

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 23-0554.04 Kristen Forrestal x4217

SENATE BILL 23-252

SENATE SPONSORSHIP

Van Winkle and Gonzales,

HOUSE SPONSORSHIP

Daugherty and Hartsook,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING HOSPITAL MEDICAL PRICE TRANSPARENCY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires hospitals to make public a list of all standard charges for all hospital items and services provided to patients. The standard charges include the gross billed charge, the payer-specific negotiated charge, the minimum and maximum negotiated charges, and the discounted cash price. The bill also requires each hospital to maintain and make public a list of at least 300 shoppable services provided by the hospital or, if the hospital does not provide 300 shoppable services, all of the hospital's shoppable services. Each hospital is required to report its

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
Amended 2nd Reading
April 18, 2023

updated lists to the department of health care policy and financing (state department).

The bill requires the state department to monitor hospital compliance with the price transparency requirements. If the state department determines that a hospital is not in compliance, the state department is required to issue a written notice to the hospital and require the hospital to submit a corrective action plan.

The bill repeals sections of statute regarding hospital price transparency and debt collection that are currently under the administration and authority of the department of public health and environment and relocates these sections so that hospital price transparency and debt collection are under the state department.

The bill makes a violation of the hospital transparency requirements outlined in the bill a deceptive trade practice under the "Colorado Consumer Protection Act".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-105, **add**
3 (1)(uuu) as follows:

4 **6-1-105. Unfair or deceptive trade practices.** (1) A person
5 engages in a deceptive trade practice when, in the course of the person's
6 business, vocation, or occupation, the person:

7 (uuu) VIOLATES SECTION 25.5-1-904.

8 **SECTION 2. Repeal of provisions being relocated in this act.**
9 In Colorado Revised Statutes, **repeal** part 8 of article 3 of title 25.

10 **SECTION 3.** In Colorado Revised Statutes, **add with amended**
11 **and relocated provisions** part 9 to article 1 of title 25.5 as follows:

12 **PART 9**

13 **HOSPITAL PRICE TRANSPARENCY**

14 **25.5-1-901. [Formerly 25-3-801] Legislative declaration.**

15 (1) The general assembly finds and declares that:

16 (a) Section 1001 of the "Patient Protection and Affordable Care
17 Act", ~~of 2010~~", Pub.L. 111-148, as amended by ~~section 10101~~ of the

1 "Health Care and Education Reconciliation Act of 2010", Pub.L.
2 111-152, amended Title XXVII of the "Public Health Service Act",
3 Pub.L. 78-410, in part, by adding a new section 2718 (e), requiring, in
4 part, that each hospital operating within the United States establish,
5 update, and make public a list of the hospital's standard charges for the
6 items and services that the hospital provides;

7 (b) Effective January 1, 2021, the federal centers for medicare and
8 medicaid services published the final rule to implement the law, codified
9 at 45 CFR 180;

10 (c) In its summary of the final rule, CMS states that information
11 on hospital standard charges is necessary for the public to "make more
12 informed decisions about their care" and that the "impact of these final
13 policies will help to increase market competition, and ultimately drive
14 down the cost of health care services, making them more affordable for
15 all patients";

16 (d) On July 9, 2021, President Biden, building upon efforts of past
17 presidents, issued the "Executive Order on Promoting Competition in the
18 American Economy", directing the secretary of the United States
19 department of health and human services to support new and existing
20 price transparency initiatives for hospitals;

21 (e) Health-care price transparency is in the best interest of all
22 Coloradans, including:

23 (I) The state government, which purchases health-care services for
24 almost ~~a quarter~~ ONE-FOURTH of all Coloradans;

25 (II) Colorado businesses, which fund employee medical expenses;
26 and

27 (III) Colorado residents, who ultimately bear the brunt of high

1 health-care costs in the form of higher taxes, lower wages, and residents'
2 own out-of-pocket spending;

3 (f) Moreover, health-care prices in Colorado are among the
4 highest in the nation;

5 (g) However, not all Colorado hospitals are in compliance with all
6 of the disclosure requirements under federal law and other state laws
7 governing health-care price transparency; and

8 (h) This lack of compliance with health-care price transparency
9 laws by Colorado hospitals decreases the likelihood that Colorado
10 consumers will be fully aware of affordable health-care options before
11 purchasing items and services from hospitals, placing health-care
12 consumers at greater risk of collection actions and other adverse actions
13 relating to unpaid medical bills.

14 (2) Therefore, the general assembly finds and declares that it is
15 imperative to protect Colorado health-care consumers from collection
16 actions and other adverse actions taken by Colorado hospitals during the
17 time when the hospital was not in material compliance with hospital price
18 transparency laws intended to protect health-care consumers.

19 **25.5-1-902. [Formerly 25-3-802] Definitions.** As used in this
20 ~~section~~ PART 9, unless the context otherwise requires:

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22 (1) "Collection action" means any of the following actions taken
23 with respect to a debt for items and services that were purchased from or
24 provided to a patient by a hospital on a date during which the hospital was
25 not in material compliance with hospital price transparency laws:

26 (a) Attempting to collect a debt from a patient or patient guarantor
27 by referring the debt, directly or indirectly, to a debt collector, a collection

1 agency, or other third party retained by or on behalf of the hospital;

2 (b) Suing the patient or patient guarantor or enforcing an

3 arbitration or mediation clause in any hospital documents, including

4 contracts, agreements, statements, or bills; or

5 (c) Directly or indirectly causing a report to be made to a

6 consumer reporting agency.

7 (2) (a) "Collection agency" means any:

8 (I) Person who engages in a business, the principal purpose of

9 which is the collection of debts; or

10 (II) Person who:

11 (A) Regularly collects or attempts to collect, directly or indirectly,

12 debts owed or due or asserted to be owed or due to another;

13 (B) Takes assignment of debts for collection purposes;

14 (C) Directly or indirectly solicits for collection debts owed or due

15 or asserted to be owed or due to another; or

16 (D) Collects debt for the department of personnel.

17 (b) "Collection agency" does not include:

18 (I) Any officer or employee of a creditor while, in the name of the

19 creditor, collecting debts for such creditor;

20 (II) Any person while acting as a collection agency for another

21 person, both of whom are related by common ownership or affiliated by

22 corporate control, if the person acting as a collection agency does so only

23 for creditors to whom it is so related or affiliated and if the principal

24 business of the person is not the collection of debts;

25 (III) Any officer or employee of the United States or any state to

26 the extent that collecting or attempting to collect any debt is in the

27 performance of the officer's or employee's official duties;

1 (IV) Any person while serving or attempting to serve legal process
2 on any other person in connection with the judicial enforcement of any
3 debt;

4 (V) Any debt-management services provider operating in
5 compliance with or exempt from the "Uniform Debt-Management
6 Services Act", part 2 of article 19 of title 5;

7 (VI) Any person collecting or attempting to collect any debt owed
8 or due or asserted to be owed or due another to the extent that:

9 (A) The activity is incidental to a bona fide fiduciary obligation
10 or a bona fide escrow arrangement;

11 (B) The activity concerns a debt that was extended by the person;

12 (C) The activity concerns a debt that was not in default at the time
13 it was obtained by the person; or

14 (D) The activity concerns a debt obtained by the person as a
15 secured party in a commercial credit transaction involving the creditor;

16 (VII) Any person whose principal business is the making of loans
17 or the servicing of debt not in default and who acts as a loan
18 correspondent, seller and servicer for the owner, or holder of a debt that
19 is secured by a deed of trust on real property, whether or not the debt is
20 also secured by an interest in personal property;

21 (VIII) A limited gaming or racing licensee acting pursuant to
22 article 33 of title 44.

23 (c) Notwithstanding the provisions of subsection ~~(2)(b)~~ (5)(b) of
24 this section, "collection agency" includes any person who, in the process
25 of collecting the person's own debts, uses another name that would
26 indicate that a third person is collecting or attempting to collect such
27 debts.

1 (3) (a) "Consumer reporting agency" means any person that, for
2 monetary fees or dues or on a cooperative nonprofit basis, regularly
3 engages, in whole or in part, in the practice of assembling or evaluating
4 consumer credit information or other information on consumers for the
5 purpose of furnishing consumer reports to third parties. "Consumer
6 reporting agency" includes any person defined in 15 U.S.C. sec. 1681a (f)
7 or section 5-18-103 (4).

8 (b) "Consumer reporting agency" does not include any business
9 entity that provides check verification or check guarantee services only.

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11 (4) (a) "Debt" means any obligation or alleged obligation of a
12 consumer to pay money arising out of a transaction, whether or not the
13 obligation has been reduced to judgment.

14 (b) "Debt" does not include a debt for business, investment,
15 commercial, or agricultural purposes or a debt incurred by a business.

16 (5) "Debt collector" means any person employed or engaged by
17 a collection agency to perform the collection of debts owed or due or
18 asserted to be owed or due to another.

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20 (6) "Federal centers for medicare and medicaid services" or
21 "CMS" means the centers for medicare and medicaid services in the
22 United States department of health and human services.

23 ==

24 (7) "Hospital" means, consistent with 45 CFR 180.20, a hospital:

25 (a) Licensed or certified by the department OF PUBLIC HEALTH AND
26 ENVIRONMENT pursuant to section 25-1.5-103 (1)(a); or

27 (b) Approved by the department OF PUBLIC HEALTH AND

1 ENVIRONMENT as meeting the standards established for licensing a
2 hospital.

3

4 (8) "Hospital price transparency laws" means section 2718 (e) of
5 the "Public Health Service (PHS) Act", Pub.L. 78-410, as amended, and
6 rules adopted by the United States department of health and human
7 services implementing section 2718 (e).

8 (9) "Items and services" or "items or services" means "items and
9 services" as defined in 45 CFR 180.20.

10

11 **25.5-1-903. [Formerly 25-3-803] Failure to comply with**
12 **hospital price transparency laws - prohibiting collection of debt -**
13 **penalty.** (1) ~~(a) Except as provided in subsection (1)(b) of this section,~~
14 ~~on and after August 10, 2022,~~ A hospital that is not in material
15 compliance with hospital price transparency laws on the date that items
16 or services are purchased from or provided to a patient by the hospital
17 shall not initiate or pursue a collection action against the patient or patient
18 guarantor for a debt owed for the items or services.

19 ~~(b) This part 8 applies, on and after February 15, 2023, to critical~~
20 ~~access hospitals licensed and certified by the department pursuant to 42~~
21 ~~CFR 485 subpart F.~~

22 (2) If a patient believes that a hospital was not in material
23 compliance with hospital price transparency laws on a THE date ~~on or~~
24 ~~after August 10, 2022,~~ that items or services were purchased by or
25 provided to the patient, and the hospital takes a collection action against
26 the patient or patient guarantor, the patient or patient guarantor may file
27 suit to determine if:

1 (a) The hospital was materially out of compliance with ~~the~~
2 hospital price transparency laws, ~~and~~ rules, ~~and~~ OR regulations on the date
3 of service THE ITEMS OR SERVICES WERE PROVIDED; and if

4 (b) The noncompliance is related to the items or services. The
5 hospital shall not take a collection action against the patient or patient
6 guarantor while the lawsuit is pending.

7 (3) ~~A hospital that has been found by~~ If a judge or jury,
8 considering compliance standards issued by the federal centers for
9 medicare and medicaid services, FINDS A HOSPITAL to be materially out of
10 compliance with hospital price transparency laws, ~~and~~ rules, ~~and~~ OR
11 regulations, THE HOSPITAL SHALL:

12 (a) ~~Shall~~ Refund the payer any amount of the debt the payer has
13 paid and shall pay a penalty to the patient or patient guarantor in an
14 amount equal to the total amount of the debt;

15 (b) ~~Shall~~ Dismiss or cause to be dismissed any court action with
16 prejudice and pay any attorney fees and costs incurred by the patient or
17 patient guarantor relating to the action; ~~and~~

18 (c) Remove or cause to be removed from the patient's or patient
19 guarantor's credit report any report made to a consumer reporting agency
20 relating to the debt; AND

21 (d) NOTIFY THE STATE DEPARTMENT OF THE MATERIAL
22 NONCOMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS, RULES, OR
23 REGULATIONS.

24 (4) Nothing in this ~~part 8~~ PART 9:

25 (a) Prohibits a hospital from billing a patient, patient guarantor,
26 or third-party payer, including a health insurer, for items or services
27 provided to the patient; or

1 (b) Requires a hospital to refund any payment made to the hospital
2 for items or services provided to the patient, so long as no collection
3 action is taken in violation of this ~~part 8~~ PART 9.

4 **25.5-1-904. Transparency - hospitals - standard charges -**
5 **shoppable services - enforcement.** (1) On or before October 1, 2023,
6 EACH HOSPITAL SHALL MAKE PUBLIC AND POST THE HOSPITAL'S
7 MEDICARE REIMBURSEMENT RATES.

8 (2) (a) THE STATE DEPARTMENT SHALL CONDUCT PERFORMANCE
9 ASSESSMENTS FOR ADHERENCE TO FEDERAL TRANSPARENCY RULES BY:

10 (I) REVIEWING RELEVANT INFORMATION PROVIDED TO THE STATE
11 DEPARTMENT CONCERNING A HOSPITAL'S PERFORMANCE ASSESSMENT IN
12 CONNECTION WITH THIS SECTION;

13 (II) AUDITING HOSPITAL WEBSITES FOR PERFORMANCE RELATIVE TO
14 FEDERAL PRICE TRANSPARENCY RULES, AND IN EVALUATING
15 PERFORMANCE, THE DEPARTMENT SHALL FOLLOW RULES, STANDARDS,
16 AND GUIDANCE PUBLISHED BY THE FEDERAL CENTERS FOR MEDICARE AND
17 MEDICAID; AND

18 (III) CONFIRMING THAT EACH HOSPITAL SUBMITTED THE LISTS
19 REQUIRED BY THIS SECTION.

20 (b) IF THE STATE DEPARTMENT DETERMINES THAT A HOSPITAL _____
21 HAS PERFORMED POORLY IN ITS PERFORMANCE ASSESSMENT, THE STATE
22 DEPARTMENT MAY:

23 (I) ISSUE A WRITTEN NOTICE TO THE HOSPITAL THAT CLEARLY
24 EXPLAINS THE MANNER IN WHICH THE DEPARTMENT DETERMINED THAT
25 THE HOSPITAL PERFORMED POORLY ON THE ADHERENCE TO PRICE
26 TRANSPARENCY; AND

27 (II) PROVIDE TECHNICAL ASSISTANCE TO THE HOSPITAL TO

1 IMPROVE PERFORMANCE.

2 (8) ON OR BEFORE FEBRUARY 1, 2024, THE STATE DEPARTMENT
3 SHALL CREATE AND MAINTAIN A PUBLICLY AVAILABLE LIST ON ITS
4 WEBSITE OF HOSPITALS THAT PERFORM POORLY ON THE DEPARTMENT'S
5 PERFORMANCE ASSESSMENT. SUCH NOTICES AND COMMUNICATIONS ARE
6 SUBJECT TO PUBLIC DISCLOSURE UNDER 5 U.S.C. SEC. 552, AS AMENDED,
7 NOTWITHSTANDING ANY EXEMPTIONS OR EXCLUSIONS TO THE CONTRARY,
8 IN FULL WITHOUT REDACTION. THE STATE DEPARTMENT SHALL UPDATE
9 THE LIST AT LEAST ANNUALLY.

10 (9) A PERSON THAT VIOLATES SUBSECTION (1) OR (5) OF THIS
11 SECTION COMMITS A DECEPTIVE TRADE PRACTICE UNDER SECTION
12 6-1-105.

13 **SECTION 4. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly; except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article
17 V of the state constitution against this act or an item, section, or part of
18 this act within such period, then the act, item, section, or part will not
19 take effect unless approved by the people at the general election to be
20 held in November 2024 and, in such case, will take effect on the date of
21 the official declaration of the vote thereon by the governor.