

By: Oliverson

H.B. No. 3321

A BILL TO BE ENTITLED

AN ACT

relating to certain health care entity or system transaction fees and payment claims; providing administrative and civil penalties.

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

SECTION 1. Subtitle G, Title 4, Health and Safety Code, is amended by adding Chapter 328 to read as follows:

CHAPTER 328. HEALTH CARE ENTITY AND HEALTH CARE SYSTEM TRANSACTION

FEES AND PAYMENT CLAIMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 328.001. DEFINITIONS. In this chapter:

(1) "Affiliate" means a person who is:

(A) employed by a hospital or health care system;

or

(B) under a professional services agreement, faculty agreement, or management agreement with a hospital or health care system that authorizes the hospital or health care system to bill on behalf of the person.

(2) "Campus" means, with respect to a health care entity:

(A) the entity's main buildings for providing health care services;

(B) the physical area immediately adjacent to the main buildings and other areas or structures not contiguous to the main buildings but located not more than 250 yards from the main

1 buildings; and

2 (C) another area the Centers for Medicare and
3 Medicaid Services determines is a campus of a health care entity.

4 (3) "Commission" means the Health and Human Services
5 Commission.

6 (4) "Enrollee" means an individual who is covered
7 under a health benefit plan, including a multiple employer welfare
8 arrangement. The term does not include an individual who is covered
9 under a limited benefit plan, accident plan, indemnity plan,
10 limited scope dental or vision plan, or short-term limited-duration
11 insurance policy governed by Chapter 1509, Insurance Code.

12 (5) "Executive commissioner" means the executive
13 commissioner of the commission.

14 (6) "Facility fee" means a fee a health care entity or
15 health care system charges for outpatient health care services that
16 is:

17 (A) intended to compensate the entity or system
18 for operational expenses; and

19 (B) separate from a fee the entity or system
20 charges for professional health care services.

21 (7) "Freestanding emergency medical care facility"
22 has the meaning assigned by Section 254.001.

23 (8) "Health benefit plan issuer" means an insurer,
24 health maintenance organization, or other entity authorized to
25 provide health benefits coverage under the laws of this state.

26 (9) "Health care entity" means a group, professional
27 corporation, or other entity that provides health care services.

1 The term includes a hospital, medical clinic, medical group, home
2 health care agency, health infusion clinic, urgent care clinic, and
3 freestanding emergency medical care facility.

4 (10) "Health care system" means a system of health
5 care entities in this state that are under the common governance or
6 control of a corporate parent.

7 (11) "Hospital" means a health care facility licensed
8 under Chapter 241. The term includes a general hospital and special
9 hospital.

10 (12) "National provider identifier" means the
11 national provider identifier described by 45 C.F.R. Section
12 162.406.

13 Sec. 328.002. RULES. The executive commissioner shall
14 adopt rules to implement this chapter.

15 SUBCHAPTER B. FACILITY FEES FOR CERTAIN HEALTH CARE SERVICES

16 Sec. 328.051. PROHIBITED FACILITY FEES. A health care
17 entity or health care system may not charge a facility fee for:

18 (1) health care services provided at a location
19 outside of a campus associated with the entity or system; and

20 (2) outpatient health care services classified by a
21 Current Procedural Terminology code as performance of an evaluation
22 and management procedure, regardless of whether the services are
23 provided at a campus.

24 Sec. 328.052. FACILITY FEE NOTICE FOR EXISTING AFFILIATES.

25 (a) This section applies only to a health care entity that is an
26 affiliate of or owned by a hospital or health care system and that
27 charges a facility fee.

1 (b) A health care entity subject to this section shall:

2 (1) provide to a patient written notice:

3 (A) at the time a health care service appointment
4 is scheduled and before delivering the service:

5 (i) that the entity may charge a facility
6 fee; and

7 (ii) of the cost range of a potential
8 facility fee; and

9 (B) at the time a health care service appointment
10 is scheduled regarding:

11 (i) available complaint procedures for
12 improper billing;

13 (ii) available programs for eligible
14 patients to receive free or reduced cost health care services; and

15 (iii) the facility fee waiver process
16 authorized by Section 328.054; and

17 (2) post a sign that states:

18 (A) the entity may charge a facility fee in
19 addition to the cost for the health care service;

20 (B) the location within the entity's facility at
21 which the health care services are provided where a patient may
22 inquire about the entity's facility fees;

23 (C) the address of the entity's Internet webpage
24 that provides information about the entity's facility fees; and

25 (D) a toll-free telephone number available to the
26 patient that provides information about the entity's facility fees.

27 (c) The sign required by Subsection (b) (2) must be:

1 (1) posted prominently and conspicuously at each
2 location in the health care entity's facility where health care
3 services are provided and for which a facility fee is charged and at
4 the location where an individual registers or checks in for the
5 services;

6 (2) posted in English and the 15 other foreign
7 languages most commonly spoken in this state; and

8 (3) available in an alternative format for individuals
9 with a disability who require an auxiliary aid for communication.

10 (d) A health care entity that requests payment from a
11 patient after providing a health care service for which a facility
12 fee is charged shall submit with the payment request the written,
13 itemized bill required by Section 185.002 that also includes:

14 (1) a specific notation of the facility fee charge;
15 and

16 (2) contact information for the entity representative
17 through which the patient may appeal the facility fee charge.

18 (e) A health care entity shall, to the extent practicable,
19 provide the notice required by Subsection (b)(1) and the itemized
20 billing information required by Subsection (d) to the patient in
21 the patient's preferred language and in plain language.

22 Sec. 328.053. FACILITY FEE NOTICE FOR AFFILIATES. (a) A
23 health care entity shall, on becoming an affiliate of a hospital or
24 health care system, provide written notice to any patient who
25 received health care services from the entity in the 12 months
26 preceding the date the facility became an affiliate of:

27 (1) the name, address, and telephone number of the

1 affiliated hospital or system;

2 (2) the date on which the entity may begin charging a
3 facility fee for the affiliated hospital or system;

4 (3) the prohibition on the entity charging a patient a
5 facility fee for the affiliated hospital or system before the date
6 described by Subdivision (2); and

7 (4) the patient's opportunity to contact the patient's
8 health benefit plan issuer for additional information regarding a
9 facility fee, including the patient's financial responsibility for
10 the facility fee.

11 (b) A health care entity and the affiliated hospital or
12 health care system may not charge a patient a facility fee for a
13 health care service provided before the 30th day after the date the
14 entity provides the notice required by Subsection (a).

15 Sec. 328.054. FACILITY FEE WAIVER PROCESS. (a) Each health
16 care entity and health care system that charges a facility fee shall
17 develop a process by which a patient may apply for a waiver to
18 wholly or partly reduce the costs of the facility fee. The process
19 must provide a patient:

20 (1) a period of not less than 30 days for the patient
21 to apply for the waiver that begins the day after the date the
22 patient receives the notice described by Section 328.052(b)(1); and

23 (2) information on the waiver process in the patient's
24 preferred language and with any auxiliary aid necessary for the
25 patient to complete the process.

26 (b) Each health care entity and health care system that
27 charges facility fees shall provide waivers described by Subsection

1 (a) to patients in accordance with rules adopted by the executive
2 commissioner.

3 Sec. 328.055. FACILITY FEE ANNUAL REPORT. (a) Each health
4 care entity and health care system shall annually submit a written
5 report to the commission on the facility fees charged by the entity
6 or system during the preceding year. The report must include:

7 (1) the name and mailing address of the entity or
8 system;

9 (2) the number of patient visits for which the entity
10 or system charged a facility fee;

11 (3) regarding the facility fee waiver process
12 established under Section 328.054:

13 (A) the number of waiver requests the entity or
14 system received;

15 (B) the number of waiver requests the entity or
16 system approved and denied; and

17 (C) the average dollar amount of an approved
18 waiver request and the percentage of the fee compared to the total
19 cost for the provided health care service;

20 (4) the number of appeals described by Section
21 328.052(d)(2) the entity or system received, approved, and denied;

22 (5) the total number of, total dollar amount of, and
23 cost range of facility fees paid by:

24 (A) Medicare or Medicaid;

25 (B) any private insurance plan; and

26 (C) a patient;

27 (6) the total amount billed and total revenue received

1 from facility fees;

2 (7) the 10 health care services, identified by Current
3 Procedural Terminology code, that generated the greatest amount of
4 facility fee gross revenue for the entity or system, including
5 information for each service on:

6 (A) the total number the entity or system
7 provided;

8 (B) the total net and gross revenue the entity or
9 system received; and

10 (C) the amount of gross revenue derived from
11 facility fees;

12 (8) the 10 health care services, identified by Current
13 Procedural Terminology code, for which facility fees were charged
14 that provided the greatest total number of patients for the entity
15 or system and the total net and gross revenue the entity or system
16 received for each service; and

17 (9) any other information related to facility fees the
18 commission determines necessary.

19 (b) The commission shall publish the information reported
20 under Subsection (a) on a publicly accessible web page on the
21 commission's Internet website.

22 SUBCHAPTER C. HEALTH CARE TRANSACTION TRANSPARENCY

23 Sec. 328.101. REQUIRED NATIONAL PROVIDER IDENTIFIER. (a)
24 Each health care entity or health care system shall apply for,
25 obtain, and use a unique national provider identifier for:

26 (1) each campus; and

27 (2) each location owned or operated by the entity or

1 system that is outside of the entity's or system's campus.

2 (b) A health care entity must demonstrate the entity has
3 complied with Subsection (a) as a condition for renewal of a license
4 required under this title.

5 Sec. 328.102. INCLUSION OF NATIONAL PROVIDER IDENTIFIER ON
6 PAYMENT CLAIMS. A health care entity shall include the national
7 provider identifier of the campus or location where the health care
8 services were provided on each bill or claim for reimbursement for
9 the health care services provided to a patient.

10 Sec. 328.103. PROHIBITED BILLING AND REIMBURSEMENT. (a) A
11 health care entity may not bill a patient or submit a claim for
12 reimbursement to the patient's health benefit plan issuer for
13 health care services provided to the patient at a location outside
14 of an entity campus unless the bill or claim:

15 (1) includes the national provider identifier of the
16 location where the services were provided; and

17 (2) uses the current version of the form CMS-1500 or
18 837P, as applicable.

19 (b) A patient and health benefit plan issuer are not
20 required to pay a health care entity's bill or claim for
21 reimbursement for health care services provided to the patient at a
22 location that is outside of the entity's campus unless the bill or
23 claim complies with Subsection (a).

24 (c) An enrollee is only financially responsible for cost
25 sharing required under the enrollee's health benefit plan for a
26 health care service provided at a location outside of the campus of
27 a health care entity.

SUBCHAPTER D. ENFORCEMENT

Sec. 328.151. AUDIT. (a) The commission may audit a health care entity to verify compliance with this chapter.

(b) Each health care entity shall make available, on written request of the commission, copies of any books, documents, records, or other data that are necessary to complete the audit.

(c) Each health care entity shall retain copies of information described by Subsection (b) until the fourth anniversary of the date the health care services were provided.

(d) The commission shall publish the audit report on the commission's Internet website.

Sec. 328.152. DECEPTIVE TRADE PRACTICE. A violation of this chapter or a rule adopted under this chapter is a deceptive trade practice under Chapter 17, Business & Commerce Code, and is actionable under that chapter.

Sec. 328.153. DISCIPLINARY ACTION. (a) The commission, after notice and hearing, may take disciplinary action against a health care entity that violates this chapter or a rule adopted under this chapter, including:

(1) assessing an administrative penalty in an amount not less than \$1,000;

(2) revocation, suspension, or denial of issuance of a license required under this title;

(3) conditional or probationary issuance of or renewal of a license required under this title; and

(4) referral of the matter to the attorney general for imposition of a civil penalty against the entity.

1 (b) If, following an investigation and hearing conducted
2 under Subsection (a), the commission determines the health care
3 entity violated this chapter, the commission may recover from the
4 entity reasonable investigative costs the commission incurred in
5 conducting the investigation.

6 (c) If a health care entity is determined to have violated
7 this chapter or a rule adopted under this chapter, the entity shall
8 publish on the main page of the entity's Internet website
9 information on the violation, including the amount of any civil or
10 administrative penalty, conditions on licensure, and the actions
11 taken by the entity to remedy the violation.

12 SECTION 2. (a) As soon as practicable after the effective
13 date of this Act but not later than January 1, 2026, the executive
14 commissioner of the Health and Human Services Commission shall
15 adopt rules as required by Chapter 328, Health and Safety Code, as
16 added by this Act.

17 (b) Notwithstanding Chapter 328, Health and Safety Code, as
18 added by this Act, a health care entity, as defined by Section
19 328.001, Health and Safety Code, as added by this Act, is not
20 required to comply with that chapter until January 1, 2026.

21 SECTION 3. This Act takes effect September 1, 2025.