

BILL ANALYSIS

Senate Research Center

S.B. 425
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Freestanding emergency medical care facilities, also known as freestanding emergency rooms (FSERs), are medical facilities that provide emergency care but are structurally separate from a hospital and can resemble urgent care clinics. Oftentimes, an individual seeking urgent care is unable to discern between an FSER and an urgent care clinic. Issues arise when a person walks into a FSER, thinking it to be an urgent care clinic, and are then stuck with a bill similar to that of a regular emergency room visit. FSERs are more expensive than urgent care clinics because they are allowed to charge a "facility fee" to cover overhead expenses, similar to fees charged by hospital emergency rooms (ERs).

S.B. 425 seeks to increase price transparency for consumers by requiring FSERs to post a sign containing:

- information so that an individual is fully aware that they are seeking services in a FSER, not an urgent care clinic;
- whether the facility participates in a provider network, and the providers working in the facility that do not participate in each network;
- a statement that out of network providers may bill separately from the facility; and
- the minimum and maximum amounts the physician charges and the facility fee are likely to be per visit.

S.B. 425 also grants consumers of FSERs the same opportunity to seek mediation if they are balanced billed for a facility fee in an amount greater than \$1,000. This mediation option is currently available to patients of hospital ERs. (Original Author's/Sponsor's Statement of Intent)

S.B. 425 amends current law relating to health care information provided by and notice of facility fees charged by certain freestanding emergency medical care facilities.

[**Note:** While the statutory reference in this bill is to the Texas Department of Health (TDH) the following amendments affect Texas Department of State Health Services as the successor agency to TDH.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is rescinded in SECTION 5 (Section 241.183, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 241, Health and Safety Code, by adding Subchapter J, as follows:

SUBCHAPTER J. NOTICE OF FACILITY FEES IN CERTAIN FREESTANDING EMERGENCY MEDICAL CARE FACILITIES

Sec. 241.251. **APPLICABILITY.** Provides that this subchapter applies only to a freestanding emergency medical care facility, as that term is defined by Section 254.001,

that is exempt from the licensing requirements of Chapter 254 under Section 254.052(8) (relating to a facility that is owned or operated by a certain hospital).

Sec. 241.252. NOTICE OF FEES. (a) Defines "provider network."

(b) Requires a facility described by Section 241.251 to post notice that states:

- (1) that the facility is a freestanding emergency medical care facility;
- (2) that the facility charges rates comparable to a hospital emergency room and may charge a facility fee;
- (3) that a facility or a physician providing medical care at the facility may not be a participating provider in the patient's health benefit plan provider network; and
- (4) that a physician providing medical care at the facility may bill separately from the facility for the medical care provided to a patient.

(c) Requires that the notice required by this section be posted prominently and conspicuously:

- (1) at the primary entrance to the facility;
- (2) in each patient treatment room;
- (3) at each location within the facility at which a person pays for health care services; and
- (4) on the facility's Internet website.

(d) Requires that the notice required by Subsections (c)(1), (2), and (3) be in legible print on a sign with dimensions of at least 8.5 inches by 11 inches.

SECTION 2. Amends Section 254.001, Health and Safety Code, by adding Subdivision (6) to define "provider network."

SECTION 3. Amends Subchapter D, Chapter 254, Health and Safety Code, by adding Section 254.155, as follows:

Sec. 254.155. NOTICE OF FEES. (a) Requires a facility to post notice that states:

- (1) that the facility is a freestanding emergency medical care facility;
- (2) that the facility charges rates comparable to a hospital emergency room and may charge a facility fee;
- (3) that a facility or a physician providing medical care at the facility may not be a participating provider in the patient's health benefit plan provider network; and
- (4) that a physician providing medical care at the facility may bill separately from the facility for the medical care provided to a patient.

(b) Requires that the notice required by this section be posted prominently and conspicuously:

- (1) at the primary entrance to the facility;
- (2) in each patient treatment room;

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

(4) on the facility's Internet website.

(c) Requires that the notice required by Subsections (b)(1), (2), and (3) be in legible print on a sign with dimensions of at least 8.5 inches by 11 inches.

SECTION 4. Amends Section 324.001(7), Health and Safety Code, to redefine "facility."

SECTION 5. Repealer: Section 241.183 (Rules), Health and Safety Code, as added by Chapter 917 (H.B. 1376), Acts of the 83rd Legislature, Regular Session, 2013, and as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015.

SECTION 6. (a) Provides that, notwithstanding Subchapter J, Chapter 241 (Hospitals), Health and Safety Code, and Section 254.155, Health and Safety Code, as added by this Act, a freestanding emergency medical care facility is not required to comply with those provisions until January 1, 2016.

(b) Provides that, notwithstanding Chapter 324 (Consumer Access to Health Care Information), Health and Safety Code, as amended by this Act, a freestanding emergency medical care facility is not required to comply with Chapter 324, Health and Safety Code, until January 1, 2016.

SECTION 7. Effective date: September 1, 2015.