

By: Buckingham

S.B. No. 2195

A BILL TO BE ENTITLED

AN ACT

relating to a health care entity making available to patients and prospective patients charges for certain health care services, goods, or procedures; authorizing administrative penalties.

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

SECTION 1. Title 2, Health and Safety Code, is amended by adding Subtitle J to read as follows:

SUBTITLE J. MEDICAL BILLING AND CHARGES

CHAPTER 185. CHARGE TRANSPARENCY

Sec. 185.001. DEFINITIONS. In this chapter:

(1) "Bundled health care services, goods, or procedures" means the grouping of multiple health care services, goods, or procedures provided by a health care entity or multiple health care entities represented as a single charge.

(2) "Charge" means the dollar amount set by the health care entity for a health care service, good, or procedure, before any applicable discount or negotiated rate is applied. The term does not include any applicable discount, including a discount:

(A) for a prompt payment;
(B) based on a written charity care policy; or
(C) under a health care entity's contract with a health benefit plan issuer.

(3) "Charge list" means:

(A) for a health care professional or provider, a

list of charges for the health care professional's or provider's health care services, goods, or procedures that are billed at least 50 times in the preceding calendar year; or

(B) for a health care facility, a list of charges for the health care facility's:

(i) outpatient health care services, goods, or procedures that are billed at least 50 times in the preceding calendar year; and

(ii) inpatient health care services, goods, or procedures that exceed \$500 and are billed at least 50 times in the preceding calendar year.

(4) "Health care entity" means:

(A) a health care professional;

(B) a health care provider; or

(C) a health care facility.

(5) "Health care facility" means a facility that provides a health care service, good, or procedure in this state for which a license, certificate, registration, or other authority issued by this state is required. The term includes:

(A) an institutional health care provider;

(B) a hospital licensed under Chapter 241;

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

(D) a birthing center licensed under Chapter 244;

(E) a freestanding emergency medical care facility licensed under Chapter 254; or

(F) a chemical dependency treatment facility

1 licensed under Chapter 464.

2 (6) "Health care professional" means an individual who
3 provides a health care service, good, or procedure in this state
4 under a license, certificate, registration, or other authority
5 issued by an agency of this state to diagnose, prevent, alleviate,
6 or cure a human illness or injury, including a physician, dentist,
7 or pharmacist.

8 (7) "Health care provider" means a person who provides
9 to patients in this state ancillary health care services, goods, or
10 procedures under a license, certificate, or registration issued by
11 this state or who is otherwise ordered or authorized by a health
12 care professional to diagnose, prevent, alleviate, or cure a human
13 illness or injury, including laboratory services, radiological
14 services, and durable medical equipment. The term does not include
15 a health care professional or a health care facility.

16 (8) "Patient" means an individual who is receiving or
17 has received a health care service, good, or procedure from a health
18 care entity. The term includes a personal representative of the
19 patient.

20 (9) "Personal representative" means:

21 (A) a parent, legal guardian, or relative; or

22 (B) an individual holding a medical power
23 attorney for a patient or prospective patient.

24 (10) "Primary regulatory authority" means the state
25 agency that is primarily responsible for licensing, permitting,
26 registering, or otherwise regulating a health care entity.

27 (11) "Prospective patient" means an individual who is

1 considering receiving a health care service, good, or procedure
2 from a health care entity. The term includes a personal
3 representative of a prospective patient.

4 Sec. 185.002. HEALTH CARE CHARGE LIST. (a) Each health
5 care entity shall compose and maintain a charge list under this
6 chapter.

7 (b) The charges in a charge list maintained by a health care
8 entity are not required to include the charges of health care
9 services, goods, or procedures provided by any other health care
10 entity.

11 (c) If a health care entity bills bundled health care
12 services, goods, or procedures, the health care entity may, at the
13 health care entity's discretion, list the charges of the bundled
14 health care services, goods, or procedures in the health care
15 entity's charge list.

16 Sec. 185.003. EXPRESSION OF CHARGES. For purposes of the
17 charge list required under this chapter, each charge listed must be
18 accompanied by one of the following at the discretion of the health
19 care entity:

20 (1) a description in plain English of the associated
21 health care service, good, or procedure; or

22 (2) the applicable standard billing code along with a
23 description of the associated health care service, good, or
24 procedure.

25 Sec. 185.004. CHARGE LIST AVAILABILITY. (a) A health care
26 entity shall make its charge list available to patients and
27 prospective patients by:

1 (1) posting the charge list on an Internet website; or
2 (2) providing access to the charge list at the health
3 care entity's office, facility, or other practice site on request.

4 (b) A health care entity that maintains a waiting area shall
5 post a clear and conspicuous notice of the availability of its
6 charge list in the waiting area and in any registration, admission,
7 or business office in which patients or prospective patients are
8 reasonably expected to seek service. The notice described in this
9 subsection shall include a statement describing the method
10 described by Subsection (a) used to make the charge list available.

11 (c) When the charge list is made available to patients and
12 prospective patients, the charge list must be accompanied by a
13 notice that substantially states the following:

14 "NOTICE: THE CHARGES CONTAINED WITHIN THIS CHARGE LIST ARE
15 SUBJECT TO CHANGE.

16 "YOUR BILL, INCLUDING ACTUAL OR TOTAL CHARGES, WILL VARY
17 BASED ON MANY FACTORS, INCLUDING YOUR MEDICAL CONDITION, ANY
18 UNKNOWN MEDICAL CONDITIONS YOU MAY HAVE, YOUR DIAGNOSIS AND
19 RECOMMENDED TREATMENT PROTOCOLS, AND OTHER FACTORS ASSOCIATED WITH
20 PERFORMANCE OF THE HEALTH CARE SERVICE OR PROCEDURE OR THE
21 PROVISION OF THE HEALTH CARE GOOD.

22 "THE CHARGES CONTAINED WITHIN THIS CHARGE LIST MAY DIFFER
23 FROM THE AMOUNT TO BE PAID BY YOU OR YOUR THIRD-PARTY PAYOR, IF
24 APPLICABLE. YOU MAY BE ELIGIBLE FOR A DISCOUNT FROM THE AMOUNTS
25 STATED ON THE CHARGE LIST. REGARDLESS OF YOUR INSURANCE STATUS, YOU
26 MAY INQUIRE ABOUT THE AVAILABILITY OF DISCOUNTS.

27 "YOU MAY BE PERSONALLY LIABLE FOR PAYMENT FOR THE HEALTH CARE

1 SERVICE, GOOD, OR PROCEDURE, DEPENDING ON YOUR HEALTH BENEFIT PLAN
2 COVERAGE. YOU SHOULD CONTACT YOUR HEALTH BENEFIT PLAN, IF YOU HAVE
3 COVERAGE, FOR ACCURATE INFORMATION REGARDING THE PLAN STRUCTURE,
4 BENEFIT COVERAGE, DEDUCTIBLES, COPAYMENTS, COINSURANCE, AND OTHER
5 PLAN PROVISIONS, SUCH AS NETWORK AVAILABILITY, THAT MAY IMPACT YOUR
6 OUT-OF-POCKET RESPONSIBILITY FOR PAYMENT FOR HEALTH CARE SERVICES,
7 GOODS, OR PROCEDURES, INCLUDING THOSE CONTAINED IN THIS CHARGE
8 LIST."

9 Sec. 185.005. EXEMPTION. A health care entity is exempt
10 from the requirements of this chapter if the health care entity owns
11 or is an employee of an entity that has fewer than three full-time
12 equivalent employees.

13 Sec. 185.006. DISCOUNTS AND ADDITIONS. This chapter does
14 not prohibit a health care entity from:

15 (1) offering or providing lawful discounts from the
16 amounts stated on the charge list or lawfully accepting less than
17 the amount of a charge on the charge list as payment in full;

18 (2) offering or providing additional, different, or a
19 higher complexity level of health care services, goods, or
20 procedures for an additional or different amount;

21 (3) departing from the amounts on the charge list for a
22 reason specified in the notice required by Section 185.004; or

23 (4) changing a charge on the charge list at any time,
24 provided that the charge list is updated with the effective date to
25 reflect the change.

26 Sec. 185.007. DELEGATION. A health care entity's
27 responsibilities under this chapter may be performed by the health

1 care entity's employer, employee, or other authorized delegate.

2 Sec. 185.008. ENFORCEMENT. (a) Each primary regulatory
3 authority of a health care entity shall enforce this chapter in
4 accordance with this section. If the applicable primary regulatory
5 authority's enforcement process is complaint-based, a complaint
6 must be filed in order for the primary regulatory authority to
7 enforce this chapter.

8 (b) A health care entity that violates any applicable
9 requirement of this chapter must be provided with an opportunity to
10 correct the violation under Subsection (d).

11 (c) The applicable primary regulatory authority shall
12 notify the health care entity if the primary regulatory authority
13 determines that the health care entity has violated this chapter.

14 (d) If the health care entity corrects the violation not
15 later than the 30th business day after the date the health care
16 entity receives notice under Subsection (c):

17 (1) the applicable primary regulatory authority may
18 not impose a fine, reprimand, administrative penalty, or other
19 discipline on the health care entity; and

20 (2) the violation is confidential and not subject to
21 Chapter 552, Government Code.

22 (e) The primary regulatory authority may only assess an
23 administrative penalty for a violation of this chapter in the same
24 manner as if the health care entity had violated the law under which
25 the health care entity holds a license, certificate, registration,
26 or other authority if:

27 (1) the health care entity has received notice of one

or more violations under this chapter in the 12-month period preceding the notice of the most recent violation; or

(2) the health care entity fails to correct the violation before the 31st business day after the date the health care entity receives notice that the health care entity has violated this chapter.

(f) The amount of penalties assessed against a health care entity under this section may not exceed:

(1) \$250 for a single violation;

(2) \$500 for all violations occurring in a 12-month period for a health care professional; or

(3) \$5,000 for all violations occurring in a 12-month period for a health care provider or facility.

(g) All violations that are related to, arise from, or are discovered based on the same event or complaint shall be considered to be a single violation for purposes of this section. Each day a violation continues does not constitute a separate violation.

(h) Notwithstanding any other law, this section provides the sole and exclusive remedy and enforcement mechanism for a violation of this chapter.

Sec. 185.009. CONTINUING EDUCATION CREDIT. A health care professional is entitled to claim two hours of the continuing education credit, including half a credit hour of ethics, with the appropriate primary regulatory authority for each year of compliance with this chapter.

Sec. 185.010. OUT-OF-NETWORK DISPUTE RESOLUTION. Notwithstanding any other law, a health care professional who is in

compliance with this chapter at the time that a health care service, good, or procedure is provided is exempt from the mediation process, findings, penalties, and all related provisions, including the informal settlement teleconference under Chapter 1467, Insurance Code, if:

(1) the dispute concerns the provision of a health care service, good, or procedure listed in the health care professional's charge list; and

(2) the amount billed for that service, good, or procedure is less than or equal to the amount stated in the charge list.

Sec. 185.011. CHARGE LIST PROTECTIONS. (a) Notwithstanding any other law, this chapter does not create a cause of action or create a standard of care, obligation, or duty that provides a basis for a cause of action.

(b) Except as otherwise provided by Section 185.008, a charge list under this chapter or evidence of a violation of this chapter is not admissible in any civil, judicial, or administrative proceeding unless the health care entity voluntarily consents in writing.

(c) Notwithstanding any other law, a health care entity is not liable for damages related to charges on the health care entity's charge list in an action under Chapter 15 or 17, Business & Commerce Code.

Sec. 185.012. FREE MARKET PROTECTIONS. This chapter does not authorize a governmental agency or other government-created entity to approve, disapprove, or limit a health care entity's:

1 (1) charge for a health care service, good, or
2 procedure; or
3 (2) change to any charge.

4 SECTION 2. Sections 185.008(a)-(g), Health and Safety Code,
5 as added by this Act, apply only to conduct that occurs on or after
6 January 1, 2018.

7 SECTION 3. This Act takes effect September 1, 2017.