

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE G. PROVISION OF SERVICES IN CERTAIN FACILITIES

CHAPTER 327. DISCLOSURE OF PRICES

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. [331](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 327.001. DEFINITIONS. In this chapter:

(1) "Ancillary service" means a facility item or service that a facility customarily provides as part of a shoppable service.

(2) "Chargemaster" means the list of all facility items or services maintained by a facility for which the facility has established a charge.

(3) "Commission" means the Health and Human Services Commission.

(4) "De-identified maximum negotiated charge" means the highest charge that a facility has negotiated with all third party payors for a facility item or service.

(5) "De-identified minimum negotiated charge" means the lowest charge that a facility has negotiated with all third party payors for a facility item or service.

(6) "Discounted cash price" means the charge that applies to an individual who pays cash, or a cash equivalent, for a facility item or service.

(7) "Facility" means a hospital licensed under Chapter [241](#).

(8) "Facility items or services" means all items and services, including individual items and services and service packages, that may be provided by a facility to a patient in connection with an inpatient admission or an outpatient department visit, as applicable, for which the facility has established a standard charge, including:

- (A) supplies and procedures;
- (B) room and board;

(C) use of the facility and other areas, the charges for which are generally referred to as facility fees;

(D) services of physicians and non-physician practitioners, employed by the facility, the charges for which are generally referred to as professional charges; and

(E) any other item or service for which a facility has established a standard charge.

(9) "Gross charge" means the charge for a facility item or service that is reflected on a facility's chargemaster, absent any discounts.

(10) "Machine-readable format" means a digital representation of information in a file that can be imported or read into a computer system for further processing. The term includes.XML,.JSON, and.CSV formats.

(11) "Payor-specific negotiated charge" means the charge that a facility has negotiated with a third party payor for a facility item or service.

(12) "Service package" means an aggregation of individual facility items or services into a single service with a single charge.

(13) "Shoppable service" means a service that may be scheduled by a health care consumer in advance.

(14) "Standard charge" means the regular rate established by the facility for a facility item or service provided to a specific group of paying patients. The term includes all of the following, as defined under this section:

(A) the gross charge;

(B) the payor-specific negotiated charge;

(C) the de-identified minimum negotiated charge;

(D) the de-identified maximum negotiated charge;

and

(E) the discounted cash price.

(15) "Third party payor" means an entity that is, by statute, contract, or agreement, legally responsible for payment of a claim for a facility item or service.

Added by Acts 2021, 87th Leg., R.S., Ch. 1044 (S.B. [1137](#)), Sec. 1, eff. September 1, 2021.

Sec. 327.002. PUBLIC AVAILABILITY OF PRICE INFORMATION REQUIRED. Notwithstanding any other law, a facility must make public:

(1) a digital file in a machine-readable format that contains a list of all standard charges for all facility items or services as described by Section 327.003; and

(2) a consumer-friendly list of standard charges for a limited set of shoppable services as provided in Section 327.004.

Added by Acts 2021, 87th Leg., R.S., Ch. 1044 (S.B. 1137), Sec. 1, eff. September 1, 2021.

Sec. 327.003. LIST OF STANDARD CHARGES REQUIRED. (a) A facility shall:

(1) maintain a list of all standard charges for all facility items or services in accordance with this section; and

(2) ensure the list required under Subdivision (1) is available at all times to the public, including by posting the list electronically in the manner provided by this section.

(b) The standard charges contained in the list required to be maintained by a facility under Subsection (a) must reflect the standard charges applicable to that location of the facility, regardless of whether the facility operates in more than one location or operates under the same license as another facility.

(c) The list required under Subsection (a) must include the following items, as applicable:

(1) a description of each facility item or service provided by the facility;

(2) the following charges for each individual facility item or service when provided in either an inpatient setting or an outpatient department setting, as applicable:

(A) the gross charge;

(B) the de-identified minimum negotiated charge;

(C) the de-identified maximum negotiated charge;

(D) the discounted cash price; and

(E) the payor-specific negotiated charge, listed by the name of the third party payor and plan associated with the

charge and displayed in a manner that clearly associates the charge with each third party payor and plan; and

(3) any code used by the facility for purposes of accounting or billing for the facility item or service, including the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG) code, the National Drug Code (NDC), or other common identifier.

(d) The information contained in the list required under Subsection (a) must be published in a single digital file that is in a machine-readable format.

(e) The list required under Subsection (a) must be displayed in a prominent location on the home page of the facility's publicly accessible Internet website or accessible by selecting a dedicated link that is prominently displayed on the home page of the facility's publicly accessible Internet website. If the facility operates multiple locations and maintains a single Internet website, the list required under Subsection (a) must be posted for each location the facility operates in a manner that clearly associates the list with the applicable location of the facility.

(f) The list required under Subsection (a) must:

(1) be available:

(A) free of charge;

(B) without having to establish a user account or password;

(C) without having to submit personal identifying information; and

(D) without having to overcome any other impediment, including entering a code to access the list;

(2) be accessible to a common commercial operator of an Internet search engine to the extent necessary for the search engine to index the list and display the list as a result in response to a search query of a user of the search engine;

(3) be formatted in a manner prescribed by the commission;

(4) be digitally searchable; and

(5) use the following naming convention specified by

the Centers for Medicare and Medicaid Services, specifically:

<ein>_<facility-name>_standardcharges.[json|xml|csv]

(g) In prescribing the format of the list under Subsection (f)(3), the commission shall:

(1) develop a template that each facility must use in formatting the list; and

(2) in developing the template under Subdivision (1):

(A) consider any applicable federal guidelines for formatting similar lists required by federal law or rule and ensure that the design of the template enables health care researchers to compare the charges contained in the lists maintained by each facility; and

(B) design the template to be substantially similar to the template used by the Centers for Medicare and Medicaid Services for purposes similar to those of this chapter, if the commission determines that designing the template in that manner serves the purposes of Paragraph (A) and that the commission benefits from developing and requiring that substantially similar design.

(h) The facility must update the list required under Subsection (a) at least once each year. The facility must clearly indicate the date on which the list was most recently updated, either on the list or in a manner that is clearly associated with the list.

Added by Acts 2021, 87th Leg., R.S., Ch. 1044 (S.B. [1137](#)), Sec. 1, eff. September 1, 2021.

Sec. 327.004. CONSUMER-FRIENDLY LIST OF SHOPPABLE SERVICES.

(a) Except as provided by Subsection (c), a facility shall maintain and make publicly available a list of the standard charges described by Sections [327.003\(c\)\(2\)\(B\)](#), (C), (D), and (E) for each of at least 300 shoppable services provided by the facility. The facility may select the shoppable services to be included in the list, except that the list must include:

(1) the 70 services specified as shoppable services by the Centers for Medicare and Medicaid Services; or

(2) if the facility does not provide all of the

shoppable services described by Subdivision (1), as many of those shoppable services the facility does provide.

(b) In selecting a shoppable service for purposes of inclusion in the list required under Subsection (a), a facility must:

(1) consider how frequently the facility provides the service and the facility's billing rate for that service; and

(2) prioritize the selection of services that are among the services most frequently provided by the facility.

(c) If a facility does not provide 300 shoppable services, the facility must maintain a list of the total number of shoppable services that the facility provides in a manner that otherwise complies with the requirements of Subsection (a).

(d) The list required under Subsection (a) or (c), as applicable, must:

(1) include:

(A) a plain-language description of each shoppable service included on the list;

(B) the payor-specific negotiated charge that applies to each shoppable service included on the list and any ancillary service, listed by the name of the third party payor and plan associated with the charge and displayed in a manner that clearly associates the charge with the third party payor and plan;

(C) the discounted cash price that applies to each shoppable service included on the list and any ancillary service or, if the facility does not offer a discounted cash price for one or more of the shoppable or ancillary services on the list, the gross charge for the shoppable service or ancillary service, as applicable;

(D) the de-identified minimum negotiated charge that applies to each shoppable service included on the list and any ancillary service;

(E) the de-identified maximum negotiated charge that applies to each shoppable service included on the list and any ancillary service; and

(F) any code used by the facility for purposes of accounting or billing for each shoppable service included on the

list and any ancillary service, including the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG) code, the National Drug Code (NDC), or other common identifier; and

(2) if applicable:

(A) state each location at which the facility provides the shoppable service and whether the standard charges included in the list apply at that location to the provision of that shoppable service in an inpatient setting, an outpatient department setting, or in both of those settings, as applicable; and

(B) indicate if one or more of the shoppable services specified by the Centers for Medicare and Medicaid Services is not provided by the facility.

(e) The list required under Subsection (a) or (c), as applicable, must be:

(1) displayed in the manner prescribed by Section [327.003](#)(e) for the list required under that section;

(2) available:

(A) free of charge;

(B) without having to register or establish a user account or password;

(C) without having to submit personal identifying information; and

(D) without having to overcome any other impediment, including entering a code to access the list;

(3) searchable by service description, billing code, and payor;

(4) updated in the manner prescribed by Section [327.003](#)(h) for the list required under that section;

(5) accessible to a common commercial operator of an Internet search engine to the extent necessary for the search engine to index the list and display the list as a result in response to a search query of a user of the search engine; and

(6) formatted in a manner that is consistent with the format prescribed by the commission under Section [327.003](#)(f)(3).

(f) Notwithstanding any other provision of this section, a facility is considered to meet the requirements of this section if

the facility maintains, as determined by the commission, an Internet-based price estimator tool that:

(1) provides a cost estimate for each shoppable service and any ancillary service included on the list maintained by the facility under Subsection (a);

(2) allows a person to obtain an estimate of the amount the person will be obligated to pay the facility if the person elects to use the facility to provide the service; and

(3) is:

(A) prominently displayed on the facility's publicly accessible Internet website; and

(B) accessible to the public:

(i) without charge; and

(ii) without having to register or establish a user account or password.

Added by Acts 2021, 87th Leg., R.S., Ch. 1044 (S.B. [1137](#)), Sec. 1, eff. September 1, 2021.

Sec. 327.005. REPORTING REQUIREMENT. Each time a facility updates a list as required under Sections [327.003\(h\)](#) and [327.004\(e\)\(4\)](#), the facility shall submit the updated list to the commission. The commission may prescribe the form in which the updated list must be submitted to the commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 1044 (S.B. [1137](#)), Sec. 1, eff. September 1, 2021.

Sec. 327.006. MONITORING AND ENFORCEMENT. (a) The commission shall monitor each facility's compliance with the requirements of this chapter using any of the following methods:

(1) evaluating complaints made by persons to the commission regarding noncompliance with this chapter;

(2) reviewing any analysis prepared regarding noncompliance with this chapter;

(3) auditing the Internet websites of facilities for compliance with this chapter; and

(4) confirming that each facility submitted the lists required under Section [327.005](#).

(b) If the commission determines that a facility is not in compliance with a provision of this chapter, the commission may take any of the following actions, without regard to the order of the actions:

(1) provide a written notice to the facility that clearly explains the manner in which the facility is not in compliance with this chapter;

(2) request a corrective action plan from the facility if the facility has materially violated a provision of this chapter, as determined under Section [327.007](#); and

(3) impose an administrative penalty on the facility and publicize the penalty on the commission's Internet website if the facility fails to:

(A) respond to the commission's request to submit a corrective action plan; or

(B) comply with the requirements of a corrective action plan submitted to the commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 1044 (S.B. [1137](#)), Sec. 1, eff. September 1, 2021.

Sec. 327.007. MATERIAL VIOLATION; CORRECTIVE ACTION PLAN.

(a) A facility materially violates this chapter if the facility fails to:

(1) comply with the requirements of Section [327.002](#);
or

(2) publicize the facility's standard charges in the form and manner required by Sections [327.003](#) and [327.004](#).

(b) If the commission determines that a facility has materially violated this chapter, the commission may issue a notice of material violation to the facility and request that the facility submit a corrective action plan. The notice must indicate the form and manner in which the corrective action plan must be submitted to the commission, and clearly state the date by which the facility must submit the plan.

(c) A facility that receives a notice under Subsection (b) must:

(1) submit a corrective action plan in the form and

manner, and by the specified date, prescribed by the notice of violation; and

(2) as soon as practicable after submission of a corrective action plan to the commission, act to comply with the plan.

(d) A corrective action plan submitted to the commission must:

(1) describe in detail the corrective action the facility will take to address any violation identified by the commission in the notice provided under Subsection (b); and

(2) provide a date by which the facility will complete the corrective action described by Subdivision (1).

(e) A corrective action plan is subject to review and approval by the commission. After the commission reviews and approves a facility's corrective action plan, the commission may monitor and evaluate the facility's compliance with the plan.

(f) A facility is considered to have failed to respond to the commission's request to submit a corrective action plan if the facility fails to submit a corrective action plan:

(1) in the form and manner specified in the notice provided under Subsection (b); or

(2) by the date specified in the notice provided under Subsection (b).

(g) A facility is considered to have failed to comply with a corrective action plan if the facility fails to address a violation within the specified period of time contained in the plan.

Added by Acts 2021, 87th Leg., R.S., Ch. 1044 (S.B. [1137](#)), Sec. 1, eff. September 1, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. [331](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 327.008. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a facility in accordance with Chapter [241](#) if the facility fails to:

(1) respond to the commission's request to submit a

corrective action plan; or

(2) comply with the requirements of a corrective action plan submitted to the commission.

(b) The commission may impose an administrative penalty on a facility for a violation of each requirement of this chapter. The commission shall set the penalty in an amount sufficient to ensure compliance by facilities with the provisions of this chapter subject to the limitations prescribed by Subsection (c).

(c) For a facility with one of the following total gross revenues as reported to the Centers for Medicare and Medicaid Services or to another entity designated by commission rule in the year preceding the year in which a penalty is imposed, the penalty imposed by the commission may not exceed:

(1) \$10 for each day the facility violated this chapter, if the facility's total gross revenue is less than \$10,000,000;

(2) \$100 for each day the facility violated this chapter, if the facility's total gross revenue is \$10,000,000 or more and less than \$100,000,000; and

(3) \$1,000 for each day the facility violated this chapter, if the facility's total gross revenue is \$100,000,000 or more.

(d) Each day a violation continues is considered a separate violation.

(e) In determining the amount of the penalty, the commission shall consider:

(1) previous violations by the facility's operator;

(2) the seriousness of the violation;

(3) the demonstrated good faith of the facility's operator; and

(4) any other matters as justice may require.

(f) An administrative penalty collected under this chapter shall be deposited to the credit of an account in the general revenue fund administered by the commission. Money in the account may be appropriated only to the commission.

Added by Acts 2021, 87th Leg., R.S., Ch. 1044 (S.B. [1137](#)), Sec. 1, eff. September 1, 2021.

Sec. 327.009. LEGISLATIVE RECOMMENDATIONS. The commission may propose to the legislature recommendations for amending this chapter, including recommendations in response to amendments by the Centers for Medicare and Medicaid Services to 45 C.F.R. Part 180. Added by Acts 2021, 87th Leg., R.S., Ch. 1044 (S.B. [1137](#)), Sec. 1, eff. September 1, 2021.