

1-1 By: Kolkhorst S.B. No. 401
 1-2 (In the Senate - Filed January 12, 2023; February 15, 2023,
 1-3 read first time and referred to Committee on Health & Human
 1-4 Services; March 20, 2023, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-6 March 20, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 401 By: Blanco

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to prices charged by a medical staffing services agency
 1-22 during certain designated public health disaster periods;
 1-23 providing a civil penalty.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subtitle D, Title 2, Health and Safety Code, is
 1-26 amended by adding Chapter 81B to read as follows:

1-27 CHAPTER 81B. PRICE GOUGING OF MEDICAL STAFFING SERVICES DURING
 1-28 DESIGNATED PUBLIC HEALTH DISASTER PERIOD

1-29 Sec. 81B.001. DEFINITIONS. In this chapter:

1-30 (1) "Designated public health disaster period" means a
 1-31 period:

1-32 (A) based on a threat to the public health,
 1-33 including a threat from:

1-34 (i) a chemical, biological, explosive,
 1-35 nuclear, or radiological attack or incident; or

1-36 (ii) a communicable disease, epidemic, or
 1-37 pandemic;

1-38 (B) beginning on the earlier of the date:

1-39 (i) the governor issues a proclamation or
 1-40 executive order declaring a state of disaster under Chapter 418,
 1-41 Government Code, for any area of this state;

1-42 (ii) the president of the United States
 1-43 declares a state of disaster that includes an area of this state as
 1-44 part of the federally declared disaster area; or

1-45 (iii) a disaster described by Subparagraph
 1-46 (i) or (ii) occurs; and

1-47 (C) ending on the 30th day after the date the
 1-48 disaster declaration expires or is terminated.

1-49 (2) "Exorbitant or excessive price" means a price
 1-50 that:

1-51 (A) increases by more than 10 percent over the
 1-52 price charged for medical staffing services provided immediately
 1-53 before the designated public health disaster period;

1-54 (B) increases by more than 10 percent over the
 1-55 tax-adjusted price charged for medical staffing services provided
 1-56 in any area outside the geographic area subject to the designated
 1-57 public health disaster period;

1-58 (C) increases by more than 10 percent over the
 1-59 sum of:

1-60 (i) the higher of acquisition or

2-1 replacement cost for medical staffing services; and
 2-2 (ii) the markup customarily applied by the
 2-3 medical staffing services agency for medical staffing services in
 2-4 the usual course of business immediately before the designated
 2-5 public health disaster period;
 2-6 (D) is not attributable to fluctuations in
 2-7 applicable regional or national markets for medical staffing
 2-8 services; or
 2-9 (E) is not a contract price or price formula for
 2-10 medical staffing services agreed to before the designated public
 2-11 health disaster period.

2-12 Sec. 81B.002. APPLICABILITY. This chapter applies only to
 2-13 a medical staffing services agency that provides the following
 2-14 health care professionals to fill vacancies or address temporary
 2-15 staffing needs during a designated public health disaster period:

- 2-16 (1) physician assistants licensed under Chapter 204,
 2-17 Occupations Code;
- 2-18 (2) surgical assistants licensed under Chapter 206,
 2-19 Occupations Code;
- 2-20 (3) nurses licensed under Chapter 301, Occupations
 2-21 Code; or
- 2-22 (4) nurse aides listed in the nurse aide registry
 2-23 under Chapter 250.

2-24 Sec. 81B.003. PROHIBITED PRICE GOUGING DURING DESIGNATED
 2-25 PUBLIC HEALTH DISASTER PERIOD. During a designated public health
 2-26 disaster period, a medical staffing services agency to which this
 2-27 chapter applies may not demand or charge an exorbitant or excessive
 2-28 price to provide medical staffing services to a health care
 2-29 organization or other entity in this state in an area subject to a
 2-30 declared state of disaster.

2-31 Sec. 81B.004. CIVIL PENALTY; INJUNCTION. (a) A medical
 2-32 staffing services agency that violates this chapter is subject to a
 2-33 civil penalty in an amount not to exceed \$10,000 for each violation.

2-34 (b) The attorney general may bring an action in the name of
 2-35 the state to:

- 2-36 (1) recover a civil penalty under this section; or
- 2-37 (2) restrain or enjoin the person from violating this
 2-38 chapter.

2-39 (c) The attorney general may recover reasonable expenses
 2-40 incurred in obtaining a civil penalty under this section, including
 2-41 court costs, reasonable attorney's fees, expert witness fees,
 2-42 deposition expenses, and investigatory costs.

2-43 SECTION 2. The changes in law made by this Act apply only to
 2-44 an act that occurs on or after the effective date of this Act. An
 2-45 act that occurs before the effective date of this Act is governed by
 2-46 the law in effect on the date the act occurred, and the former law is
 2-47 continued in effect for that purpose.

2-48 SECTION 3. This Act takes effect September 1, 2023.

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