

AN ACT

relating to prices and fees charged by certain freestanding emergency medical care facilities, including prices and fees charged during a declared state of disaster; providing administrative penalties.

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

SECTION 1. Chapter 241, Health and Safety Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. PRICES AND FEES CHARGED BY FREESTANDING EMERGENCY MEDICAL CARE FACILITIES ASSOCIATED WITH CERTAIN HOSPITALS

Sec. 241.221. APPLICABILITY. (a) This subchapter applies only to a freestanding emergency medical care facility, as that term is defined by Section 254.001, that is:

(1) exempt from the licensing requirements of Chapter 254 under Section 254.052(5), (7), or (8); and

(2) associated with a hospital licensed under this chapter that does not meet the conditions of participation for certification under Title XVIII of the Social Security Act (42 U.S.C. Section 1395 et seq.).

(b) This subchapter does not apply to a freestanding emergency medical care facility associated with a hospital licensed under this chapter that:

(1) has been operating as a hospital for less than one year;

1           (2) has submitted an application to a federally  
2 recognized accreditation program for certification under Title  
3 XVIII of the Social Security Act (42 U.S.C. Section 1395 et seq.);  
4 and

5           (3) has not failed an accreditation for certification.  
6           Sec. 241.222. CERTAIN FEES PROHIBITED. (a) A facility  
7 described by Section 241.221 that provides a health care service,  
8 including testing or vaccination, to an individual accessing the  
9 service from the individual's vehicle may not charge the individual  
10 or a third-party payor a facility or observation fee.

11           (b) This section may not be construed as expanding the type  
12 of health care services a facility described by Section 241.221 is  
13 authorized to provide.

14           Sec. 241.223. DISCLOSURE OF CERTAIN PRICES AND FEES DURING  
15 DECLARED DISASTER; CONSTRUCTION. (a) A facility described by  
16 Section 241.221 that provides testing or vaccination for an  
17 infectious disease for which a state of disaster has been declared  
18 under Chapter 418, Government Code, shall disclose to each patient  
19 the prices the facility charges for the test or vaccine and any  
20 facility fees, supply costs, and other costs associated with the  
21 test or vaccine in accordance with the disclosure requirements  
22 described by Section 254.156, as added by Chapter 1093 (H.B. 2041),  
23 Acts of the 86th Legislature, Regular Session, 2019.

24           (b) This section may not be construed as expanding the type  
25 of health care services a facility described by Section 241.221 is  
26 authorized to provide.

27           Sec. 241.224. PROHIBITED PRICING PRACTICES DURING DECLARED

1 STATE OF DISASTER. (a) In this section, "unconscionable price"  
2 means a price that is more than 200 percent of the average price for  
3 the same or a substantially similar product or service provided to  
4 other individuals by health care facilities located in the same  
5 county or nearest county to the county in which the facility  
6 described by Section 241.221 is located, as applicable, according  
7 to data collected by the department under Chapter 108.

8 (b) During a state of disaster declared by the governor  
9 under Chapter 418, Government Code, a facility described by Section  
10 241.221 may not:

11 (1) charge an individual an unconscionable price for a  
12 product or service provided at the facility; or

13 (2) knowingly or intentionally charge a third-party  
14 payor, including a health benefit plan insurer, a price higher than  
15 the price charged to an individual for the same product or service  
16 based on the payor's liability for payment or partial payment of the  
17 product or service.

18 (c) Subsection (b)(2) does not prohibit a facility  
19 described by Section 241.221 from:

20 (1) offering an uninsured individual a cash discount  
21 for a particular product or service; or

22 (2) accepting directly from an individual full payment  
23 for a health care product or service in lieu of submitting a claim  
24 to the individual's health benefit plan.

25 Sec. 241.225. ENFORCEMENT. Notwithstanding any  
26 conflicting provision in this subchapter and except for good cause  
27 shown, the commission shall impose the following penalty on a

1 person licensed under this chapter who violates Section 241.224 or  
2 a rule adopted under that section:

3 (1) for the first violation, an administrative penalty  
4 in an amount equal to \$10,000;

5 (2) for the second violation:

6 (A) an administrative penalty in an amount equal  
7 to \$50,000; and

8 (B) a suspension of the person's license for 30  
9 days; and

10 (3) for the third violation, a permanent revocation of  
11 the person's license.

12 SECTION 2. Subchapter D, Chapter 254, Health and Safety  
13 Code, is amended by adding Sections 254.1555 and 254.1556 to read as  
14 follows:

15 Sec. 254.1555. CERTAIN FEES PROHIBITED. (a) A facility  
16 that provides a health care service, including testing or  
17 vaccination, to an individual accessing the service from the  
18 individual's vehicle may not charge the individual or a third-party  
19 payor a facility or observation fee.

20 (b) This section may not be construed as expanding the type  
21 of health care services a facility is authorized to provide under  
22 this chapter.

23 Sec. 254.1556. DISCLOSURE OF CERTAIN PRICES AND FEES DURING  
24 DECLARED DISASTER; CONSTRUCTION. (a) A facility that provides  
25 testing or vaccination for an infectious disease for which a state  
26 of disaster has been declared under Chapter 418, Government Code,  
27 shall disclose the price the facility charges for the test or

1 vaccine and any facility fees, supply costs, and other costs  
2 associated with the test or vaccine in accordance with the  
3 disclosure requirements described by Section 254.156, as added by  
4 Chapter 1093 (H.B. 2041), Acts of the 86th Legislature, Regular  
5 Session, 2019.

6 (b) This section may not be construed as expanding the type  
7 of health care services a facility is authorized to provide under  
8 this chapter.

9 SECTION 3. Subchapter D, Chapter 254, Health and Safety  
10 Code, is amended by adding Section 254.160 to read as follows:

11 Sec. 254.160. PROHIBITED PRICING PRACTICES DURING DECLARED  
12 STATE OF DISASTER. (a) In this section, "unconscionable price"  
13 means a price that is more than 200 percent of the average price for  
14 the same or a substantially similar product or service provided to  
15 other individuals by health care facilities located in the same  
16 county or nearest county to the county in which the freestanding  
17 emergency medical care facility is located, as applicable,  
18 according to data collected by the department under Chapter 108.

19 (b) During a state of disaster declared by the governor  
20 under Chapter 418, Government Code, a facility may not:

21 (1) charge an individual an unconscionable price for a  
22 product or service provided at the facility; or

23 (2) knowingly or intentionally charge a third-party  
24 payor, including a health benefit plan insurer, a price higher than  
25 the price charged to an individual for the same product or service  
26 based on the payor's liability for payment or partial payment of the  
27 product or service.

1        (c) Subsection (b)(2) does not prohibit a facility from:

2                (1) offering an uninsured individual a cash discount  
3 for a particular product or service; or

4                (2) accepting directly from an individual full payment  
5 for a health care product or service in lieu of submitting a claim  
6 to the individual's health benefit plan.

7        SECTION 4. Subchapter E, Chapter 254, Health and Safety  
8 Code, is amended by adding Section 254.207 to read as follows:

9        Sec. 254.207. ENFORCEMENT. Notwithstanding any  
10 conflicting provision in this subchapter and except for good cause  
11 shown, the Health and Human Services Commission shall impose the  
12 following on a person licensed under this chapter who violates  
13 Section 254.160 or a rule adopted under that section:

14                (1) for the first violation, an administrative penalty  
15 in an amount equal to \$10,000;

16                (2) for the second violation:  
17                        (A) an administrative penalty in an amount equal  
18 to \$50,000; and

19                        (B) a suspension of the person's license for 30  
20 days; and

21                (3) for the third violation, a permanent revocation of  
22 the person's license.

23        SECTION 5. This Act takes effect September 1, 2021.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 2038 passed the Senate on April 19, 2021, by the following vote: Yeas 31, Nays 0; May 27, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2021, House granted request of the Senate; May 30, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

I hereby certify that S.B. No. 2038 passed the House, with amendments, on May 25, 2021, by the following vote: Yeas 127, Nays 18, two present not voting; May 28, 2021, House granted request of the Senate for appointment of Conference Committee; May 30, 2021, House adopted Conference Committee Report by the following vote: Yeas 127, Nays 14, two present not voting.

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Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor