

By: Seliger

S.B. No. 1229

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the use of credit card payments to settle claims for health care services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) The legislature finds and declares that this Act is necessary to:

(1) remove barriers that hinder physicians and other health care providers from exercising their right to receive payments, upon request, from health plans through Health Insurance Portability and Accountability Act-standard automated clearinghouse electronic fund transfers;

(2) eliminate unnecessary and excessive fees imposed on physicians and other health care providers by certain licensees and their contracted vendors who use credit card payments, rather than automated clearinghouse electronic fund transfer payments, to settle claims for health care services; and

(3) eliminate the unnecessary administrative hassle that licensee use of credit card payments in the settlement of claims for health care services imposes on physicians and other health care providers.

(b) The legislature finds and declares that:

(1) despite the potential benefits associated with

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electronic funds transfer payments, many physicians and other health care providers are being subjected to fees associated with credit card payments that essentially:

(A) reduce the contracted fee amounts of physicians and other health care providers; and

(B) shift the costs of transferring money electronically from the licensee to the physician or other health care provider;

(2) physicians and other health care providers are often unaware of these high fees when accepting credit card payments from licensees and their contracted vendors;

(3) physicians and other health care providers also are often unaware:

(A) of their right to receive, upon request, Health Insurance Portability and Accountability Act-standard automated clearinghouse electronic fund transfer payments from health plans; and

(B) that the only fee that should be assessed in association with an automated clearinghouse electronic fund transfer payment is a nominal banking fee;

(4) licensees often receive cash-back incentives from credit card companies for credit card payment transactions;

(5) the use of virtual credit cards for payment is an administrative hassle in that it requires the staff of physicians and other health care providers to manually enter payments into their own credit card processing system or devote staff time to

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write or call the licensee to assert the right to be paid by automated clearinghouse electronic fund transfer; and

(6) unlike payments made by patients using credit cards, credit card payments made by licensees or their contracted vendors do not offer significant risk reduction for physicians and other health care providers, but nonetheless carry increased processing charges.

SECTION 2. Subtitle C, Title 5, Insurance Code, is amended by adding Chapter 564 to read as follows:

CHAPTER 564. PROHIBITED PRACTICES RELATED TO PAYMENT FOR
HEALTH CARE SERVICES

Sec. 564.001. CERTAIN CREDIT CARD PAYMENTS PROHIBITED.

(a) In this section:

(1) "Administrator" has the meaning assigned by Section 4151.001. Notwithstanding that section or any other law, the term includes:

(A) a joint fund, risk management pool, or self-insurance pool composed of political subdivisions of this state that participate in a fund or pool through interlocal agreements, any nonprofit administrative agency or governing body or other nonprofit entity that acts solely on behalf of a fund, pool, agency, or body, or any other fund, pool, agency, or body established under or for the purpose of implementing an interlocal governmental agreement; and

(B) a self-insured political subdivision.

(2) "Credit card payment" means a type of electronic

funds transfer by which a licensee or a contracted vendor of a licensee sends credit card payment information and instructions through or on any medium to the health care provider, who then processes the payments using standard credit card technology. The term includes a virtual credit card payment.

(3) "Health care provider" means any person, partnership, professional association, corporation, facility, or institution duly licensed, certified, registered, or chartered by this state to provide health care services, including:

(A) a physician;

(B) an officer, director, shareholder, member, partner, manager, owner, or affiliate of a physician or other health care provider; and

(C) an employee, independent contractor, or agent of a physician or other health care provider acting in the course and scope of the employment or contractual relationship.

(4) "Health care services" means services provided to an individual to prevent, alleviate, cure, or heal human illness or injury, including:

(A) pharmaceutical services;

(B) medical, chiropractic, or dental care services;

(C) hospitalization; and

(D) care or services incidental to the health care services described by Paragraphs (A)-(C).

(5) "Licensee" means:

(A) an insurer as defined by Section 1301.001;

(B) a health maintenance organization as defined by
Section 843.002;

(C) a person required to register under Section
1458.051;

(D) an administrator;

(E) an officer, director, shareholder, member,
partner, manager, owner, or affiliate of a licensee described by
Paragraphs (A)-(D); and

(F) an employee, independent contractor, or agent
of a licensee described by Paragraphs (A)-(D) acting in the course
and scope of the employment or contractual relationship.

(6) "Physician" means:

(A) an individual licensed to practice medicine in
this state;

(B) a professional association organized by an
individual physician or group of physicians;

(C) a partnership or limited liability partnership
formed by a group of physicians;

(D) a nonprofit health corporation certified by the
Texas Medical Board under Chapter 162, Occupations Code;

(E) a limited liability company formed by a group
of physicians; or

(F) a single legal entity authorized to practice
medicine owned by a group of physicians.

(7) "Virtual credit card payment" means a credit card
payment for which no physical credit card is presented to the

health care provider and the single-use credit card expires upon payment processing.

(b) A licensee or contracted vendor of a licensee may not use a credit card payment to settle a claim for health care services with a health care provider.

(c) The provisions in this section may not be waived, voided, nullified, or modified by contract.

(d) Nothing in this section may be construed to prohibit:

(1) the use of an automated clearinghouse electronic funds transfer to settle a claim for health care services with a health care provider;

(2) the use of a credit card to settle a claim for health care services with a health care provider, if the payment using a credit card is made:

(A) directly by the patient; or

(B) by an individual on behalf of the patient for the purpose of paying the patient's out-of-pocket responsibilities; or

(3) the use of a flexible spending account or health savings account, without regard to whether a credit card is issued to the patient under the account.

SECTION 3. The change in law made by this Act applies only to charges for health care services provided on or after the effective date of this Act. Charges for health care services provided before the effective date of this Act are governed by the law in effect immediately before that date, and that law is continued in effect

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for that purpose.

SECTION 4. This Act takes effect September 1, 2015.