

BILL ANALYSIS

Senate Research Center
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S.B. 866
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Business & Commerce
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas law prohibits price gouging during an emergency because of the inability for a consumer to shop around during such an event. S.B. 866 extends this protection to those experiencing an emergency medical situation by prohibiting unconscionable pricing connected to this care at a free standing emergency room.

As proposed, S.B. 866 amends current law relating to unconscionable prices charged by certain health care facilities for medical care.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas attorney general in SECTION 1 (Section 17.464, Business & Commerce Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 17, Business & Commerce Code, by adding Section 17.464, as follows:

Sec. 17.464. UNCONSCIONABLE PRICE FOR CARE AT EMERGENCY FACILITY.
(a) Defines "emergency care" and "emergency facility."

(b) Defines "false, misleading, or deceptive acts or practices" for purposes of Section 17.46(a) (relating to declaring any false, misleading, or deceptive acts or practices in the conduct of any trade or commerce to be unlawful) to include an emergency facility that provides emergency care at an unconscionable price or, demands or charges an unconscionable price for or in connection with emergency care or other care at the facility.

(c) Prohibits the consumer protection division at the Office of the Attorney General from bringing an action under Section 17.47 (Restraining Orders) for an act or practice described by Subsection (b) if the price alleged to be unconscionable is less than 200 percent of the average charge for the same or substantially similar care provided to other individuals by a hospital emergency room according to data collected by the Department of State Health Services under Chapter 108 (Health Care Data Collection), Health and Safety Code, and made available to the consumer protection division, except as provided by Subsection (d).

(d) Authorizes the Texas attorney general (attorney general), if the attorney general determines that the consumer protection division is unable to obtain the charge data described by Subdivision (c), to adopt rules designating another source of hospital charge data for use by the consumer protection division in establishing the average charge for emergency care or other care provided by hospital emergency rooms for purposes of Subsection (c).

(e) Authorizes the consumer protection division, in an action brought under Section 17.47 to enforce this section to request, and authorizes the trier of fact to

award the recovery of, reasonable attorney's fees and court costs, and the reasonable expenses occurred by the consumer protection division in obtaining any remedy available under Section 17.47, including the cost of investigation, witness fees, and deposition expenses.

(f) Provides that this section does not create a private cause of action for a false, misleading, or deceptive act or practice described by Subsection (b).

SECTION 2. Effective date: September 1, 2019.