

1-1 By: Phelan, et al. (Senate Sponsor - Watson) H.B. No. 1941  
 1-2 (In the Senate - Received from the House May 8, 2019;  
 1-3 May 10, 2019, read first time and referred to Committee on Business  
 1-4 & Commerce; May 17, 2019, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 6, Nays 1;  
 1-6 May 17, 2019, 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 H.B. No. 1941 By: Nichols

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

1-21 relating to unconscionable prices charged by certain health care  
 1-22 facilities for medical care.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter E, Chapter 17, Business & Commerce  
 1-25 Code, is amended by adding Section 17.464 to read as follows:

1-26 Sec. 17.464. UNCONSCIONABLE PRICE FOR CARE AT EMERGENCY  
 1-27 FACILITY. (a) In this section:

1-28 (1) "Emergency care" means health care services  
 1-29 provided in an emergency facility to evaluate and stabilize medical  
 1-30 conditions of a recent onset and severity, including severe pain,  
 1-31 that would lead a prudent layperson possessing an average knowledge  
 1-32 of medicine and health to believe that the individual's condition,  
 1-33 sickness, or injury is of such a nature that failure to get  
 1-34 immediate medical care could:

1-35 (A) place the individual's health in serious  
 1-36 jeopardy;

1-37 (B) result in serious impairment to bodily  
 1-38 functions;

1-39 (C) result in serious dysfunction of a bodily  
 1-40 organ or part;

1-41 (D) result in serious disfigurement; or

1-42 (E) for a pregnant woman, result in serious  
 1-43 jeopardy to the health of the fetus.

1-44 (2) "Emergency facility" means:

1-45 (A) a freestanding emergency medical care  
 1-46 facility licensed under Chapter 254, Health and Safety Code; or

1-47 (B) a hospital that does not meet the conditions  
 1-48 of participation for certification under Title XVIII of the Social  
 1-49 Security Act (42 U.S.C. Section 1395 et seq.).

1-50 (b) For purposes of Section 17.46(a), the term "false,  
 1-51 misleading, or deceptive acts or practices" includes an emergency  
 1-52 facility that:

1-53 (1) provides emergency care at an unconscionable  
 1-54 price; or

1-55 (2) demands or charges an unconscionable price for or  
 1-56 in connection with emergency care or other care at the facility.

1-57 (c) The consumer protection division may not bring an action  
 1-58 under Section 17.47 for an act or practice described by Subsection  
 1-59 (b) if the price alleged to be unconscionable is less than 200  
 1-60 percent of the average charge for the same or substantially similar

2-1 care provided to other individuals by emergency rooms of hospitals  
2-2 located in the same county or nearest county in which the emergency  
2-3 facility is located, as applicable, according to data collected by  
2-4 the Department of State Health Services under Chapter 108, Health  
2-5 and Safety Code, and made available to the division, except as  
2-6 provided by Subsection (d). The consumer protection division may  
2-7 not use data that includes prices for care provided in an urgent  
2-8 care setting or physician practice to establish the division's  
2-9 authority to investigate and pursue an action under this  
2-10 subchapter.

2-11 (d) If the attorney general determines that the consumer  
2-12 protection division is unable to obtain the charge data described  
2-13 by Subsection (c), the attorney general may adopt rules designating  
2-14 another source of hospital charge data for use by the division in  
2-15 establishing the average charge for emergency care or other care  
2-16 provided by hospital emergency rooms for purposes of Subsection  
2-17 (c).

2-18 (e) In an action brought under Section 17.47 to enforce this  
2-19 section, the consumer protection division may request, and the  
2-20 trier of fact may award the recovery of:

- 2-21 (1) reasonable attorney's fees and court costs; and
- 2-22 (2) the reasonable expenses incurred by the division  
2-23 in obtaining any remedy available under Section 17.47, including  
2-24 the cost of investigation, witness fees, and deposition expenses.

2-25 (f) This section does not create a private cause of action  
2-26 for a false, misleading, or deceptive act or practice described by  
2-27 Subsection (b).

2-28 SECTION 2. This Act takes effect September 1, 2019.

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