Texas Public POLICY FOUNDATION

BILL ANALYSIS: SB 1219/HB 251

Relating to price estimates and billing requirements for certain health care facilities

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Information asymmetry relating to price between providers and patients is an unfortunate feature of healthcare in the United States and Texas (Mishra & Pandey, 2023). Pricing information asymmetry, wherein patients have insufficient information about healthcare prices, may lead to patient confusion, dissatisfaction with service, or even the avoidance of care due to fears of unknown costs (Waystar, 2019). Notably, 62% of Texans reported forgoing healthcare due to anxieties about cost (Healthcare Value Hub, 2024).

While there is statutory and regulatory architecture in Texas and the United States that seeks to close the price knowledge gap between patients and providers, existing architecture is insufficient to ensure information symmetry, and hospital compliance in Texas has yet to be maximized (Li et al., 2024; Muhlstein & Pathak, 2024; THA, 2022; Texas 2036, n.d.). As research indicates, several other elements are necessary to construct comprehensive statutory and regulatory architecture for healthcare price transparency that uniformly ensure that information is accessible and accurate (Buttorff et al., 2021).

One possible solution to further resolve provider-patient pricing information asymmetry is proposed by H.B. 1314, which would require that for any request by a patient for a price estimate—to which patients are entitled—final billed charges may not exceed five percent (5%) of the estimated amount unless excess charges relate to documented and reasonably unavoidable complications during a procedure or service *or* changes in diagnosis not discoverable prior to a procedure or service. Further, H.B. 1314 requires that facilities inform and explain to patients any difference exceeding 5% to the patient and prohibits facilities violating these rules from pursuing action against patients. Facilities violating these rules are subject to the discipline of their appropriate licensing agencies. Finally, this bill repeals Subchapter B of Chapter 324, Health and Safety Code.

These proposed modifications, in conjunction with existing price transparency rules, would incentivize patient shopping, promote competition between providers, further eliminate surprise costs, and ultimately aid patients in making informed healthcare decisions that conform to both their health and financial needs and conditions.

continued

SECTION-BY-SECTION ANALYSIS

SECTION 1.

Amends Section 324.001 of the Health and Safety Code:

(5-a) Introduces the definition of "estimate" as a written statement outlining the total amount a facility accepts as payment in full, including all payment services for nonemergent elective service or procedures. *Substantive change.*

SECTION 2.

Amends 324.101 of the Health and Safety Code, including subsections (d) and (g). Adds subsections (d-1) and (d-2).

(d) If a consumer presents a valid order for an elective inpatient admission, nonemergency outpatient surgical procedure, or other service, then the patient is entitled to receive an estimate on request and before scheduling admission, procedure, or service. If an estimate is requested, then the estimate should be provided in person, via e-mail, or via an online patient portal according to the consumer's choice. *Substantive change: Deletes vague language relating to requirement to provide estimate. Replaces "shall" with unequivocal patient entitlement to receive an estimate. Deletes requirement that estimate provided no later than the 10th business day after the request; replaced with necessary obligation to provide estimate no later than 24 hours after receipt of request. Deletes requirements (1)-(5) relating to required advisory of a patient by a facility.*

(d-1) Denies permission that a facility's final billed charges may not exceed the specified estimate by more than 5%, unless one or more of the following conditions are met: *Substantive change: introduces five percent rule and exceptions to the rule.*

(1) Charges related to complications arising during the procedure or service and not are reasonably unavoidable

(2) Charges related to a change of diagnosis not discoverable prior to the procedure.

(d-2) Requires that if the final billed charges exceed the specified estimate by more than 5%, then the facility must provide a written statement describing the following. *Substantive change: Introduces requirements for facilities if 5% estimate exceeded in fact.*

(1) Requires that facility inform the patient of the difference between the final billed amount and the estimate.

(2) Requires that facility provides a plain-language explanation describing complications or change of diagnosis that resulted in difference.

(g) Denies permission to a facility that violates Section 2 to perform the following actions. *Non substantive change: diction, verb tense and construction. Substantive change: introduces prohibitions.*

(1) Introduces actions denied to facilities that violate Section 2.

(A) Denies permission to violating facilities to collect or take collection action against the financially responsible party.

(B) Denies permission to violating facilities to report consumer to credit bureau.

(C) Denies permission to violating facilities from pursuing action against the consumer.

(2) Facilities that violate Section 2 are subject to enforcement action by the appropriate licensing agency.

SECTION 3.
Repeals Subchapter B, Chapter 324, Health and Safety Code.

SECTION 4.
Makes the Act prospective.

SECTION 5.
If passed, the Act takes effect September 1, 2025.

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