



The Honorable Cecile Young  
Executive Commissioner  
Health and Human Services Commission  
Brown-Heatly Building  
4900 North Lamar Blvd.  
Austin, Texas 78751

CC: HHSC Complaint and Incident Intake

February 11, 2021

Commissioner Young,

In 2009, the Texas Legislature addressed the concerns of Texans dissatisfied with their emergency care options by licensing Freestanding Emergency Centers, which provided Texans with more accessible, high-quality emergency care choices. The Texas Association of Freestanding Emergency Centers (TAFEC) is a member-based association representing freestanding emergency centers (FECs), created to work with state leaders to advocate for fair regulation and raise statewide awareness of freestanding emergency centers as a high-quality, accessible emergency medical option. Over the last decade, TAFEC has worked alongside lawmakers, patients, our members, and your agency to reinforce good practices, transparency, and patient advocacy.

As you may be aware, on January 29, 2021, the Texas Association of Health Plans (TAHP) filed a complaint targeted at many freestanding emergency rooms. TAHP then widely publicized the complaint to legislators and their staff on Thursday, February 4, 2021. TAFEC is compelled to correct gross inaccuracies in TAHP's complaint, which included provocative and purposefully misleading content.

TAHP's complaint alleged numerous instances of non-compliance with House Bill 2041, which applies to the two types of Freestanding Emergency Medical Care Facilities. Because TAHP's complaint title references only "freestanding emergency facilities" [sic], and because of the complaint's reference only to House Bill 2041, TAHP clearly intended to communicate that its attached examples reflected clear violations by freestanding emergency rooms. Regrettably, several of TAHP's examples are licensed hospitals, not FECs. By including licensed hospitals in their compliant, this calls into question TAHP's understanding of House Bill 2041 and the overall credibility of its complaint.

Please note, TAHP provided no timestamp or date of when these examples were taken. Without furnishing any evidence, it is hard to determine if these examples were taken two years ago or last week.

Furthermore, as you are aware, HHSC provides a streamlined process for the public to submit individual violations. Not only did TAHP's blanket complaint fail to follow this pre-established process, but between February 2020 and January 2021, HHS's FEC enforcement unit only identified only four minor instances of infractions. Meanwhile, TAHP alleges more than a dozen offenses. Not only is it peculiar that a trade association with a long history of bias against FECs would identify more than double the number of violations found by a state program designed and trained to enforce the law, but rather than filing complaints through existing channels, they chose the most public pathway in which to raise their concern. The manner TAHP decided to report their allegations, along with the sheer number of improperly- reported incidents suggests their complaint's goal was not to protect Texas emergency patients sincerely but rather to advance their political agenda, regardless of the cost. TAHP further proves their motives by not directing each alleged violation at the individual licensed entity but instead filed a blanketed complaint targeted at the FEC industry as a whole.

Over the years, TAFEC has supported and advocated for price transparency legislation—including amending House Bill 2041 to include more price disclosures. TAFEC wants bad actors to be held accountable and, to the extent its complaint might be accurate, is thankful to TAHP for highlighting any FEC that is not in compliance. TAFEC educates members on state regulations and regularly participates in the legislative and regulatory process. TAFEC encourages these measures through education, membership materials, and communications, as well as membership meetings.

Commissioner Young, thank you for your time and attention to this matter. TAFEC has enjoyed a positive working relationship with our licensing agency and we look forward to continued collaboration as we work toward our mutual goal of providing Texans with access to much-needed healthcare options. As always, TAFEC remains committed to serving Texas with high-quality emergency care safely and efficiently.

Sincerely,



Kevin Herrington, MBA, FACHE  
TAFEC Board President-Altus Health



Brad Shields  
TAFEC Executive Director