services, goods, or  
11 procedures under a license, certificate, or registration issued by  
12 this state or who is otherwise ordered or authorized by a health  
13 care professional to diagnose, prevent, alleviate, or cure a human  
14 illness or injury, including laboratory services, radiological  
15 services, and durable medical equipment. The term does not include  
16 a health care professional or a health care facility.

17           (8) "Patient" means an individual who is receiving or  
18 has received a health care service, good, or procedure from a health  
19 care entity. The term includes a personal representative of the  
20 patient.

21           (9) "Personal representative" means:

22                   (A) a parent, legal guardian, or relative; or

23                   (B) an individual holding a medical power of  
24 attorney for a patient or prospective patient.

25           (10) "Primary regulatory authority" means the state  
26 agency that is primarily responsible for licensing, permitting,  
27 registering, or otherwise regulating a health care entity.

1           (11) "Prospective patient" means an individual who is  
2 considering obtaining a health care service, good, or procedure  
3 from a health care entity. The term includes a personal  
4 representative of a prospective patient.

5           Sec. 185.002. HEALTH CARE CHARGE LIST REQUIRED. (a) Each  
6 health care entity shall compose and maintain a charge list under  
7 this chapter.

8           (b) A health care entity is not required to include in the  
9 entity's charge list the charges of health care services, goods, or  
10 procedures provided by any other health care entity.

11           (c) A health care entity that bills bundled health care  
12 services, goods, or procedures may, at the entity's discretion,  
13 list the charges of the bundled health care services, goods, or  
14 procedures in the entity's charge list.

15           Sec. 185.003. EXPRESSION OF CHARGES. Each charge listed on  
16 a charge list required under this chapter must be accompanied by one  
17 of the following at the discretion of the health care entity:

18                   (1) a description in plain English of the associated  
19 health care service, good, or procedure; or

20                   (2) the applicable standard billing code along with a  
21 description of the associated health care service, good, or  
22 procedure.

23           Sec. 185.004. CHARGE LIST AVAILABILITY. (a) A health care  
24 entity shall make its charge list available to patients and  
25 prospective patients by:

26                   (1) posting the charge list on the entity's Internet  
27 website; or

1           (2) providing access to the charge list on request at  
2 the entity's office, facility, or other practice site.

3           (b) A health care entity that maintains a waiting area shall  
4 post a clear and conspicuous notice of the availability of its  
5 charge list in the waiting area and in any registration, admission,  
6 or business office in which patients or prospective patients are  
7 reasonably expected to seek service. The notice must include a  
8 statement describing the method used to make the charge list  
9 available under Subsection (a).

10           (c) When a health care entity makes the charge list  
11 available to patients and prospective patients, the list must be  
12 accompanied by a notice that substantially states the following:

13           "NOTICE: THE CHARGES CONTAINED WITHIN THIS CHARGE LIST ARE  
14 SUBJECT TO CHANGE.

15           "YOUR BILL, INCLUDING ACTUAL OR TOTAL CHARGES, WILL VARY  
16 BASED ON MANY FACTORS, INCLUDING YOUR MEDICAL CONDITION, ANY  
17 UNKNOWN MEDICAL CONDITIONS YOU MAY HAVE, YOUR DIAGNOSIS AND  
18 RECOMMENDED TREATMENT PROTOCOLS, AND OTHER FACTORS ASSOCIATED WITH  
19 PERFORMANCE OF THE HEALTH CARE SERVICE OR PROCEDURE OR THE  
20 PROVISION OF THE HEALTH CARE GOOD.

21           "THE CHARGES CONTAINED IN THIS CHARGE LIST MAY DIFFER FROM  
22 THE AMOUNT TO BE PAID BY YOU OR YOUR THIRD-PARTY PAYOR, IF  
23 APPLICABLE. YOU MAY BE ELIGIBLE FOR A DISCOUNT FROM THE AMOUNTS  
24 STATED ON THE CHARGE LIST. REGARDLESS OF YOUR HEALTH BENEFIT PLAN  
25 COVERAGE, YOU MAY INQUIRE ABOUT THE AVAILABILITY OF DISCOUNTS.

26           "YOU MAY BE PERSONALLY LIABLE FOR PAYMENT FOR THE HEALTH CARE  
27 SERVICE, GOOD, OR PROCEDURE, DEPENDING ON YOUR HEALTH BENEFIT PLAN

1 COVERAGE. YOU SHOULD CONTACT YOUR HEALTH BENEFIT PLAN ISSUER, IF  
2 YOU HAVE COVERAGE, FOR ACCURATE INFORMATION REGARDING THE PLAN  
3 STRUCTURE, BENEFIT COVERAGE, DEDUCTIBLES, COPAYMENTS, COINSURANCE,  
4 AND OTHER PLAN PROVISIONS, SUCH AS NETWORK AVAILABILITY, THAT MAY  
5 IMPACT YOUR OUT-OF-POCKET RESPONSIBILITY FOR PAYMENT FOR HEALTH  
6 CARE SERVICES, GOODS, OR PROCEDURES, INCLUDING THOSE CONTAINED IN  
7 THIS CHARGE LIST."

8 Sec. 185.005. EXEMPTION. A health care entity that owns or  
9 is an employee of an entity that has fewer than three full-time  
10 equivalent employees is exempt from the requirements of this  
11 chapter.

12 Sec. 185.006. DISCOUNTS AND ADDITIONS. This chapter does  
13 not prohibit a health care entity from:

14 (1) offering or providing discounts from the amounts  
15 stated on the charge list or accepting less than the amount of a  
16 charge on the charge list as payment in full;

17 (2) offering or providing additional, different, or a  
18 higher complexity level of health care services, goods, or  
19 procedures for an additional or different amount;

20 (3) departing from the amounts on the charge list for a  
21 reason specified in the notice required by Section 185.004; or

22 (4) changing a charge on the charge list at any time,  
23 provided that the charge list is updated with the effective date to  
24 reflect the change.

25 Sec. 185.007. DELEGATION. A health care entity's  
26 responsibilities under this chapter may be performed by the  
27 entity's employer, employee, or other authorized delegate.

1       Sec. 185.008. ENFORCEMENT. (a) Each primary regulatory  
2 authority of a health care entity shall enforce this chapter in  
3 accordance with this section. If the applicable primary regulatory  
4 authority's enforcement process is complaint-based, a complaint  
5 must be filed in order for the primary regulatory authority to  
6 enforce this chapter.

7       (b) A health care entity that violates any applicable  
8 requirement of this chapter must be provided with an opportunity to  
9 correct the violation under Subsection (d).

10       (c) A primary regulatory authority that determines a health  
11 care entity has violated this chapter shall notify the entity of the  
12 violation.

13       (d) If the health care entity corrects the violation not  
14 later than the 30th business day after the date the health care  
15 entity receives notice under Subsection (c):

16               (1) the primary regulatory authority may not impose a  
17 fine, reprimand, administrative penalty, or other discipline on the  
18 health care entity; and

19               (2) the violation is confidential and not subject to  
20 Chapter 552, Government Code.

21       (e) The primary regulatory authority may assess an  
22 administrative penalty for a health care entity's violation of this  
23 chapter in the same manner as if the entity had violated the law  
24 under which the entity holds a license, certificate, registration,  
25 or other authority only if the entity:

26               (1) was provided notice of one or more violations  
27 under this chapter in the 12-month period preceding the notice of

1 the most recent violation; or

2 (2) failed to correct the violation before the 31st  
3 business day after the date the entity received notice of the  
4 violation.

5 (f) The amount of penalties assessed against a health care  
6 entity under this section may not exceed:

7 (1) \$250 for a single violation;

8 (2) \$500 for all violations occurring in a 12-month  
9 period for a health care professional; or

10 (3) \$5,000 for all violations occurring in a 12-month  
11 period for a health care provider or health care facility.

12 (g) All violations that are related to, arise from, or are  
13 discovered based on the same event or complaint shall be considered  
14 to be a single violation for purposes of this section. Each day a  
15 violation continues does not constitute a separate violation.

16 (h) Notwithstanding any other law, this section and the law  
17 referenced by this section provide the sole and exclusive remedy  
18 and enforcement mechanism for a violation of this chapter.

19 Sec. 185.009. CONTINUING EDUCATION CREDIT. A health care  
20 professional is entitled to claim two hours of the continuing  
21 education credit, including half a credit hour of ethics, with the  
22 appropriate primary regulatory authority for each year of  
23 compliance with this chapter.

24 Sec. 185.010. OUT-OF-NETWORK DISPUTE RESOLUTION.  
25 Notwithstanding any other law, a health care professional who is in  
26 compliance with this chapter at the time that a health care service,  
27 good, or procedure is provided is exempt from the mediation



1 process, findings, penalties, and all related provisions,  
2 including the informal settlement teleconference under Chapter  
3 1467, Insurance Code, if:

4 (1) the dispute concerns the provision of a health  
5 care service, good, or procedure listed in the health care  
6 professional's charge list; and

7 (2) the amount billed for that service, good, or  
8 procedure is less than or equal to the amount stated in the charge  
9 list.

10 Sec. 185.011. CHARGE LIST PROTECTIONS. (a)  
11 Notwithstanding any other law, this chapter does not create a cause  
12 of action or create a standard of care, obligation, or duty that  
13 provides a basis for a cause of action.

14 (b) Except as otherwise provided by Section 185.008, a  
15 charge list under this chapter or evidence of a violation of this  
16 chapter is not admissible in any civil, judicial, or administrative  
17 proceeding unless the health care entity voluntarily consents in  
18 writing.

19 (c) Notwithstanding any other law, a health care entity is  
20 not liable for damages related to charges on the entity's charge  
21 list in an action under Chapter 15 or 17, Business & Commerce Code.

22 Sec. 185.012. FREE MARKET PROTECTIONS. This chapter does  
23 not authorize a governmental agency or other government-created  
24 entity to approve, disapprove, or limit a health care entity's:

25 (1) charge for a health care service, good, or  
26 procedure; or

27 (2) change to any charge.

1           SECTION 2. Sections 185.008(a)-(g), Health and Safety Code,  
2 as added by this Act, apply only to conduct that occurs on or after  
3 January 1, 2022.

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