**BILL ANALYSIS**

|  |  |
| --- | --- |
| Senate Research Center | S.B. 30 |
| 89R16793 SCL-D | By: Schwertner |
|  | State Affairs |
|  | 3/28/2025 |
|  | As Filed |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Successful plaintiffs in tort cases are entitled to recover both economic and noneconomic damages deemed just and fair by a jury of their peers. These damages may include past and future medical expenses, as well as compensation for physical pain and suffering, and mental or emotional anguish.

Given the complexity of medical billing and payment, current law lacks clear guidelines on  how such medical damages should be determined by the jury. The Texas Supreme Court has ruled that a jury should hear about the amount actually paid for medical services, rather than the amount billed by the provider. Yet, when no payment has been made, often only the provider's billed charges are presented. Under this system, plaintiff's lawyers will conspire with health care providers who over-diagnose, over-treat, and overbill for the services provided to plaintiffs, avoiding compliance with the "paid or incurred" statute and turning medical bills into a litigation profit center. Courts compound this issue by consistently dismissing defendants' counter-affidavits challenging reasonableness of medical charges, or the necessity of the services rendered, making it significantly harder for defendants to contest inflated claims.

Furthermore, while Chapter 41 defines "noneconomic damages," including "physical pain and suffering" and "mental or emotional pain," Texas jury instructions typically do not define these terms nor caution jurors against using noneconomic damages to punish defendants. In 2023's *Gregory v. Chohan*, the Texas Supreme Court ruled that "unsubstantiated anchoring" of noneconomic damages in wrongful death cases was improper, though it fractured on guidance for future cases. The lack of clear guidance makes juries susceptible to being misled by arbitrary figures or comparisons to unrelated cases that distort their perception of fair compensation. Under current court procedures, a defendant's efforts to challenge inflated awards (through a motion for remittitur) are often dismissed by the trial court, leaving them with no option but to appeal the verdict, which delays the final resolution. This process not only burdens the defendant but also disrupts the swift delivery of justice for the plaintiff, who must wait for a final decision. Moreover, the inability to effectively challenge unreasonable awards may contribute to rising costs in legal proceedings, further complicating the pursuit of fair and equitable outcomes.

In Texas, these cumulative factors have contributed to a rise in substantial verdicts in injury and death cases involving just one plaintiff or a small group, distinct from mass tort actions. S.B. 30 addresses the two root causes of these enormous and unfair verdicts:

* Plaintiffs' lawyers manipulating medical damages to present vastly inflated medical bills to juries in trial.
* Disproportionately large awards of noneconomic damages (pain and suffering and mental anguish).

As proposed, S.B. 30 amends current law relating to recovery of damages in civil actions.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 18.001, Civil Practice and Remedies Code, by amending Subsections (b), (e), (e-1), (h), and (i) and adding Subsections (b-1) and (b-2), as follows:

(b) Provides that, unless notice of intent to controvert the reasonableness of the amounts charged or the necessity for health care services, rather than unless a controverting affidavit, is served as provided by Section 18.001 (Affidavit Concerning Cost and Necessity of Services), an affidavit complying with this section and stating that the amount a person charged for a service was reasonable at the time and place that the service was provided and that the service was necessary is sufficient evidence to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary.

(b-1) Provides that, except as provided by Section 18.0011, if notice of intent to controvert the reasonableness of the amounts charged or necessity for health care services is served as provided by this section, an affidavit served under Subsection (b) has no effect except the affidavit is authorized to prove the authenticity of the health care records described by the affidavit.

(b-2) Creates this subsection from existing text. Provides that an affidavit described by Subsection (b) is not evidence of and does not support a finding of the causation element of the cause of action that is the basis for the civil action. Makes a nonsubstantive change.

(e) Requires a party intending to controvert the reasonableness of the amounts charged or necessity for health care services, rather than to controvert a claim reflected by the affidavit, to serve notice of that intent, rather than serve a copy of the counteraffidavit, on each other party or the party's attorney of record by the earlier of certain dates. Makes conforming changes.

(e-1) Requires that a notice of intent to controvert the reasonableness of the amounts charged or necessity for health care services, notwithstanding Subsection (e), if the party offering the affidavit, rather than offering the affidavit in evidence, serves a copy of the affidavit under Subsection (d-1) (relating to requiring the party offering the affidavit or the party's attorney to serve a copy of the affidavit for services by certain dates), be served, on each other party to the case by the later of certain dates. Makes conforming changes.

(h) Provides that if health care services, rather than continuing services, are provided after a relevant deadline under this section, a party that served notice under Subsection (e) or (e-1) is authorized to serve notice related to the supplemental affidavit, rather than authorized to supplement the counteraffidavit, on or before the 30th day before the date the trial commences. Makes conforming changes.

(i) Deletes existing text authorizing a deadline under this section, notwithstanding Subsection (g) (relating to requiring the party offering the counteraffidavit in evidence to file a written notice with the clerk of the court), to be altered by all parties to an action by agreement or with leave of the court.

SECTION 2. Amends Subchapter A, Chapter 18, Civil Practice and Remedies Code, by adding Section 18.0011, as follows:

Sec. 18.0011. AFFIDAVIT OF HEALTH CARE FACILITY OR PROVIDER. (a) Prohibits a party from controverting the reasonableness of the charges for health care services stated in an affidavit served under Section 18.001 if, as to each health care service provided by the health care facility or provider:

(1) the affidavit states one of certain amounts as the reasonable charge for the service:

(2) the affidavit is accompanied by an invoice for the service that would comply with the clean claim requirements of Chapter 1301 (Preferred Provider Benefit Plans), Insurance Code.

(b) Provides that, if an affidavit of a health care facility or provider served under Section 18.001 complies with Subsection (a) and includes a statement that the facility or provider does not intend to appear at trial to testify regarding the reasonableness of the facility's or provider's charges or the necessity for the facility's or provider's services, then:

(1) a party is prohibited from seeking to obtain through any pretrial discovery procedure information from the facility or provider about the reasonableness of the facility's or provider's charges or the necessity for the facility's or provider's services; and

(2) the trial court is required to exclude trial testimony by the facility or provider regarding the reasonableness of the facility's or provider's charges or the necessity for the facility's or provider's services unless the court finds there is good cause to allow the testimony, the testimony will not unfairly surprise or unfairly prejudice any party to the action, and a party opposing admission of the testimony into evidence is given a reasonable opportunity to conduct discovery and present evidence relevant to the testimony to be offered by the facility or provider.

(c) Provides that an affidavit of a health care facility or provider described by Subsection (a) and the statements made in the affidavit is authorized to be used only in the civil action in which the affidavit is served and not in other actions or for other purposes.

SECTION 3. Amends Chapter 41, Civil Practice and Remedies Code, by designating Sections 41.001, 41.002, 41.008, 41.009, 41.0105, and 41.014 as Subchapter A and adding a subchapter heading, to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 4. Amends Section 41.001, Civil Practice and Remedies Code, by amending Subdivisions (9), (10), and (12) and adding Subdivisions (11-a) and (14) to redefine "future damages," "future loss of earnings," and "noneconomic damages" and to define "mental or emotional pain or anguish" and "physical pain and suffering."

SECTION 5. Amends Section 41.002(d), Civil Practice and Remedies Code, to provide that the provisions of Chapter 41 (Damages) regarding exemplary damages do not apply to certain actions or provisions, notwithstanding any provision to the contrary, and to make a nonsubstantive change.

SECTION 6. Amends Chapter 41, Civil Practice and Remedies Code, by adding Subchapter B, and adding a subchapter heading, to read as follows:

SUBCHAPTER B. EXEMPLARY DAMAGES

SECTION 7. Transfers Sections 41.003, 41.004, 41.005, 41.006, 41.007, 41.010, 41.011, 41.0115, 41.012, and 41.013, Civil Practice and Remedies Code, to Subchapter B, Chapter 41, Civil Practice and Remedies Code, as added by this Act, redesignates them as Sections 41.051, 41.052, 41.053, 41.054, 41.055, 41.056, 41.057, 41.058, 41.059, and 41.060, Civil Practice and Remedies Code, respectively, and amends them, as follows:

Sec. 41.051. New heading: STANDARDS FOR RECOVERY. Redesignates existing Section 41.003 as Section 41.051 and makes no further changes.

Sec. 41.052. FACTORS PRECLUDING RECOVERY. Redesignates existing Section 41.004 as Section 41.052 and makes no further changes.

Sec. 41.053. HARM RESULTING FROM CRIMINAL ACT. Redesignates existing Section 41.005 as Section 41.053 and makes a nonsubstantive change.

Sec. 41.054. AWARD SPECIFIC TO DEFENDANT. Redesignates existing Section 41.006 as Section 41.054 and makes no further changes.

Sec. 41.055. PREJUDGMENT INTEREST. Redesignates existing Section 41.007 as Section 41.055 and makes no further changes.

Sec. 41.056. CONSIDERATIONS IN MAKING AWARD. Redesignates existing Section 41.010 as Section 41.056 and makes no further changes.

Sec. 41.057. EVIDENCE RELATING TO AMOUNT OF EXEMPLARY DAMAGES. Redesignates existing Section 41.011 as Section 41.057 and makes no further changes.

Sec. 41.058. DISCOVERY OF EVIDENCE OF NET WORTH FOR EXEMPLARY DAMAGES CLAIM. Redesignates existing Section 41.0115 as Section 41.058.

Sec. 41.059. JURY INSTRUCTIONS. Redesignates existing Section 41.012 as Section 41.059 and makes conforming changes.

Sec. 41.060. JUDICIAL REVIEW OF AWARD. Redesignates existing Section 41.013 as Section 41.060. (a) Makes no changes to this subsection.

(b) Provides that this section does not apply to the Supreme Court of Texas with respect to its consideration of a petition for review, rather than its consideration of an application for writ of error.

SECTION 8. Amends Chapter 41, Civil Practice and Remedies Code, by adding Subchapters C and D, as follows:

SUBCHAPTER C. RECOVERY OF HEALTH CARE EXPENSES AS ECONOMIC DAMAGES

Sec. 41.101. DEFINITIONS. Defines "database," "health care expenses," "health care services," "injured individual," "letter of protection," "physician," "provider," and "third-party payor."

Sec. 41.102. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies to any civil action in which the claimant seeks recovery of health care expenses as economic damages in a person injury or wrongful death action.

Sec. 41.103. CONFLICT WITH OTHER LAW. Provides that, if there is a conflict between this subchapter and Section 41.0105 (Evidence Relating to Amount of Economic Damages), this subchapter controls.

Sec. 41.104. LIMITATIONS ON AMOUNT OF RECOVERY. (a) Provides that, in addition to any other limitation provided by law, the economic damages authorized to be awarded to a claimant for health care services provided in the past to an injured individual are limited to the sum of:

(1) amounts third-party payors paid to providers for health care services provided to the injured individual;

(2) amounts paid by the injured individual or paid on behalf of the injured individual by non-third-party payors to providers for health care services provided to the injured individual, but not to purchase an account receivable, if paid without a formal or informal agreement for the provider to refund, rebate, or remit money to the payor, injured individual, claimant, or claimant's attorney or anyone associated with the payor, injured individual, claimant, or claimant's attorney; and

(3) if Subdivisions (1) and (2) do not apply, an amount that does not exceed 150 percent of the median amount paid by nongovernmental third-party payors to health care providers for the same types of services provided to the injured individual during the month in which the services were provided, as drawn from the database for the geozip in which the services were provided, if the services were provided in this state or in which The University of Texas Health Science Center at Houston is located, if the services were provided outside of this state.

(b) Requires that economic damages awarded for health care expenses that in reasonable probability can be expected to be incurred by the injured individual in the future because of injury-causing event, in addition to any other limitation provided by law, be limited to the reasonable value of necessary services, determined in the manner provided by Subsection (a)(3) for determination of past health care expenses, except that the determination is required to use data from the database for the month preceding the date the trial commenced.

(c) Requires that health care provider statements or invoices presented for the purposes of Subsection (a) or (b) be in a form that would comply with the clean claim requirements of Chapter 1301, Insurance Code. Prohibits an amount of money, if a service does not have an industry-recognized billing code, from being awarded to the claimant for that service.

(d) Requires that the failure of the injured individual to use available health benefit coverage be considered a failure to mitigate damages.

Sec. 41.105. CLAIMANT DISCLOSURE REQUIREMENTS. (a) Requires the claimant, in addition to other items required to be provided by law, in an action to which this subchapter applies, to provide to each other party a copy of:

(1) all statements or invoices generated by health care providers showing health care services provided to the injured individual because of the injury-causing event that is the basis for the action;

(2) any letter of protection related to the action; and

(3) any written agreement under which a provider is authorized to refund, rebate, or remit money to a payor, injured individual, claimant, claimant's attorney, or person associated with the payor, injured individual, claimant, or claimant's attorney.

(b) Requires the claimant, in a civil action to which this subchapter applies, in addition to other requirements of law, to:

(1) identify any provider who provided health care services to the injured individual in relation to the injury caused to the injured individual in the event giving rise to the action and provide an authorization to all other parties to the case that will allow those parties to obtain from the provider all of the injured individual's medical records;

(2) identify any third-party payor that may have had a legal or contractual obligation to pay for health care services provided to the injured individual, regardless of whether the third party was legally or contractually obligated to pay for the specific services provided to the injured individual;

(3) disclose any unwritten agreement under which a provider is authorized to refund, rebate, or remit money to a payor, injured individual, claimant, claimant's attorney, or person associated with the payor, injured individual, claimant, or claimant's attorney; and

(4) if the injured individual was referred to a provider for services, disclose:

(A) the name, address, and telephone number of the person who made the referral, regardless of whether that person is the injured individual's attorney;

(B) if the person making the referral was not the injured individual's attorney, the relationship between the person making the referral and the injured individual or the injured individual's attorney; and

(C) if the person making the referral was the injured individual's attorney, certain information.

(c) Provides that, for purposes of Subsection (b)(4)(C), a referral is considered to have been made by the injured individual's attorney even if made by another person when the injured individual's attorney knew or had reason to know that the referral would be made.

Sec. 41.106. CLAIMANT'S OBLIGATION TO PROOF OF NOT AFFECTED. Provides that nothing in this subchapter affects the claimant's obligation to prove that the health care services provided to the injured individual were necessary and causally connected to a defendant's acts or omissions.

Sec. 41.107. MATTERS ADMISSIBLE INTO EVIDENCE. Provides that, in an action to which this subchapter applies, certain matters are admissible into evidence by any party:

SUBCHAPTER D. NONECONOMIC DAMAGES

Sec. 41.151. STANDARDS FOR RECOVERY OF CERTAIN NONECONOMIC DAMAGES. (a) Provides that damages for physical pain and suffering or for mental or emotional pain or anguish are authorized to be awarded only if the trier of fact is unanimous in finding the amount of money that will fairly and reasonably compensate the claimant for those injuries.

(b) Provides that an award of damages for physical pain and suffering or mental or emotional pain or anguish is:

(1) required to provide fair and reasonable compensation to a claimant for the claimant's injury for the period of time the pain, suffering, or anguish has persisted or reasonably can be expected to persist in the future;

(2) required to be based on evidence of the nature, duration, and severity of the injury and reflect a rational connection, grounded in the evidence, between the injury suffered and the dollar amount necessary to provide fair and reasonable compensation to a claimant;

(3) prohibited from being used to penalize or punish a defendant, make an example to others, or serve a social good; and

(4) prohibited from including amounts that are properly considered economic losses, such as lost earnings caused by physical impairment or medical expenses incurred for emotional or psychological care.

(c) Provides that, in an action to which this chapter applies, it is reversible error for a court to allow an attorney, witness, or other person through argument, the introduction of evidence, or otherwise to:

(1) state or suggest that the trier of fact should determine the amount of damages to award to a claimant for physical pain and suffering or mental or emotional pain or anguish by referring to objects, values, or repeating metrics having no rational connection to the facts of the case; or

(2) characterize an award of damages for physical pain and suffering or mental or emotional pain or anguish as establishing a valuation of human life.

(d) Provides that, except to the extent of a conflict, this section supplements court decisions and rules of procedure and evidence.

Sec. 41.152. JURY INSTRUCTIONS. Requires the court, in a trial to a jury in which noneconomic damages are sought, to provide the jury definitions and instructions required by this chapter and other law and ask the jury, if appropriate, to determine the amount of money that will fairly and reasonably compensate the claimant for past physical pain and suffering, future physical pain and suffering, past mental or emotional pain or anguish, future mental or emotional pain or anguish, past injury to reputation, and future injury to reputation.

Sec. 41.153. MOTION TO REMIT NONECONOMIC DAMAGES IN CERTAIN ACTIONS. (a) Requires a trial court, except in an action in which another law limits recovery of noneconomic damages, in a trial to a jury in a personal injury or wrongful death action, to state the legal and factual support for the amount of noneconomic damages awarded to the claimant in a judgment if a defendant requests remittitur of noneconomic damages awarded to the claimant and the award exceeds certain amounts.

(b) Requires the court, in a statement of legal support for the amount of noneconomic damages awarded in the judgment, to include references to judgments rendered in this state and affirmed on appeal of comparable amounts awarded under comparable facts.

SECTION 9. Amends Section 304.102, Finance Code, as follows:

Sec. 304.102. PREJUDGMENT INTEREST REQUIRED IN CERTAIN CASES. Provides that a judgment in a wrongful death, personal injury, or property damage case earns prejudgment interest on amounts awarded in the judgment for economic losses, calculated from the date the health care expenses are actually paid by this claimant, if applicable, or other economic losses are actually suffered by the claimant.

SECTION 10. Repealers: Sections 18.001(f) (relating to requiring that the counteraffidavit contain an affidavit concerning cost and necessity to give reasonable notice of the basis on which the party serving it intends at trial to controvert the claim) and (g) (relating to requiring the party offering the counteraffidavit in evidence to file written notice with the clerk of the court when serving the counteraffidavit), Civil Practice and Remedies Code.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Effective date: upon passage or September 1, 2025.