

BILL ANALYSIS

Senate Research Center

H.B. 2041
By: Oliverson et al. (Taylor)
Business & Commerce
5/12/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2041 amends current law relating to the regulation of freestanding emergency medical care facilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 108.002(10), Health and Safety Code, as follows:

(10) Redefines "health care facility" as:

(A)-(F) makes no changes to these paragraphs;

(G)-(H) makes nonsubstantive changes to these paragraphs; or

(I) a freestanding emergency medical care facility, as defined by Section 254.001 (Definitions), including a freestanding emergency medical care facility that is exempt from the licensing requirements of Chapter 254 (Freestanding Emergency Medical Care Facilities) under Section 254.052(8) (relating to providing that a facility that is owned or operated by a hospital that meets certain criteria is not required to be licensed under Chapter 254).

SECTION 2. Amends Section 241.202, Health and Safety Code, to require a facility described by Section 241.201 (Applicability) to comply with the regulations in Section 254.157 and to make nonsubstantive changes to this section.

SECTION 3. Amends Subchapter I, Chapter 241, Health and Safety Code, by adding Section 241.205, as follows:

Sec. 241.205. DISCLOSURE STATEMENT REQUIRED. Requires a facility described by Section 241.201 to comply with Section 254.156.

SECTION 4. Amends Section 254.104, Health and Safety Code, as follows:

Sec. 254.104. FREESTANDING EMERGENCY MEDICAL CARE FACILITY LICENSING FUND. Requires all fees and administrative penalties collected under this chapter, rather than all fees collected under this chapter, to be deposited in the state treasury to the credit of the freestanding emergency medical care facility licensing fund and authorizes those fees and penalties to be appropriated to the Department of State Health Services (DSHS) only to administer and enforce this chapter.

SECTION 5. Amends Section 254.155, Health and Safety Code, by amending Subsections (a), (b), and (d) and adding Subsection (e), as follows:

(a) Requires a facility to post notice that:

(1) states:

(A)-(B) makes no changes to these paragraphs;

(C) a facility or a physician providing medical care at the facility may be an out-of-network provider for the patient's health benefit plan provider network, rather than 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

(D) makes no changes to this paragraph; and

(2) either:

(A) lists the health benefit plans in which the facility is an in-network provider, rather than a participating provider, in the health benefit plan's provider network; or

(B) states the facility is an out-of-network provider for all health benefit plans, rather than states the facility is not a participating provider in any health benefit plan provider network.

(b) Requires the notice required by this section (Notice of Fees) to be posted prominently and conspicuously:

(1)-(3) makes no changes to these subdivisions;

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

(A) entitled "Insurance Information"; and

(B) located prominently on the home page.

(d) Provides that, notwithstanding Subsection (b), a facility that is an in-network provider in one or more health benefit plan provider networks, rather than is a participating provider in one or more health benefit plan provider networks, complies with Subsection (a)(2) if the facility provides certain information. Makes conforming changes.

(e) Prohibits a facility from adding to or altering the language of a notice required by this section.

SECTION 6. Amends Subchapter D, Chapter 254, Health and Safety Code, by adding Sections 254.156, 254.157, and 254.158, as follows:

Sec. 254.156. DISCLOSURE STATEMENT REQUIRED. (a) Requires a facility, in addition to the notice required under Section 254.155, to provide to a patient or a patient's legally authorized representative a written disclosure statement in accordance with this section that:

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

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

(b) Requires a facility to provide the disclosure statement in accordance with the standards prescribed by Section 254.153(a) (relating to requiring a facility to provide to each facility patient, without regard to the individual's ability to pay, an appropriate medical screening, examination, and stabilization within the facility's capability, including ancillary services routinely available to the facility, to determine whether an emergency medical condition exists and any necessary stabilizing treatment).

(c) Requires the disclosure statement to be printed in at least 16-point boldface type, in a contrasting color using a font that is easily readable, and in English and Spanish.

(d) Provides that the disclosure statement:

(1) is required to include the name and contact information of the facility and a place for the patient or the patient's legally authorized representative and an employee of the facility to sign and date the disclosure statement;

(2) is authorized to include information on the facility's procedures for seeking reimbursement from the patient's health benefit plan; and

(3) is required to, as applicable:

(A) state "This facility charges a facility fee for medical treatment" and include the facility's median facility fee, a range of possible facility fees, and the facility fees for each level of care provided at the facility; and

(B) state "This facility charges an observation fee for medical treatment" and include the facility's median observation fee, a range of possible observation fees, and the observation fees for each level of care provided at the facility.

(e) Authorizes a facility to include only the information described by Subsection (d) in the required disclosure statement and prohibits the facility from including any additional information in the statement. Requires the facility annually to update the statement.

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

(g) Requires a facility to retain a copy of a signed disclosure statement provided under this section until the first anniversary of the date on which the disclosure was signed.

(h) Provides that a facility is not required to provide notice to a patient or a patient's legally authorized representative under this section if the facility determines before providing emergency health care services to the patient that the patient will not be billed for the services.

(i) Provides that a facility complies with the requirements of Subsections (a)(1) and (d)(3) if the facility posts on the facility's Internet website in a manner that is easily accessible and readable:

(1) the facility's standard charges, including the fees described by those subsections; and

(2) updates to the standard charges at least annually or more frequently as appropriate to reflect the facility's current charges.

Sec. 254.157. CERTAIN ADVERTISING PROHIBITED. (a) Prohibits a facility from advertising or holding itself out as a network provider, including by stating that the facility "takes" or "accepts" any insurer, health maintenance organization, health benefit plan, or health benefit plan network, unless the facility is a network provider of a health benefit plan issuer.

(b) Prohibits a facility from posting the name or logo of a health benefit plan issuer in any signage or marketing materials if the facility is an out-of-network provider for all of the issuer's health benefit plans.

(c) Provides that a violation of this section is a false, misleading, or deceptive act or practice under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17, Business & Commerce Code, and is actionable under that subchapter.

Sec. 254.158. REMOVAL OF SIGNS. Requires a facility that closes or for which a license issued under this chapter expires or is suspended or revoked to immediately remove or cause to be removed any signs within view of the general public indicating that the facility is in operation.

SECTION 7. Amends Sections 254.203(a) and (b), Health and Safety Code, as follows:

(a) Authorizes DSHS to petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter or of Section 254.158 if DSHS finds that the violation creates an immediate threat to the health and safety of the patients of a facility or of the public, rather than authorizing DSHS to petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter if DSHS finds that the violation creates an immediate threat to the health and safety of the patients of a facility.

(b) Authorizes a district court, on petition of DSHS and on a finding by the court that a person is violating the standards or licensing requirements provided under this chapter or is violating Section 254.158, rather than violating the standards or licensing requirements provided under this chapter, to, by injunction:

(1) prohibit a person from continuing the violation, rather than prohibit a person from continuing a violation of the standards or licensing requirements provided under this chapter; or

(2) and (3) makes no changes to these subdivisions.

SECTION 8. Amends Sections 254.205(a) and (c), Health and Safety Code, as follows:

(a) Requires a penalty collected under this section (Imposition of Administrative Penalty) or Section 254.206 (Payment and Collection of Administrative Penalty; Judicial Review) to be deposited in the state treasury to the credit of the freestanding emergency medical care facility licensing fund described by Section 254.104 (Freestanding Emergency Medical Care Facility Licensing Fund), rather than deposited in the state treasury in the general revenue fund.

(c) Prohibits the penalty from exceeding \$1,000 for each violation. Authorizes each day of a continuing violation to be considered a separate violation for purposes of imposing a penalty. Makes nonsubstantive changes. Deletes existing text prohibiting the total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection from exceeding \$5,000.

SECTION 9. Provides that, notwithstanding Section 108.002 (Definitions), Health and Safety Code, as amended by this Act, DSHS is not required to collect data from a freestanding emergency medical care facility under Chapter 108 (Health Care Data Collection), Health and Safety Code, unless money is available for that purpose.

SECTION 10. Effective date: September 1, 2019.