



TAHP Files Complaint Against FSER Abuses

Description

February 4, 2021

As Texas Legislators meet to consider changes to Texas law, many are understandably upset about the practices of free-standing emergency rooms (FSERs). News stories of [\\$10,000 COVID tests from FSERs](#) have populated the headlines for months, and many want to take action.

Even as lawmakers are meeting and will likely consider new regulations, many FSERs are ignoring existing protections and putting consumers at risk. That's why TAHP [formally filed a complaint last week](#).

Citing dozens of examples, our complaint includes evidence of FSER violations of consumer disclosure laws, such as FSER websites including misleading and prohibited statements regarding "accepting" health insurance plans and including prohibited names and logos of health plans for which they are not actually in network.

Inflated COVID test charges are just a new chapter in [Texas' troubled experience with FSERs](#). A relatively new business model in the state, FSERs often mislead patients about cost. Because they often look like urgent care centers, patients visit them for minor, non-emergency conditions.

In each of the past three Legislative sessions, lawmakers have added important consumer protection requirements to the Texas Freestanding Emergency Medical Care Facility Licensing Act. Yet, many FSERs do not provide the patient disclosure notices required by state law. Very few of these FSER websites have the required "Insurance" information or link on their home pages.

Additionally, under their licensing law, FSERs should not be providing non-emergency care. Yet several FSERs are not just providing non-emergency care, they are actively advertising non-emergency services—such as imaging, telemedicine, and STD testing.

When it comes to FSERs, Texans need both new protections and enforcement of existing regulations.

While the tales of the most outrageous bills make headlines, they are not isolated incidents. While most providers charge about \$100 – \$250 per test, some providers—primarily FSERs—are charging Texans over \$1,000 per test. Some FSERs have also added thousands of dollars more in facility, observation, or other fees and unnecessary tests associated with the visit. Excessive prices for (primarily non-emergency) COVID testing are just the latest examples demonstrating the growing need for stronger state oversight and enforcement.

The Texas Department of Insurance (TDI) issued a bulletin addressing fraudulent billing practices for COVID tests, noting that it is a crime to knowingly charge a higher price because an insurer will pay all or a part of that cost.

As it becomes clear that FSERs are demonstrating a pattern of bad behavior, enforcement measures are needed. That's why we actively ask Texas' Health and Human Service Commission to investigate and take a more active role in enforcing the consumer disclosure requirements and reigning in egregious billing by FSERs. The time is ripe for HHSC to enforce disclosure requirements, report price gouging to the Office of the Attorney General and report any suspected fraud by FSERs to TDI.

Highlights of TAHP's Priorities to Hold Freestanding ERs Accountable:

- Hold FSERs accountable for price gouging, predatory billing, and blatant failure to comply with current patient protection laws and regulations.
- Ban FSERs from charging emergency care fees for urgent care and physician office services.
- Penalize FSERs for price gouging and other predatory actions during an emergency or pandemic.
- Hold providers accountable for price gouging patients and third party payers by giving the Texas Medical Board and other licensing agencies the authority and direction to penalize providers that price gouge Texas patients.
- Strengthen and prioritize enforcement of current anti-fraud laws and expand Texas' efforts to hold providers accountable for fraud, waste, and abuse—especially in the private market.

TAHP opposes any expansion of the FSER licensure to include non-emergency services. Any expansion of services at FSERs would put more Texas patients at risk for price gouging, predatory billing, and inappropriate care.

For more resources on FSERs, check out our [policy page](#), which includes our [FSER one-page brief](#).

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