

- SUBJECT:** Prohibiting certain pricing by freestanding emergency rooms
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 8 ayes — Martinez Fischer, Darby, Collier, Landgraf, Moody, Parker, Patterson, Shine
- 0 nays
- 1 absent — Beckley
- WITNESSES:** For — Blake Hutson, AARP Texas; Paul Hain, Blue Cross Blue Shield of Texas; Jason Baxter, Texas Association of Health Plans; (*Registered, but did not testify*: Billy Phenix, America's Health Insurance Plans; Stacey Pogue, Center for Public Policy Priorities; Robin Vincent and Donna Warndorf, Harris County Human Resources Risk Management; Bill Kelly, City of Houston Mayor's Office; John Esparza, Texas Trucking Association; Sandy Dunn)
- Against — None
- On — Carrie De Moor, Code 3 Emergency Partners; Brad Barton, Golden Triangle Emergency Center; Casey Fisher, Legacy ER & Urgent Care; Esther Chavez, Office of the Attorney General; Rhonda Sandel, Texas Association of Freestanding Emergency Centers; (*Registered, but did not testify*: Lisa Wyman, Department of State Health Services)
- BACKGROUND:** Business and Commerce Code sec. 17.46 declares false, misleading, or deceptive acts or practices in the conduct of any trade or commerce unlawful. Sec. 17.47 authorizes the Office of the Attorney General's Consumer Protection Division to bring an action in the name of the state against a person engaging in an unlawful trade practice.
- DIGEST:** Under CSHB 1941, the term "false, misleading, or deceptive acts or practices" would include a freestanding emergency care facility that provided emergency care at an unconscionable price or demanded or

charged an unconscionable price for emergency or other care.

The Office of the Attorney General's Consumer Protection Division could not bring an action for unconscionable pricing if the price alleged to be unconscionable was less than 200 percent of the average charge for the same or substantially similar care provided by hospital emergency rooms in the same or nearest county to the county in which the freestanding emergency medical care facility was located, according to data collected by the Department of State Health Services (DSHS).

If charge data was not available from DSHS, the attorney general could adopt rules designating another source of hospital charge data for use in establishing the average charge for emergency care or other care provided by hospital emergency rooms in order to determine whether a price was unconscionable.

In an action brought to enforce the provisions of the bill, the Consumer Protection Division could request and the trier of fact could award the recovery of reasonable attorney's fees, court costs, and reasonable expenses incurred by the division in obtaining a remedy.

The bill would not create any private cause of action for a false, misleading, or deceptive act.

The bill would take effect September 1, 2019.