

1-1 By: Oliverson, et al. (Senate Sponsor - Taylor) H.B. No. 2041
 1-2 (In the Senate - Received from the House May 2, 2019;
 1-3 May 7, 2019, read first time and referred to Committee on Business
 1-4 & Commerce; May 19, 2019, reported favorably by the following vote:
 1-5 Yeas 8, Nays 0; May 19, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Nichols	X			
1-9 Campbell	X			
1-10 Creighton			X	
1-11 Menéndez	X			
1-12 Paxton	X			
1-13 Schwertner	X			
1-14 Whitmire	X			
1-15 Zaffirini	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the regulation of freestanding emergency medical care
 1-20 facilities.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 108.002(10), Health and Safety Code, is
 1-23 amended to read as follows:

1-24 (10) "Health care facility" means:

1-25 (A) a hospital;

1-26 (B) an ambulatory surgical center licensed under
 1-27 Chapter 243;

1-28 (C) a chemical dependency treatment facility
 1-29 licensed under Chapter 464;

1-30 (D) a renal dialysis facility;

1-31 (E) a birthing center;

1-32 (F) a rural health clinic;

1-33 (G) a federally qualified health center as
 1-34 defined by 42 U.S.C. Section 1396d(1)(2)(B); ~~or~~

1-35 (H) a freestanding ~~[free-standing]~~ imaging
 1-36 center; or

1-37 (I) a freestanding emergency medical care
 1-38 facility, as defined by Section 254.001, including a freestanding
 1-39 emergency medical care facility that is exempt from the licensing
 1-40 requirements of Chapter 254 under Section 254.052(8).

1-41 SECTION 2. Section 241.202, Health and Safety Code, is
 1-42 amended to read as follows:

1-43 Sec. 241.202. ADVERTISING. A facility described by Section
 1-44 241.201:

1-45 (1) may not advertise or hold itself out as a medical
 1-46 office, facility, or provider other than an emergency room if the
 1-47 facility charges for its services the usual and customary rate
 1-48 charged for the same service by a hospital emergency room in the
 1-49 same region of the state or located in a region of the state with
 1-50 comparable rates for emergency health care services; and

1-51 (2) must comply with the regulations in Section
 1-52 254.157.

1-53 SECTION 3. Subchapter I, Chapter 241, Health and Safety
 1-54 Code, is amended by adding Section 241.205 to read as follows:

1-55 Sec. 241.205. DISCLOSURE STATEMENT REQUIRED. A facility
 1-56 described by Section 241.201 shall comply with Section 254.156.

1-57 SECTION 4. Section 254.104, Health and Safety Code, is
 1-58 amended to read as follows:

1-59 Sec. 254.104. FREESTANDING EMERGENCY MEDICAL CARE FACILITY
 1-60 LICENSING FUND. All fees and administrative penalties collected
 1-61 under this chapter shall be deposited in the state treasury to the

2-1 credit of the freestanding emergency medical care facility
2-2 licensing fund and may be appropriated to the department only to
2-3 administer and enforce this chapter.

2-4 SECTION 5. Section 254.155, Health and Safety Code, is
2-5 amended by amending Subsections (a), (b), and (d) and adding
2-6 Subsection (e) to read as follows:

2-7 (a) A facility shall post notice that:

2-8 (1) states:

2-9 (A) the facility is a freestanding emergency
2-10 medical care facility;

2-11 (B) the facility charges rates comparable to a
2-12 hospital emergency room and may charge a facility fee;

2-13 (C) a facility or a physician providing medical
2-14 care at the facility may ~~[not]~~ be an out-of-network ~~[a~~
2-15 ~~participating]~~ provider for ~~[in]~~ the patient's health benefit plan
2-16 provider network; and

2-17 (D) a physician providing medical care at the
2-18 facility may bill separately from the facility for the medical care
2-19 provided to a patient; and

2-20 (2) either:

2-21 (A) lists the health benefit plans in which the
2-22 facility is an in-network ~~[a participating]~~ provider in the health
2-23 benefit plan's provider network; or

2-24 (B) states the facility is an out-of-network ~~[not~~
2-25 ~~a participating]~~ provider for all ~~[in any]~~ health benefit plans
2-26 ~~[plan provider network]~~.

2-27 (b) The notice required by this section must be posted
2-28 prominently and conspicuously:

2-29 (1) at the primary entrance to the facility;

2-30 (2) in each patient treatment room;

2-31 (3) at each location within the facility at which a
2-32 person pays for health care services; and

2-33 (4) on the home page of the facility's Internet website
2-34 or on a different page available through a hyperlink that is:

2-35 (A) entitled "Insurance Information"; and

2-36 (B) located prominently on the home page.

2-37 (d) Notwithstanding Subsection (b), a facility that is an
2-38 in-network ~~[a participating]~~ provider in one or more health benefit
2-39 plan provider networks complies with Subsection (a)(2) if the
2-40 facility:

2-41 (1) provides notice on the facility's Internet website
2-42 listing the health benefit plans in which the facility is an
2-43 in-network ~~[a participating]~~ provider in the health benefit plan's
2-44 provider network; and

2-45 (2) provides to a patient written confirmation of
2-46 whether the facility is an in-network ~~[a participating]~~ provider in
2-47 the patient's health benefit plan's provider network.

2-48 (e) A facility may not add to or alter the language of a
2-49 notice required by this section.

2-50 SECTION 6. Subchapter D, Chapter 254, Health and Safety
2-51 Code, is amended by adding Sections 254.156, 254.157, and 254.158
2-52 to read as follows:

2-53 Sec. 254.156. DISCLOSURE STATEMENT REQUIRED. (a) In
2-54 addition to the notice required under Section 254.155, a facility
2-55 shall provide to a patient or a patient's legally authorized
2-56 representative a written disclosure statement in accordance with
2-57 this section that:

2-58 (1) lists the facility's observation and facility fees
2-59 that may result from the patient's visit; and

2-60 (2) lists the health benefit plans in which the
2-61 facility is a network provider in the health benefit plan's
2-62 provider network or states that the facility is an out-of-network
2-63 provider for all health benefit plans.

2-64 (b) A facility shall provide the disclosure statement in
2-65 accordance with the standards prescribed by Section 254.153(a).

2-66 (c) The disclosure statement must be:

2-67 (1) printed in at least 16-point boldface type;

2-68 (2) in a contrasting color using a font that is easily
2-69 readable; and

3-1 (3) in English and Spanish.
3-2 (d) The disclosure statement:
3-3 (1) must include:
3-4 (A) the name and contact information of the
3-5 facility; and
3-6 (B) a place for the patient or the patient's
3-7 legally authorized representative and an employee of the facility
3-8 to sign and date the disclosure statement;
3-9 (2) may include information on the facility's
3-10 procedures for seeking reimbursement from the patient's health
3-11 benefit plan; and
3-12 (3) must, as applicable:
3-13 (A) state "This facility charges a facility fee
3-14 for medical treatment" and include:
3-15 (i) the facility's median facility fee;
3-16 (ii) a range of possible facility fees; and
3-17 (iii) the facility fees for each level of
3-18 care provided at the facility; and
3-19 (B) state "This facility charges an observation
3-20 fee for medical treatment" and include:
3-21 (i) the facility's median observation fee;
3-22 (ii) a range of possible observation fees;
3-23 and
3-24 (iii) the observation fees for each level
3-25 of care provided at the facility.
3-26 (e) A facility may include only the information described by
3-27 Subsection (d) in the required disclosure statement and may not
3-28 include any additional information in the statement. The facility
3-29 annually shall update the statement.
3-30 (f) A facility shall provide each patient with a physical
3-31 copy of the disclosure statement even if the patient refuses or is
3-32 unable to sign the statement. If a patient refuses or is unable to
3-33 sign the statement, as required by this section, the facility shall
3-34 indicate in the patient's file that the patient failed to sign.
3-35 (g) A facility shall retain a copy of a signed disclosure
3-36 statement provided under this section until the first anniversary
3-37 of the date on which the disclosure was signed.
3-38 (h) A facility is not required to provide notice to a
3-39 patient or a patient's legally authorized representative under this
3-40 section if the facility determines before providing emergency
3-41 health care services to the patient that the patient will not be
3-42 billed for the services.
3-43 (i) A facility complies with the requirements of
3-44 Subsections (a)(1) and (d)(3) if the facility posts on the
3-45 facility's Internet website in a manner that is easily accessible
3-46 and readable:
3-47 (1) the facility's standard charges, including the
3-48 fees described by those subsections; and
3-49 (2) updates to the standard charges at least annually
3-50 or more frequently as appropriate to reflect the facility's current
3-51 charges.
3-52 Sec. 254.157. CERTAIN ADVERTISING PROHIBITED. (a) A
3-53 facility may not advertise or hold itself out as a network provider,
3-54 including by stating that the facility "takes" or "accepts" any
3-55 insurer, health maintenance organization, health benefit plan, or
3-56 health benefit plan network, unless the facility is a network
3-57 provider of a health benefit plan issuer.
3-58 (b) A facility may not post the name or logo of a health
3-59 benefit plan issuer in any signage or marketing materials if the
3-60 facility is an out-of-network provider for all of the issuer's
3-61 health benefit plans.
3-62 (c) A violation of this section is a false, misleading, or
3-63 deceptive act or practice under Subchapter E, Chapter 17, Business
3-64 & Commerce Code, and is actionable under that subchapter.
3-65 Sec. 254.158. REMOVAL OF SIGNS. A facility that closes or
3-66 for which a license issued under this chapter expires or is
3-67 suspended or revoked shall immediately remove or cause to be
3-68 removed any signs within view of the general public indicating that
3-69 the facility is in operation.

4-1 SECTION 7. Sections 254.203(a) and (b), Health and Safety
4-2 Code, are amended to read as follows:

4-3 (a) The department may petition a district court for a
4-4 temporary restraining order to restrain a continuing violation of
4-5 the standards or licensing requirements provided under this chapter
4-6 or of Section 254.158 if the department finds that the violation
4-7 creates an immediate threat to the health and safety of the patients
4-8 of a facility or of the public.

4-9 (b) A district court, on petition of the department and on a
4-10 finding by the court that a person is violating the standards or
4-11 licensing requirements provided under this chapter or is violating
4-12 Section 254.158, may by injunction:

4-13 (1) prohibit a person from continuing the [a]
4-14 violation [of the standards or licensing requirements provided
4-15 under this chapter];

4-16 (2) restrain or prevent the establishment or operation
4-17 of a facility without a license issued under this chapter; or

4-18 (3) grant any other injunctive relief warranted by the
4-19 facts.

4-20 SECTION 8. Sections 254.205(a) and (c), Health and Safety
4-21 Code, are amended to read as follows:

4-22 (a) The department may impose an administrative penalty on a
4-23 person licensed under this chapter who violates this chapter or a
4-24 rule or order adopted under this chapter. A penalty collected under
4-25 this section or Section 254.206 shall be deposited in the state
4-26 treasury to the credit of the freestanding emergency medical care
4-27 facility licensing [in the general revenue] fund described by
4-28 Section 254.104.

4-29 (c) The [amount of the] penalty may not exceed \$1,000 for
4-30 each violation. Each[, and each] day of a continuing violation may
4-31 be considered [continues or occurs is] a separate violation for
4-32 purposes of imposing a penalty. [The total amount of the penalty
4-33 assessed for a violation continuing or occurring on separate days
4-34 under this subsection may not exceed \$5,000.]

4-35 SECTION 9. Notwithstanding Section 108.002, Health and
4-36 Safety Code, as amended by this Act, the Department of State Health
4-37 Services is not required to collect data from a freestanding
4-38 emergency medical care facility under Chapter 108, Health and
4-39 Safety Code, unless money is available for that purpose.

4-40 SECTION 10. This Act takes effect September 1, 2019.

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