



Health Facility Compliance Guidance Letter

Number: GL 19-2004-A
Title: 86 th Regular Session, Senate Bill (SB) 1264 Guidance Letter [Amended]
Provider Types: Abortion Facilities, Ambulatory Surgical Centers, Birthing Centers, Chemical Dependency Treatment Facilities, Crisis Stabilization Units, End Stage Renal Disease Facilities, Freestanding Emergency Medical Centers, Hospitals, Narcotic Treatment Programs, Private Psychiatric Hospitals, and Special Care Facilities
Date Issued: April 15, 2021

1.0 Subject and Purpose

This amended guidance letter replaces the previous GL 19-2004, issued on December 18, 2019, to notify providers that effective April 15, 2021, the Health and Human Services Commission (HHSC) adopted rules, as published in the April 9, 2021 issue of the *Texas Register* (46 TexReg 2421), in Texas Administrative Code Title 25 (25 TAC) Chapters 133, 135, 137, 139, and 229 and in 26 TAC Chapters 506, 507, 509, 510, and 564, to implement SB 1264’s provisions.

The purpose of this letter is to provide instruction related to the passage of SB 1264 and to notify stakeholders of the recently adopted rules.

This letter outlines provider responsibilities and expectations.

2.0 Policy Details & Provider Responsibilities

With SB 1264, the 86th Legislature requires HHSC to adopt rules relating to consumer protections against certain medical and health care billing by out-of-network licensed health care facilities. HHSC has the authority to take action against facilities and providers that violate a balance billing prohibition.

2.1 SB 1264 Provisions

SB 1264, relating to consumer protections against certain medical and health care billing by certain out-of-network providers, amended the Texas Insurance Code.

SB 1264 added Chapter 752 to the Insurance Code, authorizing HHSC to take disciplinary action against a licensed health care facility that violates a law prohibiting the provider from billing a patient in an amount greater than an applicable copayment, coinsurance, or deductible under certain patient health benefit and insurance plans.¹

SB 1264 prohibits an out-of-network provider from billing a patient for certain covered health care services or supplies in an amount greater than an applicable copayment, coinsurance, or deductible under certain patient health benefit and insurance plans.

The Texas Department of Insurance (TDI) has interpreted the provisions of SB 1264 in new rules, consistent with that agency's duty to ensure that the Insurance Code is executed and to protect and ensure the fair treatment of consumers.

Accordingly, an individual or entity that is licensed, certified, or otherwise authorized by HHSC to practice or operate is subject to disciplinary action if the individual or entity violates the provisions of SB 1264 or the rules adopted by TDI interpreting those provisions.

Providers are responsible for complying with SB 1264, including as interpreted by TDI at [28 TAC Chapter 21, Subchapter OO, §§21.4901-21.4904 \(relating to disclosures by out-of-network providers\)](#).

2.2 HHSC Rules Implementing SB 1264

To comply with SB 1264, HHSC adopted the following rules relating to consumer protections against certain medical and health care billing by out-of-network licensed health care facilities:

- Amended Rules:
 - Hospitals: [25 TAC §133.46\(c\), Hospital Billing](#);

¹ ¹ Texas Insurance Code [§752.0003](#).

- Ambulatory Surgical Centers: [25 TAC §135.4\(m\), Ambulatory Surgical Center \(ASC\) Operation](#);
 - Birthing Centers: [25 TAC §137.39\(i\), General Requirements for the Provision and Coordination of Treatment and Services](#);
 - Abortion Facilities: [25 TAC §139.60\(n\), Other State and Federal Compliance Requirements](#);
 - Narcotic Treatment Programs: [25 TAC §229.144\(c\), State and Federal Statutes and Regulations](#); and
 - Private Psychiatric Hospitals and Crisis Stabilization Units: [26 TAC §510.45\(d\), Facility Billing](#).
- New Rules:
 - Special Care Facilities: [26 TAC §506.37, Balance Billing](#);
 - End Stage Renal Disease facilities: [26 TAC §507.50, Balance Billing](#);
 - Freestanding Emergency Medical Care facilities: [26 TAC §509.67, Balance Billing](#); and
 - Chemical Dependency Treatment Facilities: [26 TAC §564.28, Balance Billing](#).

3.0 Background/History

The stated purpose of SB 1264 was to amend the Insurance Code to establish consumer protections against balance billing by certain out-of-network providers. The proposed rules were published in the December 18, 2020 issue of the *Texas Register* for public comment. The rules were adopted without changes to the proposed text as published in the April 9, 2021 issue of the *Texas Register*. The rules became effective on April 15, 2021.

4.0 Resources

View more information on SB 1264 at:
<https://tdi.texas.gov/rules/2019/senate-bill-1264.html>.

View previous issues of the *Texas Register* at:
<https://www.sos.texas.gov/texreg/pdf/backview/index.shtml>.

View 28 TAC Chapter 21, Subchapter OO, Disclosures by Out-Of-Network Providers at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=5&ti=28&pt=1&ch=21&sch=OO&rl=Y](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=5&ti=28&pt=1&ch=21&sch=OO&rl=Y).

View 25 TAC §133.46, Hospital Billing at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=133&rl=46](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=133&rl=46).

View 25 TAC §135.4, Ambulatory Surgical Center (ASC) Operation at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=135&rl=4](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=135&rl=4).

View 25 TAC §137.39, General Requirements for the Provision and Coordination of Treatment and Services at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=137&rl=39](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=137&rl=39).

View 25 TAC §139.60, Other State and Federal Compliance Requirements at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=139&rl=60](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=139&rl=60).

View 25 TAC §229.144, State and Federal Statutes and Regulations at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=229&rl=144](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=229&rl=144).

View 26 TAC §510.45, Facility Billing at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=510&rl=45](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=510&rl=45).

View 26 TAC §506.37, concerning Balance Billing at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=506&rl=37](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=506&rl=37).

View 26 TAC §507.50, concerning Balance Billing at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=507&rl=50](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=507&rl=50).

View 26 TAC §509.67, concerning Balance Billing at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=509&rl=67](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=509&rl=67).

View 26 TAC §564.28, concerning Balance Billing at:

[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=564&rl=28](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=26&pt=1&ch=564&rl=28).

To receive future updates, sign up for GovDelivery at:
<https://service.govdelivery.com/accounts/TXHHSC/subscriber/new>.

5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules, and Training unit by email at: HCR_PRT@hhs.texas.gov.