

# NEW TEXAS LAWS:

## TARGETING SURPRISE MEDICAL BILLING AND DECEPTIVE PRACTICES

The Texas Legislative session brought three new laws related to payments for medical care. One bill, Senate Bill 1264, is intended to curb a practice called “surprise” or “balance” billing. The other two bills—House Bills 2041 and 1941—target deceptive advertising used and high prices charged by some freestanding ERs. Below is a descriptive of these bills, which are newly signed into law and will go into effect September 1, 2019.

### **SB 1264: Balance Billing**

Balance billing generally comes about when an insured patient needs to seek emergency care from an out-of-network facility or when they go to an in-network hospital but later find out that their doctor or some other provider they saw during that visit was actually out of network. In these situations, if the insurance company and providers cannot negotiate a price, the patient may be left with a substantial medical bill.

In 2009, the state passed HB 2256, which set up a mediation process that consumers could initiate. The Texas Department of Insurance estimates that this process has saved consumers almost \$36 million since 2015; however, consumers may not be aware that this process even exists.

**For state-regulated insurance plans, SB 1264 creates an arbitration process between providers and insurers and leaves the consumer completely out of the negotiations.** The law also gives the state the authority to enforce the results of the arbitration. State Representative Trey Martinez Fisher (D-San Antonio) stated, "SB 1264 also adds two new enforcement mechanisms: administrative penalties by the relevant state agencies and the ability for the AG's office to seek an injunction against perennial bad actors."

Texas has taken a lead on combating this issue, and we may also see national action, such as the bipartisan No Surprises Act.

### **HB 1941 and HB 2041: Freestanding ERs**

Two recently-signed laws are intended to target price-gouging and deceptive advertising practices by freestanding ERs.

- ❖ **HB 1941:** This law focuses on price-gouging and preventing charges that are more than 200% of what hospital ERs would charge for the same care. It also authorizes the state to take action against freestanding ERs that engage in this kind of price-gouging.
- ❖ **HB 2041:** This law targets advertising practices used by freestanding ERs with the goal to provide better transparency with regard to their network status with insurance carriers and their pricing methods. **The law requires that these freestanding ERs notify patients of facility or observation fees before providing services and post a notice that they may be out of network with a patient's plan.** It also prohibits them from using an insurance carrier's logo or implying that they accept the insurance unless they are actually in network.

## For More Information

For more information or assistance, please contact our Employee Benefits team at **210-640-1789**, toll-free at **1-888-757-2104**, or **EmployeeBenefits@BFGonline.com**.



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