

By: Frank

H.B. No. 1692

A BILL TO BE ENTITLED

AN ACT

relating to facility fees charged by certain health care providers;
providing an administrative penalty.

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

SECTION 1. Subtitle G, Title 4, Health and Safety Code, is
amended by adding Chapter 328 to read as follows:

CHAPTER 328. PROHIBITED FACILITY FEES BY CERTAIN HEALTH CARE
PROVIDERS

Sec. 328.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health
Services.

(2) "Executive commissioner" means the executive
commissioner of the Health and Human Services Commission.

(3) "Facility fee" means a fee charged by a health care
provider that is:

(A) intended to compensate the health care
provider for operational expenses; and

(B) separate from a fee charged by a health care
provider for professional medical services provided in a
hospital-based facility.

(4) "Freestanding emergency medical care facility"
has the meaning assigned by Section 254.001.

(5) "Health care provider" means an individual,
entity, corporation, person, or organization, whether for profit or

1 nonprofit, that provides or bills for the provision of health care
2 services in the normal course of business. The term includes a
3 hospital system, hospital, hospital-based facility, freestanding
4 emergency medical care facility, and urgent care clinic.

5 (6) "Hospital" has the meaning assigned by Section
6 241.003.

7 (7) "Hospital-based facility" means a facility that is
8 owned or operated, wholly or partly, by a hospital, and where
9 hospital or professional medical services are provided.

10 (8) "Hospital campus" means:

11 (A) the main buildings of a hospital;

12 (B) the physical area immediately adjacent to the
13 main buildings of a hospital and other areas or structures that are
14 not strictly contiguous to the main buildings but are located not
15 more than 250 yards from the main buildings of a hospital; and

16 (C) any other area that has been determined by
17 the Centers for Medicare and Medicaid Services to be a hospital
18 campus.

19 Sec. 328.002. PROHIBITED FACILITY FEES. (a) Except as
20 provided by Subsection (b), a health care provider may not charge a
21 facility fee, including a facility fee for:

22 (1) outpatient health care services; or

23 (2) health care services identified by the executive
24 commissioner under Subsection (c).

25 (b) Subsection (a) does not apply to:

26 (1) services provided on a hospital campus, except for
27 services described by Subsections (a)(1) and (2); or

1 (2) services provided at a freestanding emergency
2 medical care facility, except for services described by Subsection
3 (a)(2).

4 (c) The executive commissioner by rule shall annually
5 identify health care services that may be safely and effectively
6 provided outside of a hospital setting. A facility fee may not be
7 billed or collected for services identified under this subsection.

8 (d) This section may not be construed to expand the type of
9 health care services that a freestanding emergency medical care
10 facility is authorized to provide.

11 Sec. 328.003. REPORTING. Each health care provider shall
12 submit a report to the department, in the form and manner prescribed
13 by the department, detailing any facility fees charged by the
14 provider. A report submitted under this section must comply with
15 the requirements of Chapter 108.

16 Sec. 328.004. AUDIT. (a) The department or its designee may
17 audit a health care provider for compliance with this chapter.

18 (b) Each health care provider shall make available, on
19 written request of the department or its designee, copies of any
20 books, documents, records, or other data that are necessary to
21 complete the audit.

22 (c) Each health care provider shall retain copies of
23 information described by Subsection (b) until four years after the
24 date the health care services were provided.

25 Sec. 328.005. ENFORCEMENT. (a) The department shall assess
26 an administrative penalty in an amount not to exceed \$1,000 against
27 a health care provider that violates this chapter or a rule adopted

1 under this chapter.

2 (b) This section does not create a private cause of action
3 against a provider for legal or equitable relief.

4 Sec. 328.006. RULES. The executive commissioner may adopt
5 rules to implement this chapter.

6 SECTION 2. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2023.