TAHP Opposes SB 1298:

The Texas Association of Health Plans

Texas lawmakers carefully crafted a deal on surprise medical bills; The Texas Association freestanding ERs want to change the deal and reward their price gouging.

The Background: SB 1264 by Senator Hancock from the 86th legislative session built a one-of-kind system to address surprise medical bills and protect patients.

Freestanding ERs want to Manipulate the Process: The worst health care actors in Texas are aiming for a special deal to change the surprise billing rules to their benefit.

Freestanding ERs are Already Abusing the System, accounting for 82% of all Mediation Requests

Mediation requests by service type

medianon requests by seri	Jan -	July -	Jan -	July -	Jan -
Provider	June 2020	Dec 2020	June 2021	Dec 2021	June 2022
Ambulatory surgical center	-	22	23	14	16
Birthing center	-	-	10	7	9
Diagnostic imaging service	-	-	3	8	4
Freestanding ER	390	1,871	10,322	20,025	30,329
Hospital	362	1,181	3,208	4,090	6,523
Lab	-	-	27	-	5
Total	752	3,074	13,593	24,144	36,886

Texas has passed at least 6 laws now to trying to address misleading advertising, price gouging, and scams at freestanding ERS:

- SB 425 by Schwertner (84th) created out-of-network notice requirements
- HB 3276 by Oliverson (85th) strengthened notice requirements
- HB 2041 by Olivers (86th) notice requirements and license penalties
- HB 1941 by Phelan (86th) price gouging AG enforcement
- SB 1264 by Hancock (86th) surprise billing protections
- SB 2038 by Menendez (87th) drive through COVID-testing price gouging

SB 1264 Planned for All Scenarios: Stakeholders on all sides worked carefully to consider all scenarios. That included a provision that would allow for administrative penalties if a health plan, hospital, physician, or other provider acted in "bad faith" during dispute resolution.

Freestanding ER Harms: Throughout the pandemic, these bad actors charged thousands—even \$50,000 in one instance—for COVID-19 testing.



Mediation is already expensive. Texas should not be layering arbitration on top of it.

Mediator fees

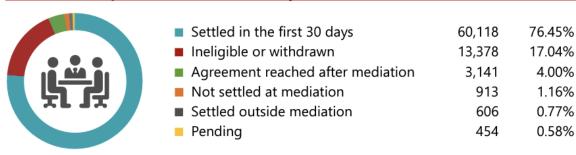
SB 1264 does not limit the fees charged by mediators. Instead, mediators set their own fixed fees per case. There is no fee to submit a request for dispute resolution or take part in informal settlement discussions. Each party pays half the fee once TDI assigns the case to a mediator.

Fees as of June 30, 2022

Median fee: \$800 Lowest fee: \$80 Highest fee: \$5,275 Total fees paid: \$3.4 million

Mediation is working: TDI Report shows that the process resolves nearly all claims.

Mediation request outcomes, January 2020-June 2022



Freestanding ERs are Still the Problem: FSERs operate on the fringes as out-of-network health care providers.

Percentage of providers billed as out-of-network

Provider	Jan - June 2019	July - Dec 2019	Jan - June 2020	July - Dec 2020	Jan - June 2021	July - Dec 2021	Jan - June 2022
■ Hospital	4%	3%	3%	4%	4%	4%	3%
Freestanding ER	95%	89%	94%	89%	91%	90%	90%