

## **BILL ANALYSIS**

Senate Research Center

H.B. 1236  
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Health & Human Services  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Emergency care is commonly defined as health care services provided to evaluate and stabilize a medical condition that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that failure to get immediate medical care could result in a serious threat to the person's health. This is known as the "prudent layperson standard." It is fundamental that the prudent layperson standard look at a patient's health based on the patient's presenting symptoms, rather than their diagnosis. Despite clear guidance, insurance plans have implemented policies that condition payment for emergency care on the patient's ultimate diagnosis, rather than the patient's presenting symptoms. This is unsafe for patients and is inconsistent with current state and federal law. The federal Emergency Medical Treatment and Labor Act (EMTALA) prohibits a hospital from seeking or directing an individual to seek insurer authorization for screening or stabilization services until after the hospital has provided a medical screening examination and initiated stabilizing treatment. Using a diagnosis to retroactively define an emergency condition also disregards the resources, time, and clinical decision-making required to screen and stabilize patients under EMTALA. Most importantly, these policies can dissuade patients from seeking care when they believe they have an emergency condition and can lead to balance billing of patients. H.B. 1236 seeks to address this issue by upholding the definition of "emergency care" in certain Insurance Code provisions regardless of the final diagnosis of the condition for which the care was sought.

H.B. 1236 amends current law relating to the definition of and certain determinations regarding emergency care for purposes of certain health benefit plan coverage.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 843.002(7), Insurance Code, to redefine "emergency care."

SECTION 2. Amends Subchapter A, Chapter 843, Insurance Code, by adding Section 843.011, as follows:

Sec. 843.011. EMERGENCY SERVICE DETERMINATIONS. Provides that nothing in Subchapter A (General Provisions) prohibits a health maintenance organization from considering diagnosis codes to detect fraud or abuse.

SECTION 3. Amends Section 1301.155(a) Insurance Code, to redefine "emergency care."

SECTION 4. Amends Subchapter D, Chapter 1301, Insurance Code, by adding Section 1301.116, as follows:

Sec. 1301.166. EMERGENCY SERVICE DETERMINATIONS. Provides that nothing in Subchapter D (Relations Between Insureds and Preferred Providers) prohibits a preferred provider benefit plan from considering diagnosis codes to detect fraud or abuse.

SECTION 5. Amends Section 4201.002(2), Insurance Code, to redefine "emergency care."

SECTION 6. Amends Subchapter A, Chapter 4201, Insurance Code, by adding Section 4201.005, as follows:

Sec. 4201.005. EMERGENCY SERVICE DETERMINATIONS. Provides that nothing in Subchapter A (General Provisions) prohibits a payor from considering diagnosis codes to detect fraud or abuse.

SECTION 7. Makes application of this Act prospective to January 1, 2024.

SECTION 8. Effective date: September 1, 2023.