

By: Oliverson

H.B. No. 2041

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of freestanding emergency medical care facilities.

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

SECTION 1. Section 108.002(10), Health and Safety Code, is amended to read as follows:

(10) "Health care facility" means:

(A) a hospital;

(B) an ambulatory surgical center licensed under Chapter 243;

(C) a chemical dependency treatment facility licensed under Chapter 464;

(D) a renal dialysis facility;

(E) a birthing center;

(F) a rural health clinic;

(G) a federally qualified health center as defined by 42 U.S.C. Section 1396d(1)(2)(B); ~~or~~

(H) a freestanding ~~[free-standing]~~ imaging center; or

(I) a freestanding emergency medical care facility licensed under Chapter 254.

SECTION 2. Section 254.104, Health and Safety Code, is amended to read as follows:

Sec. 254.104. FREESTANDING EMERGENCY MEDICAL CARE FACILITY

1 LICENSING FUND. All fees and administrative penalties collected
2 under this chapter shall be deposited in the state treasury to the
3 credit of the freestanding emergency medical care facility
4 licensing fund and may be appropriated to the department only to
5 administer and enforce this chapter.

6 SECTION 3. Section 254.155, Health and Safety Code, is
7 amended by amending Subsections (a), (b), and (d) and adding
8 Subsection (e) to read as follows:

9 (a) A facility shall post notice that:

10 (1) states:

11 (A) the facility is a freestanding emergency
12 medical care facility;

13 (B) the facility charges rates comparable to a
14 hospital emergency room and may charge a facility fee;

15 (C) a facility or a physician providing medical
16 care at the facility may ~~[not]~~ be an out-of-network [~~a~~
17 ~~participating~~] provider for [~~in~~] the patient's health benefit plan
18 provider network; and

19 (D) a physician providing medical care at the
20 facility may bill separately from the facility for the medical care
21 provided to a patient; and

22 (2) either:

23 (A) lists the health benefit plans in which the
24 facility is a network [~~participating~~] provider in the health
25 benefit plan's provider network; or

26 (B) states the facility is an out-of-network [~~not~~
27 ~~a participating~~] provider for all [~~in any~~] health benefit plans

1 ~~[plan provider network]~~.

2 (b) The notice required by this section must be posted
3 prominently and conspicuously:

4 (1) at the primary entrance to the facility;

5 (2) in each patient treatment room;

6 (3) at each location within the facility at which a
7 person pays for health care services; and

8 (4) on the home page of the facility's Internet website
9 or on a different page available through a hyperlink that is:

10 (A) entitled "Insurance Information"; and

11 (B) located prominently on the home page.

12 (d) Notwithstanding Subsection (b), a facility that is a
13 network ~~[participating]~~ provider in one or more health benefit plan
14 provider networks complies with Subsection (a)(2) if the facility:

15 (1) provides notice on the facility's Internet website
16 listing the health benefit plans in which the facility is a network
17 ~~[participating]~~ provider in the health benefit plan's provider
18 network; and

19 (2) provides to a patient written confirmation of
20 whether the facility is a network ~~[participating]~~ provider in the
21 patient's health benefit plan's provider network.

22 (e) A facility may not add to or alter the language of a
23 notice required by this section.

24 SECTION 4. Subchapter D, Chapter 254, Health and Safety
25 Code, is amended by adding Sections 254.156 and 254.157 to read as
26 follows:

27 Sec. 254.156. DISCLOSURE STATEMENT REQUIRED. (a) In

1 addition to the notice required under Section 254.155, a facility
2 shall provide to a patient or a patient's legally authorized
3 representative a written disclosure statement in accordance with
4 this section that:

5 (1) lists the facility's observation and facility fees
6 that may result from the patient's visit; and

7 (2) lists the health benefit plans in which the
8 facility is a network provider in the health benefit plan's
9 provider network or states that the facility is an out-of-network
10 provider for all health benefit plans.

11 (b) A facility shall provide the disclosure statement
12 before providing health care services to the patient unless the
13 patient's medical condition requires immediate medical
14 intervention. If the patient's medical condition requires
15 immediate medical intervention, the facility shall provide the
16 disclosure statement as soon as practicable.

17 (c) The disclosure statement must be:

18 (1) printed in at least 16-point boldface type;

19 (2) in a contrasting color using a font that is easily
20 readable; and

21 (3) in English and Spanish.

22 (d) The disclosure statement:

23 (1) must include:

24 (A) the name and contact information of the
25 facility; and

26 (B) a place for the patient or the patient's
27 legally authorized representative and an employee of the facility

1 to sign and date the disclosure statement;

2 (2) may include information on the facility's
3 procedures for seeking reimbursement from the patient's health
4 benefit plan; and

5 (3) must state, as applicable:

6 "This facility charges a facility fee for medical treatment.
7 The average facility fee for patient treatment is \$_____."

8 "This facility charges an observation fee for medical
9 treatment. The average observation fee for patient treatment is
10 \$_____."

11 (e) A facility may include only the information described by
12 Subsection (d) in the required disclosure statement and may not
13 include any additional information in the statement. The facility
14 annually shall update the statement.

15 (f) A facility shall provide each patient with a physical
16 copy of the disclosure statement even if the patient refuses or is
17 unable to sign the statement. If a patient refuses or is unable to
18 sign the statement, as required by this section, the facility shall
19 indicate in the patient's file that the patient failed to sign.

20 (g) A facility shall retain a copy of a signed disclosure
21 statement provided under this section until the first anniversary
22 of the date on which the disclosure was signed.

23 Sec. 254.157. CERTAIN ADVERTISING PROHIBITED. (a) A
24 facility may not advertise or hold itself out as a network provider,
25 including by stating that the facility "takes" or "accepts" any
26 insurer, health maintenance organization, health benefit plan, or
27 health benefit plan network, unless the facility is a network

1 provider of a health benefit plan issuer.

2 (b) A facility may not post the name or logo of a health
3 benefit plan issuer in any signage or marketing materials if the
4 facility is an out-of-network provider for any of the issuer's
5 health benefit plans.

6 (c) A violation of this section is a false, misleading, or
7 deceptive act or practice under Subchapter E, Chapter 17, Business
8 & Commerce Code, and is actionable under that subchapter.

9 SECTION 5. Sections 254.205(a) and (c), Health and Safety
10 Code, are amended to read as follows:

11 (a) The department may impose an administrative penalty on a
12 person licensed under this chapter who violates this chapter or a
13 rule or order adopted under this chapter. A penalty collected under
14 this section or Section 254.206 shall be deposited in the state
15 treasury to the credit of the freestanding emergency medical care
16 facility licensing [in the general revenue] fund described by
17 Section 254.104.

18 (c) The [~~amount of the~~] penalty [~~may not exceed \$1,000~~] for
19 each violation may be in an amount not to exceed the maximum amount
20 provided by this subsection, and each day a violation continues or
21 occurs is a separate violation for purposes of imposing the [a]
22 penalty. The total amount of the penalty assessed for a violation
23 continuing or occurring on separate days under this subsection may
24 not exceed \$25,000 [~~\$5,000~~].

25 SECTION 6. This Act takes effect September 1, 2019.