



**MEMO on HB 3276 relating to FEC posting of network status-Sep 1 Effective Date**

**Background**

During the 2017 Regular Session, Rep. Tom Oliverson and Senator Larry Taylor passed HB 3276 which relates to posting notices for Texas freestanding emergency medical care facilities. This primarily deals with network status and applies to independent freestanding emergency centers (Chapter 254 of Texas Health and Safety Code) AND hospital affiliated freestanding emergency centers (Chapter 241 of Texas Health and Safety Code).

Originally, HB 3276 included provisions for FECs to post facility fees, prevented FECs from using health plans logos/names, prevented OON FECs from using the words “accept your insurance” and “participate” and a variety of other problematic provisions. We were able to amend those provisions out of this bill and what is left is a simple modification to the posting notice.

As you all know, SB 425 from the 2015 Legislature requires all facilities to have a posting notice in the facility lobby, payment areas, and patient rooms and on the facility website. HB 3276 makes some changes to that existing notice and needs be displayed starting 9-1-17.

**Changes FECs need to Make**

1. If your FACILITY is not contracted with any health benefit plan, then the FEC operator must simply add an additional bullet to the existing posting notice that says:

**- the facility is not a participating provider in any health benefit plan provider network.**

Fortunately, HB 3276 does not restrict you from adding additional language to the end of this new section. For example, you could a line that says “**However, by state law your health insurance company is required to process your ER visit at in network benefit levels.**” Or some variation of that to educate the patient they have OON benefits and in the case of the emergency they are protected.

2. If your facility is contracted with one or more health benefit plan, then the FEC operator must list the health benefit plans in which the facility is a participating provider in the health benefit plan's provider network. This can be done in two different ways.

A. List the health plans on the posting notice where you are participating provider.

Or

B. List the contracts on your website AND provide to a patient written confirmation of whether the facility is a participating provider in the patient's health benefit plan's provider network. HB 3276 does not dictate at what time you must give the written notice to the patients. In other words, this

can be available at front desk in case the patient asks for it in the lobby or payment area. In addition, this written notice could simply be referenced somewhere in the paperwork they sign or even given to them in a written form during discharge. HB 3276 does not have strict provisions around the timing of that written notice. This will apply to the majority of HOPDs and a few select independent FECs that are in network on the facility side.

### **Summary**

TAFEC advises all FECs to make this change to your posting notice and operations ASAP. The effective date of HB 3276 is 9-1-17 and everyone needs to be compliant by then. Due to the health plan opposition to this industry, we can all expect “secret shoppers” and media outlets to be looking at ways to accuse FECs/HOPDs of not being compliant. We saw this in 2015/2016 when SB 425 was originally passed.

You can find a copy of the bill here if you would like to have your own counsel take a look:

<http://www.capitol.state.tx.us/tlodocs/85R/billtext/html/HB03276F.htm>

HB 3276 was discussed extensively at the June TAFEC Membership Meeting and on the weekly TAFEC Legislative committee conference calls during session. So hopefully everyone is aware and has a copy of the bill already. However, we will be discussing this in detail once again at our September 7<sup>th</sup> TAFEC Membership Meeting in case anyone has questions.