

By: Kolkhorst  
(Harless)

S.B. No. 401

Substitute the following for S.B. No. 401:

By: Klick

C.S.S.B. No. 401

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to prices charged by a medical staffing services agency  
3 during certain designated public health disaster periods;  
4 providing a civil penalty.

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

6 SECTION 1. Subtitle D, Title 2, Health and Safety Code, is  
7 amended by adding Chapter 81B to read as follows:

8 CHAPTER 81B. PRICE GOUGING OF MEDICAL STAFFING SERVICES DURING  
9 DESIGNATED PUBLIC HEALTH DISASTER PERIOD

10 Sec. 81B.001. DEFINITION. In this chapter, "designated  
11 public health disaster period" means a period:

12 (1) based on a threat to the public health, including a  
13 threat from:

14 (A) a chemical, biological, explosive, nuclear,  
15 or radiological attack or incident; or

16 (B) a communicable disease, epidemic, or  
17 pandemic;

18 (2) beginning on the earlier of the date:

19 (A) the governor issues a proclamation or  
20 executive order declaring a state of disaster under Chapter 418,  
21 Government Code, for any area of this state;

22 (B) the president of the United States declares a  
23 state of disaster that includes an area of this state as part of the  
24 federally declared disaster area; or

1                   (C) a disaster described by Paragraph (A) or (B)  
2 occurs; and

3                   (3) ending on the 30th day after the date the disaster  
4 declaration expires or is terminated.

5           Sec. 81B.002. APPLICABILITY. This chapter applies only to  
6 a medical staffing services agency that provides the following  
7 health care professionals to fill vacancies or address temporary  
8 staffing needs during a designated public health disaster period:

9                   (1) physician assistants licensed under Chapter 204,  
10 Occupations Code;

11                   (2) surgical assistants licensed under Chapter 206,  
12 Occupations Code;

13                   (3) nurses licensed under Chapter 301, Occupations  
14 Code; or

15                   (4) nurse aides listed in the nurse aide registry  
16 under Chapter 250.

17           Sec. 81B.003. PROHIBITED PRICE GOUGING DURING DESIGNATED  
18 PUBLIC HEALTH DISASTER PERIOD. During a designated public health  
19 disaster period, a medical staffing services agency to which this  
20 chapter applies may not, in an area subject to the declared state of  
21 disaster:

22                   (1) provide medical staffing services to a health care  
23 organization or other entity in this state at an exorbitant or  
24 excessive price; or

25                   (2) demand or charge an exorbitant or excessive price  
26 to provide medical staffing services to a health care organization  
27 or other entity in this state.

1       Sec. 81B.004. CIVIL PENALTY; INJUNCTION. (a) A medical  
2 staffing services agency that violates this chapter is subject to a  
3 civil penalty in an amount not to exceed \$10,000 for each violation.

4       (b) The consumer protection division of the office of the  
5 attorney general may bring an action in the name of the state to:

6             (1) recover a civil penalty under this section; or

7             (2) temporarily or permanently restrain or enjoin the  
8 person from violating this chapter.

9       (c) The consumer protection division of the office of the  
10 attorney general may recover reasonable expenses incurred in  
11 obtaining a civil penalty under this section, including court  
12 costs, reasonable attorney's fees, expert witness fees, deposition  
13 expenses, and investigatory costs.

14       (d) An action under this section may be brought:

15             (1) in a district court of the county in which:

16                     (A) the defendant resides;

17                     (B) the defendant's principal place of business  
18 is located;

19                     (C) the defendant conducts business; or

20                     (D) the transaction giving rise to the claim  
21 occurred; or

22             (2) on the consent of the parties, in a district court  
23 of Travis County.

24       SECTION 2. The changes in law made by this Act apply only to  
25 an act that occurs on or after the effective date of this Act. An  
26 act that occurs before the effective date of this Act is governed by  
27 the law in effect on the date the act occurred, and the former law is

1 continued in effect for that purpose.

2 SECTION 3. This Act takes effect September 1, 2023.