

1-1 By: Schwertner, Hagenbuch S.B. No. 30
 1-2 (In the Senate - Filed March 13, 2025; March 17, 2025, read
 1-3 first time and referred to Committee on Business and Commerce;
 1-4 March 20, 2025, rereferred to Committee on State Affairs;
 1-5 April 14, 2025, reported adversely, with favorable Committee
 1-6 Substitute by the following vote: Yeas 9, Nays 1; April 14, 2025,
 1-7 sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
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	X			
1-19	X			
1-20		X		

1-21 COMMITTEE SUBSTITUTE FOR S.B. No. 30 By: Schwertner

1-22 A BILL TO BE ENTITLED
 1-23 AN ACT

1-24 relating to recovery of damages in civil actions.
 1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-26 SECTION 1. Section 18.001, Civil Practice and Remedies
 1-27 Code, is amended by amending Subsections (b), (e), (e-1), (h), and
 1-28 (i) and adding Subsections (b-1) and (b-2) to read as follows:
 1-29 (b) Unless notice of intent to controvert the
 1-30 reasonableness of the amounts charged or the necessity for health
 1-31 care services [a controverting affidavit] is served as provided by
 1-32 this section, an affidavit complying with this section and stating
 1-33 that the amount a person charged for a service was reasonable at the
 1-34 time and place that the service was provided and that the service
 1-35 was necessary is sufficient evidence to support a finding of fact by
 1-36 judge or jury that the amount charged was reasonable or that the
 1-37 service was necessary.
 1-38 (b-1) Except as provided by Section 18.0011, if notice of
 1-39 intent to controvert the reasonableness of the amounts charged or
 1-40 necessity for health care services is served as provided by this
 1-41 section, an affidavit served under Subsection (b) has no effect
 1-42 except the affidavit may prove the authenticity of the health care
 1-43 records described by the affidavit.
 1-44 (b-2) An [The] affidavit described by Subsection (b) is not
 1-45 evidence of and does not support a finding of the causation element
 1-46 of the cause of action that is the basis for the civil action.
 1-47 (e) A party intending to controvert the reasonableness of
 1-48 the amounts charged or necessity for health care services [a claim
 1-49 reflected by the affidavit] must serve notice of that intent [a copy
 1-50 of the counteraffidavit] on each other party or the party's
 1-51 attorney of record by the earlier of:
 1-52 (1) 120 days after the date the defendant files its
 1-53 answer;
 1-54 (2) the date the party serving notice [offering the
 1-55 counteraffidavit] must designate expert witnesses under a court
 1-56 order; or
 1-57 (3) the date the party serving notice [offering the
 1-58 counteraffidavit] must designate any expert witness as required by
 1-59 the Texas Rules of Civil Procedure.
 1-60 (e-1) Notwithstanding Subsection (e), if the party offering

2-1 the affidavit [~~in evidence~~] serves a copy of the affidavit under
2-2 Subsection (d-1), notice of intent to controvert the reasonableness
2-3 of the amounts charged or necessity for health care services must be
2-4 served [the party offering the counteraffidavit in evidence or the
2-5 party's attorney must serve a copy of the counteraffidavit] on each
2-6 other party to the case by the later of:

2-7 (1) 30 days after service of the affidavit on the party
2-8 -serving notice [offering the counteraffidavit in evidence];

2-9 (2) the date the party -serving notice [offering the
2-10 counteraffidavit] must designate any expert witness under a court
2-11 order; or

2-12 (3) the date the party -serving notice [offering the
2-13 counteraffidavit in evidence] must designate any expert witness as
2-14 required by the Texas Rules of Civil Procedure.

2-15 (h) If health care [continuing] services are provided after
2-16 a relevant deadline under this section:

2-17 (1) a party may supplement an affidavit served by the
2-18 party under Subsection (d) or (d-1) on or before the 60th day before
2-19 the date the trial commences; and

2-20 (2) a party that served notice [a counteraffidavit]
2-21 under Subsection (e) or (e-1) may serve notice related to the
2-22 supplemental affidavit [supplement the counteraffidavit] on or
2-23 before the 30th day before the date the trial commences.

2-24 (i) Notwithstanding Subsections (d), (d-1), (d-2), (e),
2-25 (e-1), [~~(g)~~] and (h), a deadline under this section may be altered
2-26 by all parties to an action by agreement or with leave of the court.

2-27 SECTION 2. Subchapter A, Chapter 18, Civil Practice and
2-28 Remedies Code, is amended by adding Section 18.0011 to read as
2-29 follows:

2-30 Sec. 18.0011. AFFIDAVIT OF HEALTH CARE FACILITY OR
2-31 PROVIDER. (a) A party may not controvert the reasonableness of the
2-32 charges for health care services stated in an affidavit served
2-33 under Section 18.001 if, as to each health care service provided by
2-34 the health care facility or provider to the person whose injury or
2-35 death is the subject of the action:

2-36 (1) the affidavit states one of the following amounts
2-37 as the reasonable charge for the service:

2-38 (A) the amounts received from all sources by the
2-39 facility or provider to pay for the service; or

2-40 (B) if Paragraph (A) does not apply, an amount
2-41 that, on the date the service was provided, does not exceed 300
2-42 percent of the Medicare fee schedule for the service; and

2-43 (2) the affidavit is accompanied by an invoice for the
2-44 service that would comply with the clean claim requirements of
2-45 Chapter 1301, Insurance Code.

2-46 (b) If an affidavit of a health care facility or provider
2-47 served under Section 18.001 complies with Subsection (a) and
2-48 includes a statement that the facility or provider does not intend
2-49 to appear at trial to testify regarding the reasonableness of the
2-50 facility's or provider's charges or the necessity for the facility's
2-51 or provider's services, then:

2-52 (1) a party may not seek to obtain through any pretrial
2-53 discovery procedure information from the facility or provider about
2-54 the reasonableness of the facility's or provider's charges or the
2-55 necessity for the facility's or provider's services; and

2-56 (2) the trial court shall exclude trial testimony by
2-57 the facility or provider regarding the reasonableness of the
2-58 facility's or provider's charges or the necessity for the facility's
2-59 or provider's services unless:

2-60 (A) after the affidavit is served, the facility
2-61 or provider states an intention to testify at trial or appears at
2-62 trial to testify;

2-63 (B) the court finds there is good cause to allow
2-64 the testimony;

2-65 (C) the testimony will not unfairly surprise or
2-66 unfairly prejudice any party to the action; and

2-67 (D) a party opposing admission of the testimony
2-68 into evidence is given a reasonable opportunity to conduct
2-69 discovery and present evidence relevant to the testimony to be

3-1 offered by the facility or provider.

3-2 (c) An affidavit of a health care facility or provider
 3-3 described by Subsection (a) and the statements made in the
 3-4 affidavit may be used only in the civil action in which the
 3-5 affidavit is served and not in other actions or for other purposes.

3-6 SECTION 3. Chapter 41, Civil Practice and Remedies Code, is
 3-7 amended by designating Sections 41.001, 41.002, 41.008, 41.009,
 3-8 41.0105, and 41.014 as Subchapter A and adding a subchapter heading
 3-9 to read as follows:

3-10 SUBCHAPTER A. GENERAL PROVISIONS

3-11 SECTION 4. Section 41.001, Civil Practice and Remedies
 3-12 Code, is amended by amending Subdivisions (9) and (10) and adding
 3-13 Subdivisions (11-a) and (14) to read as follows:

3-14 (9) "Future damages" means damages that in reasonable
 3-15 probability can be expected to be [are] incurred after the date of
 3-16 the judgment. The term does [Future damages do] not include
 3-17 exemplary damages.

3-18 (10) "Future loss of earnings" means a pecuniary loss
 3-19 from reductions in income, wages, or earning capacity that in
 3-20 reasonable probability can be expected to be incurred after the
 3-21 date of the judgment. The term does not include[, including:

3-22 [(A) loss of income, wages, or earning capacity;
 3-23 and

3-24 [(B) loss of inheritance.

3-25 (11-a) "Mental or emotional pain or anguish" means
 3-26 grievous and debilitating angst, distress, torment, or emotional
 3-27 suffering or turmoil that causes a substantial disruption in a
 3-28 person's daily routine. The term includes mental or emotional pain
 3-29 or anguish arising from loss of consortium, loss of companionship
 3-30 and society, loss of enjoyment of life, disfigurement, and physical
 3-31 impairment.

3-32 (14) "Physical pain and suffering" means a painful or
 3-33 distressing sensation associated with an injury or damage to a part
 3-34 of a person's body that:

3-35 (A) is consciously felt;

3-36 (B) is significant in magnitude; and

3-37 (C) arises from an observable injury,
 3-38 disfigurement, or impairment or is shown to exist through
 3-39 objectively verifiable medical evaluation or testing.

3-40 SECTION 5. Section 41.002(d), Civil Practice and Remedies
 3-41 Code, is amended to read as follows:

3-42 (d) Notwithstanding any provision to the contrary, the
 3-43 provisions of this chapter regarding exemplary damages do [does]
 3-44 not apply to:

3-45 (1) Section 15.21, Business & Commerce Code (Texas
 3-46 Free Enterprise and Antitrust Act of 1983);

3-47 (2) an action brought under the Deceptive Trade
 3-48 Practices-Consumer Protection Act (Subchapter E, Chapter 17,
 3-49 Business & Commerce Code) except as specifically provided in
 3-50 Section 17.50 of that Act;

3-51 (3) an action brought under Chapter 36, Human
 3-52 Resources Code; or

3-53 (4) an action brought under Chapter 21, Insurance
 3-54 Code.

3-55 SECTION 6. Chapter 41, Civil Practice and Remedies Code, is
 3-56 amended by adding Subchapter B, and a heading is added to that
 3-57 subchapter to read as follows:

3-58 SUBCHAPTER B. EXEMPLARY DAMAGES

3-59 SECTION 7. Sections 41.003, 41.004, 41.005, 41.006, 41.007,
 3-60 41.010, 41.011, 41.0115, 41.012, and 41.013, Civil Practice and
 3-61 Remedies Code, are transferred to Subchapter B, Chapter 41, Civil
 3-62 Practice and Remedies Code, as added by this Act, redesignated as
 3-63 Sections 41.051, 41.052, 41.053, 41.054, 41.055, 41.056, 41.057,
 3-64 41.058, 41.059, and 41.060, Civil Practice and Remedies Code,
 3-65 respectively, and amended to read as follows:

3-66 Sec. 41.051 [41.003]. STANDARDS FOR RECOVERY [OF
 3-67 ~~EXEMPLARY DAMAGES~~]. (a) Except as provided by Subsection (c),
 3-68 exemplary damages may be awarded only if the claimant proves by
 3-69 clear and convincing evidence that the harm with respect to which

4-1 the claimant seeks recovery of exemplary damages results from:
 4-2 (1) fraud;
 4-3 (2) malice; or
 4-4 (3) gross negligence.

4-5 (b) The claimant must prove by clear and convincing evidence
 4-6 the elements of exemplary damages as provided by this section. This
 4-7 burden of proof may not be shifted to the defendant or satisfied by
 4-8 evidence of ordinary negligence, bad faith, or a deceptive trade
 4-9 practice.

4-10 (c) If the claimant relies on a statute establishing a cause
 4-11 of action and authorizing exemplary damages in specified
 4-12 circumstances or in conjunction with a specified culpable mental
 4-13 state, exemplary damages may be awarded only if the claimant proves
 4-14 by clear and convincing evidence that the damages result from the
 4-15 specified circumstances or culpable mental state.

4-16 (d) Exemplary damages may be awarded only if the jury was
 4-17 unanimous in regard to finding liability for and the amount of
 4-18 exemplary damages.

4-19 (e) In all cases where the issue of exemplary damages is
 4-20 submitted to the jury, the following instruction shall be included
 4-21 in the charge of the court:

4-22 "You are instructed that, in order for you to find exemplary
 4-23 damages, your answer to the question regarding the amount of such
 4-24 damages must be unanimous."

4-25 Sec. 41.052 [~~41.004~~]. FACTORS PRECLUDING RECOVERY. (a)
 4-26 Except as provided by Subsection (b), exemplary damages may be
 4-27 awarded only if damages other than nominal damages are awarded.

4-28 (b) Exemplary damages may not be awarded to a claimant who
 4-29 elects to have his recovery multiplied under another statute.

4-30 Sec. 41.053 [~~41.005~~]. HARM RESULTING FROM CRIMINAL ACT.
 4-31 (a) In an action arising from harm resulting from an assault,
 4-32 theft, or other criminal act, a court may not award exemplary
 4-33 damages against a defendant because of the criminal act of another.

4-34 (b) The exemption provided by Subsection (a) does not apply
 4-35 if:

4-36 (1) the criminal act was committed by an employee of
 4-37 the defendant;

4-38 (2) the defendant is criminally responsible as a party
 4-39 to the criminal act under the provisions of Chapter 7, Penal Code;

4-40 (3) the criminal act occurred at a location where, at
 4-41 the time of the criminal act, the defendant was maintaining a common
 4-42 nuisance under the provisions of Chapter 125, Civil Practice and
 4-43 Remedies Code, and had not made reasonable attempts to abate the
 4-44 nuisance; or

4-45 (4) the criminal act resulted from the defendant's
 4-46 intentional or knowing violation of a statutory duty under
 4-47 Subchapter D, Chapter 92, Property Code, and the criminal act
 4-48 occurred after the statutory deadline for compliance with that
 4-49 duty.

4-50 (c) In an action arising out of a criminal act committed by
 4-51 an employee, the employer may be liable for punitive damages but
 4-52 only if:

4-53 (1) the principal authorized the doing and the manner
 4-54 of the act;

4-55 (2) the agent was unfit and the principal acted with
 4-56 malice in employing or retaining the agent [~~him~~];

4-57 (3) the agent was employed in a managerial capacity
 4-58 and was acting in the scope of employment; or

4-59 (4) the employer or a manager of the employer ratified
 4-60 or approved the act.

4-61 Sec. 41.054 [~~41.006~~]. AWARD SPECIFIC TO DEFENDANT. In any
 4-62 action in which there are two or more defendants, an award of
 4-63 exemplary damages must be specific as to a defendant, and each
 4-64 defendant is liable only for the amount of the award made against
 4-65 that defendant.

4-66 Sec. 41.055 [~~41.007~~]. PREJUDGMENT INTEREST. Prejudgment
 4-67 interest may not be assessed or recovered on an award of exemplary
 4-68 damages.

4-69 Sec. 41.056 [~~41.010~~]. CONSIDERATIONS IN MAKING AWARD. (a)

5-1 Before making an award of exemplary damages, the trier of fact shall
 5-2 consider the definition and purposes of exemplary damages as
 5-3 provided by Section 41.001.

5-4 (b) Subject to Section 41.008, the determination of whether
 5-5 to award exemplary damages and the amount of exemplary damages to be
 5-6 awarded is within the discretion of the trier of fact.

5-7 Sec. 41.057 [41.011]. EVIDENCE RELATING TO AMOUNT OF
 5-8 EXEMPLARY DAMAGES. (a) In determining the amount of exemplary
 5-9 damages, the trier of fact shall consider evidence, if any,
 5-10 relating to:

- 5-11 (1) the nature of the wrong;
- 5-12 (2) the character of the conduct involved;
- 5-13 (3) the degree of culpability of the wrongdoer;
- 5-14 (4) the situation and sensibilities of the parties
 5-15 concerned;
- 5-16 (5) the extent to which such conduct offends a public
 5-17 sense of justice and propriety; and
- 5-18 (6) the net worth of the defendant.

5-19 (b) Evidence that is relevant only to the amount of
 5-20 exemplary damages that may be awarded is not admissible during the
 5-21 first phase of a bifurcated trial.

5-22 Sec. 41.058 [41.015]. DISCOVERY OF EVIDENCE OF NET WORTH
 5-23 FOR EXEMPLARY DAMAGES CLAIM. (a) On the motion of a party and after
 5-24 notice and a hearing, a trial court may authorize discovery of
 5-25 evidence of a defendant's net worth if the court finds in a written
 5-26 order that the claimant has demonstrated a substantial likelihood
 5-27 of success on the merits of a claim for exemplary damages. Evidence
 5-28 submitted by a party to the court in support of or in opposition to a
 5-29 motion made under this subsection may be in the form of an affidavit
 5-30 or a response to discovery.

5-31 (b) If a trial court authorizes discovery under Subsection
 5-32 (a), the court's order may only authorize use of the least
 5-33 burdensome method available to obtain the net worth evidence.

5-34 (c) When reviewing an order authorizing or denying
 5-35 discovery of net worth evidence under this section, the reviewing
 5-36 court may consider only the evidence submitted by the parties to the
 5-37 trial court in support of or in opposition to the motion described
 5-38 by Subsection (a).

5-39 (d) If a party requests net worth discovery under this
 5-40 section, the court shall presume that the requesting party has had
 5-41 adequate time for the discovery of facts relating to exemplary
 5-42 damages for purposes of allowing the party from whom net worth
 5-43 discovery is sought to move for summary judgment on the requesting
 5-44 party's claim for exemplary damages under Rule 166a(i), Texas Rules
 5-45 of Civil Procedure.

5-46 Sec. 41.059 [41.012]. JURY INSTRUCTIONS. In a trial to a
 5-47 jury, the court shall instruct the jury with regard to Sections
 5-48 41.001, 41.051 [41.003], 41.056 [41.010], and 41.057 [41.011].

5-49 Sec. 41.060 [41.013]. JUDICIAL REVIEW OF AWARD. (a)
 5-50 Except as provided for in Subsection (b), an appellate court that
 5-51 reviews the evidence with respect to a finding by a trier of fact
 5-52 concerning liability for exemplary damages or with respect to the
 5-53 amount of exemplary damages awarded shall state, in a written
 5-54 opinion, the court's reasons for upholding or disturbing the
 5-55 finding or award. The written opinion shall address the evidence or
 5-56 lack of evidence with specificity, as it relates to the liability
 5-57 for or amount of exemplary damages, in light of the requirements of
 5-58 this chapter.

5-59 (b) This section does not apply to the supreme court with
 5-60 respect to its consideration of a petition for review [~~an~~
 5-61 ~~application for writ of error~~].

5-62 SECTION 8. Chapter 41, Civil Practice and Remedies Code, is
 5-63 amended by adding Subchapters C and D to read as follows:

5-64 SUBCHAPTER C. RECOVERY OF HEALTH CARE EXPENSES AS ECONOMIC DAMAGES

5-65 Sec. 41.101. DEFINITIONS. In this subchapter:

5-66 (1) "Health care expenses" means amounts paid or owed
 5-67 or that may be paid or owed to a provider for health care services,
 5-68 supplies, or devices provided to a patient.

5-69 (2) "Health care services" means services provided by

6-1 a provider to an individual to diagnose, prevent, alleviate, cure,
6-2 treat, or heal the individual's condition, illness, or injury,
6-3 including:

6-4 (A) rehabilitative services provided to the
6-5 individual; or

6-6 (B) personal care provided to the individual on a
6-7 short-term or long-term basis.

6-8 (3) "Injured individual" means the individual whose
6-9 injury or death is the subject of a civil action to which this
6-10 subchapter applies.

6-11 (4) "Letter of protection" means an agreement,
6-12 regardless of the name, that includes an express or implied promise
6-13 of payment to a health care provider from a judgment or settlement
6-14 of an injured individual's civil action or that makes a payment to
6-15 the provider contingent on the resolution of the action.

6-16 (5) "Physician" means:

6-17 (A) an individual licensed to practice medicine;
6-18 and

6-19 (B) a professional association, partnership,
6-20 limited liability partnership, or other type of entity formed or
6-21 organized by an individual physician or group of physicians to
6-22 provide medical care to patients.

6-23 (6) "Provider" means a person, including an
6-24 individual, partnership, professional association, corporation,
6-25 facility, or institution, who is licensed, certified, registered,
6-26 chartered, or otherwise authorized, in this state or elsewhere, to
6-27 provide health care services, including:

6-28 (A) an acupuncturist;

6-29 (B) a chiropractor;

6-30 (C) a dentist;

6-31 (D) a health care institution of a type described
6-32 by Section 74.001(11);

6-33 (E) a health care collaborative;

6-34 (F) a nonprofit health organization;

6-35 (G) a nurse, including a licensed vocational
6-36 nurse, nurse practitioner, and registered nurse;

6-37 (H) an occupational therapist;

6-38 (I) an ophthalmologist;

6-39 (J) an optometrist;

6-40 (K) a pharmacist;

6-41 (L) a physical therapist;

6-42 (M) a physician;

6-43 (N) a physician's assistant; and

6-44 (O) a podiatrist.

6-45 (7) "Third-party payor" means an entity, plan, or
6-46 program that has a legal or contractual obligation to pay,
6-47 reimburse, or otherwise contract with a provider to pay the
6-48 provider for the provision of a health care service, supply, or
6-49 device to a patient, including:

6-50 (A) an insurance company providing health or
6-51 dental insurance;

6-52 (B) an employer-provided plan or any other
6-53 sponsor or administrator of a health or dental plan;

6-54 (C) a health maintenance organization operating
6-55 under Chapter 843, Insurance Code, an insurer providing a preferred
6-56 provider benefit plan under Chapter 1301, Insurance Code, or other
6-57 similar entity;

6-58 (D) Medicare;

6-59 (E) the state Medicaid program, including the
6-60 Medicaid managed care program operating under Chapter 540,
6-61 Government Code; and

6-62 (F) workers' compensation insurance or insurance
6-63 provided instead of subscribing to workers' compensation
6-64 insurance.

6-65 Sec. 41.102. APPLICABILITY OF SUBCHAPTER. This subchapter
6-66 applies to any civil action in which the claimant seeks recovery of
6-67 health care expenses as economic damages in a personal injury or
6-68 wrongful death action.

6-69 Sec. 41.103. CONFLICT WITH OTHER LAW. If there is a

7-1 conflict between this subchapter and Section 41.0105, this
7-2 subchapter controls.

7-3 Sec. 41.104. ADMISSIBLE EVIDENCE OF HEALTH CARE EXPENSES.

7-4 (a) In addition to any other limitation provided by law, the
7-5 evidence that may be offered to prove the amount of the economic
7-6 damages that may be awarded to a claimant for health care services
7-7 provided in the past to an injured individual is limited to evidence
7-8 of:

7-9 (1) amounts third-party payors paid to providers for
7-10 health care services provided to the injured individual;

7-11 (2) amounts paid by the injured individual or paid on
7-12 behalf of the injured individual by non-third-party payors to
7-13 providers for health care services provided to the injured
7-14 individual, but not to purchase an account receivable or as a loan,
7-15 if paid without a formal or informal agreement for the provider to
7-16 refund, rebate, or remit money to the payor, injured individual,
7-17 claimant, or claimant's attorney or anyone associated with the
7-18 payor, injured individual, claimant, or claimant's attorney; and

7-19 (3) if Subdivisions (1) and (2) do not apply, amounts
7-20 that, on the date each service was provided to the injured
7-21 individual, do not exceed 300 percent of the Medicare fee schedule
7-22 for the service.

7-23 (b) In addition to any other limitation provided by law, the
7-24 evidence that may be offered to prove the amount of economic damages
7-25 that may be awarded to a claimant for health care services that in
7-26 reasonable probability can be expected to be provided to the
7-27 injured individual in the future because of the injury-causing
7-28 event shall be limited to evidence of the amounts of the reasonable
7-29 value of necessary services, except that the amounts may not exceed
7-30 300 percent of the Medicare fee schedule applicable to each service
7-31 as of the date the trial commenced.

7-32 (c) Health care provider statements or invoices presented
7-33 for purposes of Subsection (a) or (b) must be in a form that would
7-34 comply with the clean claim requirements of Chapter 1301, Insurance
7-35 Code. If a service does not have an industry-recognized billing
7-36 code, no amount of money may be awarded to the claimant for that
7-37 service.

7-38 Sec. 41.105. CLAIMANT DISCLOSURE REQUIREMENTS. (a) In
7-39 addition to other items required to be provided by law, in an action
7-40 to which this subchapter applies, the claimant shall provide to
7-41 each other party a copy of:

7-42 (1) all statements or invoices generated by health
7-43 care providers showing health care services provided to the injured
7-44 individual because of the injury-causing event that is the basis
7-45 for the action;

7-46 (2) any letter of protection related to the action;
7-47 and

7-48 (3) any written agreement under which a provider may
7-49 refund, rebate, or remit money to a payor, injured individual,
7-50 claimant, claimant's attorney, or person associated with the payor,
7-51 injured individual, claimant, or claimant's attorney.

7-52 (b) In a civil action to which this subchapter applies, the
7-53 claimant shall, in addition to other requirements of law:

7-54 (1) identify any provider who provided health care
7-55 services to the injured individual in relation to the injury caused
7-56 to the injured individual in the event giving rise to the action and
7-57 provide an authorization to all other parties to the case that will
7-58 allow those parties to obtain from the provider all of the injured
7-59 individual's medical records;

7-60 (2) disclose any unwritten agreement under which a
7-61 provider may refund, rebate, or remit money to a payor, injured
7-62 individual, claimant, claimant's attorney, or person associated
7-63 with the payor, injured individual, claimant, or claimant's
7-64 attorney; and

7-65 (3) if the injured individual was referred to a
7-66 provider for services and the provider will provide testimony that
7-67 is presented to the trier of fact in the action, disclose:

7-68 (A) the name, address, and telephone number of
7-69 the person who made the referral, regardless of whether that person

8-1 is the injured individual's attorney;

8-2 (B) if the person making the referral was not the
8-3 injured individual's attorney, the relationship between the person
8-4 making the referral and the injured individual or the injured
8-5 individual's attorney; and

8-6 (C) if the person making the referral was the
8-7 injured individual's attorney:

8-8 (i) an anonymized list of persons referred
8-9 by the attorney to the provider in the preceding two years;

8-10 (ii) the date and amount of each payment
8-11 made to the provider in the preceding two years by or at the
8-12 direction of the attorney;

8-13 (iii) if applicable, each person
8-14 anonymously described under Subparagraph (i) on whose behalf a
8-15 payment described by Subparagraph (ii) was made; and

8-16 (iv) other aspects of any financial
8-17 relationship between the attorney and the provider.

8-18 (c) For purposes of Subsection (b)(3)(C), a referral is
8-19 considered to have been made by the injured individual's attorney
8-20 even if made by another person when the injured individual's
8-21 attorney knew or had reason to know that the referral would be made.

8-22 Sec. 41.106. CLAIMANT'S OBLIGATION OF PROOF NOT AFFECTED.
8-23 Nothing in this subchapter affects the claimant's obligation to
8-24 prove that the health care services provided to the injured
8-25 individual were necessary and causally connected to a defendant's
8-26 acts or omissions.

8-27 Sec. 41.107. MATTERS ADMISSIBLE INTO EVIDENCE. In an
8-28 action to which this subchapter applies, the following matters are
8-29 admissible into evidence by any party:

8-30 (1) a document or information provided by the claimant
8-31 under Section 41.105(a);

8-32 (2) if the injured individual was referred to a health
8-33 care provider for services by the injured individual's attorney and
8-34 the provider will provide testimony that is presented to the trier
8-35 of fact in the action, the information disclosed by the claimant
8-36 under Section 41.105(b)(3)(C); and

8-37 (3) treatment guidelines and drug formularies
8-38 approved by the Workers' Compensation Division of the Texas
8-39 Department of Insurance as evidence relating to the necessity of
8-40 health care services provided to the injured individual.

8-41 SUBCHAPTER D. NONECONOMIC DAMAGES

8-42 Sec. 41.151. STANDARDS FOR RECOVERY OF CERTAIN NONECONOMIC
8-43 DAMAGES. (a) An award of damages for physical pain and suffering
8-44 or mental or emotional pain or anguish:

8-45 (1) must provide fair and reasonable compensation to a
8-46 claimant for the claimant's injury for the period of time the pain,
8-47 suffering, or anguish has persisted or reasonably can be expected
8-48 to persist in the future;

8-49 (2) must be based on evidence of the nature, duration,
8-50 and severity of the injury and reflect a rational connection,
8-51 grounded in the evidence, between the injury suffered and the
8-52 dollar amount necessary to provide fair and reasonable compensation
8-53 to a claimant;

8-54 (3) may not be used to penalize or punish a defendant,
8-55 make an example to others, or serve a social good; and

8-56 (4) may not include amounts that are properly
8-57 considered economic losses, such as lost earnings caused by
8-58 physical impairment or medical expenses incurred for emotional or
8-59 psychological care.

8-60 (b) In an action to which this chapter applies, it is
8-61 reversible error for a court to allow an attorney, witness, or other
8-62 person through argument, the introduction of evidence, or otherwise
8-63 to state or suggest that the trier of fact should determine the
8-64 amount of damages to award to a claimant for physical pain and
8-65 suffering or mental or emotional pain or anguish by referring to
8-66 objects, values, units of time, or other matters having no rational
8-67 connection to the facts of the case.

8-68 (c) Except to the extent of a conflict, this section
8-69 supplements court decisions and rules of procedure and evidence.

