Presentation to the House Insurance Committee

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Texas Health and Safety Code Chapter 254 requires most freestanding emergency medical care facilities (FEMCs) obtain a license from the Health and Human Services Commission (HHSC).

Texas Administrative Code Title 25 (25 TAC) Chapter 131 and 26 TAC Chapter 509 contain operational standards for licensed FEMCs.
Number of Licensed Freestanding Emergency Medical Care Facilities

<table>
<thead>
<tr>
<th>Year</th>
<th>Total FEMC Facilities at End of Calendar Year</th>
<th>Total FEMC Facility Closures at End of Calendar Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>187</td>
<td>7</td>
</tr>
<tr>
<td>2016</td>
<td>214</td>
<td>58</td>
</tr>
<tr>
<td>2017</td>
<td>210</td>
<td>48</td>
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<tr>
<td>2018</td>
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<td>2019</td>
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<td>2020</td>
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<tr>
<td>2021</td>
<td>215</td>
<td>8</td>
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<tr>
<td>2022</td>
<td>221</td>
<td>8</td>
</tr>
</tbody>
</table>
Senate Bill 2038
87th Legislature, 2021

• Requires an FEMC facility to disclose its prices for any testing and vaccination services the facility offers for an infectious disease for which a state of disaster has been declared

• Prohibits an FEMC facility from charging a facility or observation fee for a health care service accessed from a vehicle

• Prohibits an FEMC facility from charging an unconscionable price for products and services provided during a declared state of disaster

• Prohibits a facility from intentionally charging a third-party payor a higher price than an individual for the same product or service during a declared state of disaster

• Grants HHSC authority to impose an administrative penalty for violations related to pricing practices during a declared state of disaster
Senate Bill 2038 Implementation

HHSC has completed the following implementation activities:

• Issued guidance to providers
• Trained staff
• Proposed rules in the Texas Register
• The new rules are currently in the final adoption phase and are anticipated to take effect by December 2022
House Bill 2041, 86th Legislature, 2019: Disclosure Requirements

Requires FEMC facilities provide to each patient a written disclosure statement listing the following:

• Observation and other facility fees that may result from a patient’s visit

• Health benefit plans for which the facility is an in-network provider or a statement that the facility is an out-of-network provider for all plans
House Bill 2041: Posting Notice

Requires an FEMC facility to prominently and conspicuously post a notice stating the following:

• The facility’s rates are comparable to hospital emergency room rates and the facility may charge a facility fee

• The physician providing care and facility may be out-of-network for the patient’s health plan

• The physician may bill separately from the facility for the medical care provided to the patient

• Which health benefit plans are in-network, or that the facility is an out-of-network provider for all health benefit plans, as applicable
House Bill 2041: Prohibited Marketing Practices

- Prohibits an FEMC facility from falsely advertising as a network provider of a health benefit plan issuer
- Prohibits an FEMC facility from posting health benefit issuer’s name or logo in any signage or marketing materials if the facility is an out-of-network provider for any of the issuer’s health benefit plans
- Requires a closed FEMC facility to immediately remove any signs within public view that may indicate the facility is in operation
HHSC has completed the following implementation activities:

- Issued guidance to providers
- Trained staff
- Investigated complaints