

February 10, 2020

Via electronic submission to: ChiefClerk@tdi.texas.gov

The Honorable Kent Sullivan
Commissioner
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714

PUBLIC COMMENT LETTER

Re: Texas Department of Insurance Proposed Rules Implementing Senate Bill 1264, 28 Tex. Admin. Code §§ 21.4901–21.4904, Proposed in January 10th Edition of the Texas Register

Dear Commissioner Sullivan:

On behalf of our more than 470 member hospitals and health systems, including rural, urban, children's, teaching and specialty hospitals, the Texas Hospital Association appreciates the opportunity to provide comments on the Texas Department of Insurance's proposed rules implementing Senate Bill 1264, 86th Legislature, 28 Tex. Admin. Code §§ 21.4901–21.4904.

THA provided written comments and public testimony on SB 1264's nonemergency waiver provisions in July of last year and THA provided public testimony on TDI's specific proposal on Feb. 4. In each of these instances, THA urged TDI not to adopt a mandatory waiting period to make the nonemergency waiver of balance billing protections effective. Although, THA appreciates TDI's adoption of a clear form that includes written instructions on how to complete it, THA takes issue §21.4903(c) of the proposed rule, which states:

To be effective, the notice and disclosure statement must be signed and dated by the enrollee no less than 10 business days before the date the service or supply is performed or provided. The enrollee may rescind acceptance within five business days from the date the notice and disclosure statement was signed, as explained in the notice and disclosure statement form.

THA continues to urge that TDI not adopt a specific timeline for advance notice to consumers before receiving a service that may result in a balance bill for an elective service. An excessive notice period could result in unnecessary delays in nonemergent care. The timeline should be dictated by the provider's receipt of all pertinent information to provide sufficient notice to the patient and, most important, the patient's choice. A patient should be able to decide whether or not to receive a service once equipped with all pertinent pricing information. Requiring a waiting period will only inhibit the patient's choice and present scheduling issues, potentially impacting patient care.

Honorable Kent Sullivan
February 10, 2020
Page 2 of 2.

Again, thank you for the opportunity to provide comments on these proposed rules. Please do not hesitate to contact me directly with questions at 512/465-1539 or cduncan@tha.org.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Cameron Duncan III". The signature is fluid and cursive, with a long horizontal stroke at the end.

D. Cameron Duncan III
Associate General Counsel
Texas Hospital Association