

HOUSE BILL 849

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9lr2387
CF SB 803

By: ~~Delegates R. Lewis and Pena-Melnyk~~, Pena-Melnyk, Pendergrass, Bagnall, Barron, Bhandari, Carr, Charles, Chisholm, Cullison, Hill, Johnson, Kelly, Kerr, Kipke, Krebs, Metzgar, Morgan, Rosenberg, Sample-Hughes, Szeliga, and K. Young

Introduced and read first time: February 8, 2019
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 13, 2019

CHAPTER _____

1 AN ACT concerning

2 **Health Facilities – Hospitals – Disclosure of Outpatient Facility Fees**
3 **(Facility Fee Right-to-Know Act)**

4 FOR the purpose of requiring certain hospitals to provide each patient with written notice
5 that includes certain information related to outpatient facility fees that are charged
6 for services provided at the hospital; requiring that certain notices be provided to
7 certain patients in certain manners and at certain times; requiring the Health
8 Education and Advocacy Unit within the Attorney General's Office to develop a
9 certain form and determine a certain range of fees and fee estimates; requiring each
10 hospital that charges an outpatient facility fee to use a certain form and a certain
11 range of fees and fee estimates for a certain purpose; requiring that a certain notice
12 be in plain language and in a certain form; requiring certain patients to acknowledge
13 in writing that a certain notice was provided at a certain time before professional
14 medical services are provided on the date of the appointment; prohibiting a hospital
15 from charging, billing, or attempting to collect a certain fee unless the patient was
16 given certain notice; ~~prohibiting a certain charge from qualifying as uncompensated~~
17 ~~care or bad debt under certain circumstances; requiring the Unit, in consultation~~
18 with the Health Care Services Cost Review Commission, consumers, and other
19 stakeholders, to develop a certain uniform disclosure form and a process for
20 determining and updating certain information on or before a certain date; defining
21 certain terms; and generally relating to hospitals and the disclosure of outpatient
22 facility fees.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
2 Article – Health – General
3 Section 19–349.2
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2018 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
7 That the Laws of Maryland read as follows:

8 **Article – Health – General**

9 **19–349.2.**

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) “ELECTRONICALLY” MEANS A SECURE DIGITAL OR ELECTRONIC
13 TRANSMISSION IN COMPLIANCE WITH FEDERAL AND STATE LAW, INCLUDING BY:

14 (I) PATIENT INTERNET PORTAL;

15 (II) ENCRYPTED ELECTRONIC MAIL; OR

16 (III) TEXT MESSAGE WITH A LINK TO AN ENCRYPTED NOTICE.

17 (3) “OUTPATIENT FACILITY FEE” MEANS A RATE APPROVED BY THE
18 COMMISSION CHARGED BY A HOSPITAL FOR OUTPATIENT SERVICES PROVIDED IN A
19 BUILDING ON THE CAMPUS OF A HOSPITAL IN WHICH HOSPITAL SERVICES ARE
20 PROVIDED THAT IS SEPARATE AND DISTINCT FROM A FEE FOR PROFESSIONAL
21 SERVICES.

22 (4) “PATIENT” MEANS:

23 (I) AN ADULT;

24 (II) A PERSON AUTHORIZED TO CONSENT TO HEALTH CARE FOR
25 AN ADULT CONSISTENT WITH THE AUTHORITY GRANTED, INCLUDING A GUARDIAN,
26 SURROGATE, OR PERSON WITH A MEDICAL POWER OF ATTORNEY;

27 (III) A MINOR, IF THE MINOR SEEKS TREATMENT TO WHICH THE
28 MINOR HAS THE RIGHT TO CONSENT AND HAS CONSENTED UNDER TITLE 20,
29 SUBTITLE 1 OF THIS ARTICLE;

1 (IV) A PARENT, GUARDIAN, CUSTODIAN, OR REPRESENTATIVE
2 OF THE MINOR; OR

3 (V) A PERSON AUTHORIZED TO CONSENT TO HEALTH CARE FOR
4 THE MINOR CONSISTENT WITH THE AUTHORITY GRANTED.

5 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF A HOSPITAL
6 CHARGES AN OUTPATIENT FACILITY FEE, THE HOSPITAL SHALL PROVIDE THE
7 PATIENT WITH A WRITTEN NOTICE THAT INCLUDES THE FOLLOWING INFORMATION:

8 (I) THAT THE PATIENT'S APPOINTMENT WILL TAKE PLACE AT
9 THE HOSPITAL;

10 (II) THAT THE HOSPITAL WILL CHARGE AN OUTPATIENT
11 FACILITY FEE THAT IS SEPARATE FROM THE PROFESSIONAL FEE CHARGED BY THE
12 PROVIDER BECAUSE THE APPOINTMENT IS AT THE HOSPITAL;

13 (III) ~~THAT~~ WHETHER THE SAME PROFESSIONAL MEDICAL
14 SERVICES COULD BE OBTAINED FROM THE PROVIDER AT A LOCATION THAT IS NOT
15 AT THE HOSPITAL;

16 (IV) THAT THE PATIENT SHOULD CONTACT THE PATIENT'S
17 INSURANCE CARRIER, IF ANY, TO DETERMINE THE NETWORK STATUS OF THE
18 LOCATION THAT IS NOT AT THE HOSPITAL AT WHICH THE SAME PROFESSIONAL
19 MEDICAL SERVICES CAN BE OBTAINED FROM THE PROVIDER;

20 ~~(IV)~~ (V) THAT RECEIVING THE PROFESSIONAL MEDICAL
21 SERVICES AT THE HOSPITAL MAY RESULT IN GREATER FINANCIAL LIABILITY THAN
22 RECEIVING THE PROFESSIONAL MEDICAL SERVICES AT A LOCATION NOT AT THE
23 HOSPITAL; ~~AND~~

24 (VI) THAT THE PATIENT SHOULD CONTACT THE PATIENT'S
25 INSURANCE CARRIER, IF ANY, TO DETERMINE THE PATIENT'S INSURANCE
26 COVERAGE AND FINANCIAL RESPONSIBILITY, INCLUDING CO-PAYMENTS,
27 COINSURANCE, OR DEDUCTIBLE AMOUNTS FOR THE OUTPATIENT FACILITY FEE;
28 AND

29 ~~(V)~~ (VII) BEGINNING JULY 1, 2020:

30 1. THE AMOUNT OF THE OUTPATIENT FACILITY FEE, IF
31 KNOWN, OTHERWISE THE RANGE OF OUTPATIENT FACILITY FEES THE HOSPITAL
32 MAY CHARGE FOR THE APPOINTMENT;

1 **2. THAT AN ESTIMATE IS BASED ON TYPICAL OR**
2 **AVERAGE FACILITY FEES FOR THE SAME OR SIMILAR APPOINTMENTS; AND**

3 **3. THAT A FEE RANGE IS PROVIDED BECAUSE THE**
4 **ACTUAL AMOUNT OF THE FACILITY FEE INCURRED WILL DEPEND ON THE SERVICES**
5 **ACTUALLY PROVIDED.**

6 **(2) (I) THE HEALTH EDUCATION AND ADVOCACY UNIT IN THE**
7 **ATTORNEY GENERAL'S OFFICE, SHALL:**

8 **1. DEVELOP A UNIFORM DISCLOSURE FORM TO NOTIFY**
9 **PATIENTS OF OUTPATIENT FACILITY FEES; AND**

10 **2. DETERMINE THE RANGE OF FEES AND FEE**
11 **ESTIMATES TO BE PROVIDED UNDER PARAGRAPH (1)(VII) OF THIS SUBSECTION.**

12 **(II) TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION,**
13 **EACH HOSPITAL THAT CHARGES AN OUTPATIENT FACILITY FEE SHALL:**

14 **1. USE THE UNIFORM DISCLOSURE FORM DEVELOPED**
15 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND**

16 **2. USE THE RANGE OF FEES AND FEE ESTIMATES**
17 **DETERMINED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

18 **(III) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS**
19 **SUBSECTION SHALL BE IN PLAIN LANGUAGE THAT MAY BE REASONABLY**
20 **UNDERSTOOD BY A PATIENT WHO DOES NOT POSSESS SPECIAL KNOWLEDGE**
21 **REGARDING MEDICAL BILLING OR HOSPITAL FACILITY FEE CHARGES.**

22 **(C) (1) FOR AN APPOINTMENT MADE IN PERSON OR BY TELEPHONE:**

23 **(I) ORAL NOTICE SHALL BE GIVEN AT THE TIME THE**
24 **APPOINTMENT IS MADE; AND**

25 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**
26 **SUBSECTION, WRITTEN NOTICE SHALL BE SENT TO THE PATIENT ELECTRONICALLY**
27 **AT THE TIME THE APPOINTMENT IS MADE.**

28 **(2) FOR AN APPOINTMENT MADE ELECTRONICALLY OR USING A**
29 **WEBSITE:**

30 **(I) WRITTEN NOTICE SHALL BE PROVIDED AT THE TIME THE**
31 **APPOINTMENT IS MADE; AND**

1 (II) WRITTEN NOTICE SHALL BE SENT TO THE PATIENT
2 ELECTRONICALLY AT THE TIME THE APPOINTMENT IS MADE.

3 (3) IF THE PATIENT REFUSES ELECTRONIC COMMUNICATION UNDER
4 PARAGRAPH (1)(II) OF THIS SUBSECTION, WRITTEN NOTICE SHALL BE SENT TO THE
5 PATIENT BY FIRST-CLASS MAIL AT THE TIME THE APPOINTMENT IS MADE.

6 (D) BEFORE PROFESSIONAL MEDICAL SERVICES ARE PROVIDED ON THE
7 DATE OF THE APPOINTMENT, THE PATIENT SHALL ACKNOWLEDGE IN WRITING THAT
8 THE NOTICE REQUIRED UNDER THIS SECTION WAS PROVIDED AT THE TIME THE
9 APPOINTMENT WAS MADE.

10 (E) ~~(1)~~ A HOSPITAL MAY NOT CHARGE, BILL, OR ATTEMPT TO COLLECT
11 AN OUTPATIENT FACILITY FEE UNLESS THE PATIENT WAS GIVEN A NOTICE IN
12 ACCORDANCE WITH THIS SECTION.

13 ~~(2) AN OUTPATIENT FACILITY FEE CHARGE MAY NOT QUALIFY AS~~
14 ~~UNCOMPENSATED CARE OR BAD DEBT UNLESS THE PATIENT WAS GIVEN A NOTICE~~
15 ~~IN COMPLIANCE WITH THIS SECTION.~~

16 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
17 2019, the Health Education and Advocacy Unit within the Attorney General's Office, in
18 consultation with the Health Care Services Cost Review Commission, consumers, and other
19 stakeholders, shall develop:

20 (1) the uniform disclosure form required under § 19-349.2(b)(2) of the
21 Health – General Article, as enacted by Section 1 of this Act; and

22 (2) a process for determining and updating the range of fees and fee
23 estimates to be used under § 19-349.2(b)(2) of the Health – General Article, as enacted by
24 Section 1 of this Act.

25 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2019.