

Regulating Freestanding Emergency Departments



Background

With the proliferation of freestanding emergency departments (FSEDs) in recent years, legislators have grappled with how to regulate and inform consumers of this new option for emergency services. In 2018, CHA engaged heavily on legislation informing consumers of their rights at a FSED and of the services provided within. It is important for hospitals and health systems to understand how this new law will impact health care services delivered at these facilities in the future.

SB 18-146: Freestanding Emergency Departments Required Consumer Notices

This law requires FSEDs to provide certain written and verbal disclosures to a patient before and after screening for an emergency condition.

What You Need to Know

- Prior to the medical screening examination, FSEDs must provide patients with an additional written statement listing patients' rights specific to FSEDs. The FSED statement must also be explained verbally to the patient. In addition, the statement must list whether or not the facility has an associated urgent care or primary care clinic within its facility and the hours of operation for those facilities if they are present.
- FSEDs must also post a sign that is visible in the registration or screening area that states that the facility is an emergency medical facility that treats emergent medical conditions and that indicates whether or not an urgent care or primary care facility is co-located within the FSED facility.
- Following the medical screening examination, once an emergent medical condition has been ruled out or once treatment has been provided to stabilize an emergent medical condition, the FSED must provide the patient with an additional written disclosure that:

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- Lists the specific health insurance carriers and networks with which the FSED participates;
- States that the FSED or physician providing health care services at the FSED may not be a participating provider in the patient's health insurance network;
- States that the physician providing services at the FSED may bill separately from the the FSED for the health care services provided to the patient;
- Specifies the chargemaster or fee schedule price for the 25 most common health care services provided at that FSED;
- Contains a statement specifying that the price listed on the FSED's chargemaster or fee schedule for any given health care service is the maximum charge that any patient will be billed for the service and that the actual charge for any health care service rendered may be lower depending on applicable health insurance benefits and the availability of discounts or financial assistance;
- Contains the following statement or a statement containing substantially similar information:
 - If you are covered by health insurance, you are strongly encouraged to consult with your health insurer to determine accurate information about your financial responsibility for a particular health care service provided at this freestanding emergency department.

If you are not covered by health insurance, you are strongly encouraged to contact (Insert name and telephone number for office responsible for financial services) to discuss payment options and the availability of financial assistance prior to receiving a health care service from this freestanding emergency department.

- Contains information about the facility fees that the FSED charges, indicating either the maximum facility fee that the FSED charges or the range of the minimum to the maximum amount of the facility fees that the FSED charges;
 - Includes the website address where the information contained in the disclosure may also be found.
- This written disclosure must also be posted on the FSED website and updated at least once every six months. The disclosure must be available in languages appropriate to the communities served by the FSED.

Additional Resources

- SB 18-146 [Final Bill](#) and [Fiscal Note](#)
- SB 18-146 will take effect on Jan. 1, 2019

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