

SENATE BILL 632

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CF HB 915

By: **Senators Kelley, Benson, Carter, Elfreth, Ellis, Feldman, Hester, Jennings, Kagan, Klausmeier, Kramer, Lam, Lee, Pinsky, Reilly, Rosapepe, Sydnor, Washington, West, and Young**

Introduced and read first time: February 3, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2020

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 a certain
5 written notice related to outpatient facility fees that are charged for services
6 provided at the hospital that is in a certain form; requiring that certain notices be
7 provided to certain patients in certain manners and at certain times; requiring ~~the~~
8 ~~Health Services Cost Review Commission, in consultation with the Health Education~~
9 ~~and Advocacy Unit in the Office of the Attorney General,~~ certain hospitals to
10 determine a certain range of fees and fee estimates; requiring each hospital that
11 charges an outpatient facility fee to use a certain range of fees and fee estimates;
12 requiring a hospital, to the extent practicable, to provide a certain notice in a certain
13 language or format under certain circumstances; requiring a patient to acknowledge
14 in a certain manner that a certain notice was provided at a certain time; prohibiting
15 a hospital from charging, billing, or attempting to collect a certain fee except under
16 certain circumstances; requiring certain hospitals to report certain information to
17 the Commission on or before a certain date each year; requiring the Commission to
18 post certain information on its website and to provide certain information to the
19 Maryland Insurance Administration and the Unit on or before a certain date each
20 year; ~~requiring the Unit, in consultation with the Commission, consumers, and other~~
21 ~~stakeholders, to develop a process for determining and updating certain information~~
22 ~~on or before a certain date; defining certain terms~~ requiring the Commission to give
23 certain consideration in certain procedures regarding the feasibility of certain

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 notices under certain circumstances; providing for a delayed effective date; and
 2 generally relating to hospitals and the disclosure of outpatient facility fees.

3 BY adding to

4 Article – Health – General
 5 Section 19–349.2
 6 Annotated Code of Maryland
 7 (2019 Replacement Volume)

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

10 **Article – Health – General**

11 **19–349.2.**

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 13 INDICATED.

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

16 (I) PATIENT INTERNET PORTAL;

17 (II) ENCRYPTED E-MAIL; OR

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

19 (3) (I) “OUTPATIENT FACILITY FEE” MEANS ~~A RATE APPROVED BY~~
 20 ~~THE COMMISSION CHARGED BY A HOSPITAL FOR OUTPATIENT SERVICES PROVIDED~~
 21 ~~IN A BUILDING ON THE CAMPUS OF A HOSPITAL IN WHICH HOSPITAL SERVICES ARE~~
 22 ~~PROVIDED THAT IS SEPARATE AND DISTINCT FROM A FEE FOR PROFESSIONAL~~
 23 ~~SERVICES~~ A HOSPITAL OUTPATIENT CHARGE APPROVED BY THE COMMISSION FOR
 24 AN OUTPATIENT CLINIC SERVICE, SUPPLY, OR EQUIPMENT, INCLUDING THE
 25 SERVICE OF A NONPHYSICIAN CLINICIAN.

26 (II) “OUTPATIENT FACILITY FEE” DOES NOT INCLUDE:

27 1. A CHARGE BILLED FOR SERVICES DELIVERED IN AN
 28 EMERGENCY DEPARTMENT; OR

29 2. A PHYSICIAN FEE BILLED FOR PROFESSIONAL
 30 SERVICES PROVIDED AT THE HOSPITAL.

1 (4) (I) "PATIENT" MEANS AN INDIVIDUAL WHO RECEIVES HEALTH
2 CARE.

3 (II) "PATIENT" INCLUDES:

4 1. A PERSON AUTHORIZED TO CONSENT TO HEALTH
5 CARE FOR AN INDIVIDUAL CONSISTENT WITH THE AUTHORITY GRANTED,
6 INCLUDING A GUARDIAN, SURROGATE, OR PERSON WITH A MEDICAL POWER OF
7 ATTORNEY;

8 2. AN INDIVIDUAL WHO IS A MINOR, IF THE MINOR
9 SEEKS TREATMENT TO WHICH THE MINOR HAS THE RIGHT TO CONSENT AND HAS
10 CONSENTED UNDER TITLE 20, SUBTITLE 1 OF THIS ARTICLE;

11 3. A PARENT, GUARDIAN, CUSTODIAN, OR
12 REPRESENTATIVE OF AN INDIVIDUAL WHO IS A MINOR; AND

13 4. A PERSON AUTHORIZED TO CONSENT TO HEALTH
14 CARE FOR AN INDIVIDUAL WHO IS A MINOR CONSISTENT WITH THE AUTHORITY
15 GRANTED.

16 (B) SUBJECT TO SUBSECTIONS (C), (D), AND (E) OF THIS SECTION, IF A
17 HOSPITAL CHARGES AN OUTPATIENT FACILITY FEE, THE HOSPITAL SHALL PROVIDE
18 THE PATIENT WITH A WRITTEN NOTICE, SEPARATE FROM ANY OTHER FORMS OR
19 NOTICES, IN THE FOLLOWING FORM OR A SUBSTANTIALLY SIMILAR FORM:

20 IMPORTANT FINANCIAL INFORMATION

21 (PATIENT NAME) _____ APPOINTMENT DATE: _____

22 NOTICE OF HOSPITAL OUTPATIENT FACILITY FEE AND BILLING DISCLOSURE

23 A. YOUR APPOINTMENT WITH (PROVIDER, PRACTICE, OR CLINIC NAME)
24 WILL TAKE PLACE IN AN OUTPATIENT DEPARTMENT OF (HOSPITAL NAME).

25 B. (HOSPITAL NAME) WILL CHARGE AN OUTPATIENT FACILITY FEE THAT IS
26 SEPARATE FROM AND IN ADDITION TO THE BILL YOU WILL RECEIVE FROM
27 (PROVIDER).

28 C. YOU WILL RECEIVE TWO CHARGES FOR YOUR VISIT:

29 1. A PROVIDER SERVICES BILL FROM (PROVIDER); AND

30 2. A HOSPITAL FACILITY BILL FROM (HOSPITAL NAME).

1 **EXPECTED FEE**

2 (IF KNOWN) THE AMOUNT OF THE FACILITY FEE THAT WILL BE CHARGED BY
3 (HOSPITAL NAME) FOR YOUR APPOINTMENT IS \$ _____. OR

4 (IF UNKNOWN) (HOSPITAL NAME'S) FACILITY FEE IS LIKELY TO RANGE FROM
5 \$_____ TO \$_____. OR

6 (IF UNKNOWN) BASED ON APPOINTMENTS LIKE THE ONE YOU ARE
7 SCHEDULED FOR, WE ESTIMATE THE FACILITY FEE TO BE \$_____.

8 (IF UNKNOWN) WE ARE PROVIDING YOU WITH A RANGE OF FEES AND AN
9 ESTIMATE BECAUSE THE ACTUAL AMOUNT OF THE FACILITY FEE WILL DEPEND ON
10 THE HOSPITAL SERVICES THAT ARE ACTUALLY PROVIDED. THE FEE COULD BE
11 HIGHER IF YOU REQUIRE SERVICES DURING YOUR APPOINTMENT THAT WE CANNOT
12 REASONABLY PREDICT TODAY.

13 FINANCIAL HELP FOR YOUR PORTION OF THE OUTPATIENT FACILITY FEE BILL
14 MAY BE AVAILABLE. IF YOU NEED FINANCIAL HELP WITH THE OUTPATIENT FACILITY
15 BILL, PLEASE CONTACT (HOSPITAL FINANCIAL ASSISTANCE OFFICE, WITH
16 TELEPHONE NUMBER AND DIRECT WEBSITE ADDRESS).

17 RECEIVING SERVICES HERE MAY RESULT IN GREATER FINANCIAL LIABILITY
18 THAN RECEIVING SERVICES AT A LOCATION WHERE A FACILITY FEE MAY NOT BE
19 CHARGED.

20 (IF APPLICABLE) NO FACILITY FEE LOCATION

21 YOU CAN SEE (PROVIDER) AT ANOTHER LOCATION THAT DOES NOT CHARGE A
22 FACILITY FEE.

23 (ADDRESS AND CONTACT INFORMATION)

24 CONTACT YOUR INSURANCE CARRIER TO SEE IF (PROVIDER) IS A PARTICIPATING
25 PROVIDER AND IN-NETWORK AT THE (ADDRESS OF ALTERNATIVE LOCATION)
26 LOCATION.

27 **INSURANCE INFORMATION**

28 1. THE AMOUNT OF THE FACILITY FEE THAT YOU WILL BE RESPONSIBLE FOR
29 PAYING WILL DEPEND ON YOUR INSURANCE COVERAGE.

1 **2. INSURANCE COMPANIES COULD IMPOSE DEDUCTIBLES OR HIGHER**
 2 **COPAYMENT OR COINSURANCE AMOUNTS FOR SERVICES PROVIDED IN HOSPITAL**
 3 **OUTPATIENT DEPARTMENTS.**

4 **3. IF YOU HAVE INSURANCE, YOU SHOULD CONTACT YOUR CARRIER TO**
 5 **DETERMINE YOUR INSURANCE COVERAGE AND YOUR ESTIMATED FINANCIAL**
 6 **RESPONSIBILITY FOR THE FACILITY FEE, INCLUDING COPAYMENTS, COINSURANCE,**
 7 **AND DEDUCTIBLE AMOUNTS FOR THE OUTPATIENT FACILITY FEE.**

8 **FACILITY FEE COMPLAINTS**

9 **IF YOU HAVE A ~~FACILITY FEE COMPLAINT, YOU SHOULD FILE IT~~ COMPLAINT**
 10 **ABOUT AN OUTPATIENT FACILITY FEE CHARGE, PLEASE FIRST CONTACT THE**
 11 **HOSPITAL, (HOSPITAL BILLING OFFICE CONTACT INFORMATION).**

12 **IF THE COMPLAINT IS UNRESOLVED, YOU MAY THEN FILE THE COMPLAINT**
 13 **WITH THE HEALTH SERVICES COST REVIEW COMMISSION, (CONTACT**
 14 **INFORMATION).**

15 **IF YOU NEED ADDITIONAL INFORMATION REGARDING YOUR FACILITY FEE**
 16 **CHARGES OR IF YOU NEED ASSISTANCE MEDIATING A FACILITY FEE COMPLAINT**
 17 **AGAINST A HOSPITAL, CONTACT THE HEALTH EDUCATION AND ADVOCACY UNIT OF**
 18 **THE OFFICE OF THE ATTORNEY GENERAL, 1-877-261-8807 |**
 19 **HEAU@OAG.STATE.MD.US | ~~WWW.MARYLANDCARE.ORG~~**
 20 **WWW.MARYLANDCARES.ORG.**

21 **ACKNOWLEDGMENT**

22 **1. I UNDERSTAND THAT I WILL BE BILLED A HOSPITAL FACILITY FEE AND A**
 23 **PROVIDER FEE.**

24 **2. (HOSPITAL NAME) PROVIDED ME WITH ~~(THE FACILITY FEE CHARGE)~~(A RANGE**
 25 **~~OF FACILITY FEES AND AN ESTIMATE OF THE FACILITY FEE CHARGE)~~ INFORMATION**
 26 **ON THE FACILITY FEES THAT WILL BE BILLED FOR MY APPOINTMENT.**

27 **3. I UNDERSTAND THAT THE FEE COULD VARY BASED ON CONDITIONS AND**
 28 **SERVICES PROVIDED TO ME THAT THE HOSPITAL CANNOT REASONABLY PREDICT**
 29 **TODAY.**

30 **4. I UNDERSTAND THAT MY OUT-OF-POCKET COSTS WILL DEPEND ON MY**
 31 **INSURANCE COVERAGE.**

1 _____ (INITIAL HERE) – BY INITIALING HERE, I CONFIRM THAT I RECEIVED THE
 2 FACILITY FEE INFORMATION AT THE TIME I MADE MY APPOINTMENT WITH
 3 (PROVIDER).

4 BY SIGNING THIS FORM, I ACKNOWLEDGE THAT I HAVE RECEIVED THIS
 5 INFORMATION BEFORE RECEIVING SERVICES TODAY.

6 _____
 7 SIGNATURE DATE

8 TO REQUEST THIS NOTICE IN AN ALTERNATIVE FORMAT, PLEASE CALL (CONTACT
 9 INFORMATION) OR E-MAIL (CONTACT INFORMATION).

10 (SAME SENTENCE IN SPANISH).

11 (C) IF A PATIENT DOES NOT SPEAK ENGLISH OR REQUIRES THE ~~WRITTEN~~
 12 NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO BE IN AN
 13 ALTERNATIVE FORMAT, THE HOSPITAL SHALL, TO THE EXTENT PRACTICABLE,
 14 PROVIDE THE NOTICE IN A LANGUAGE OR FORMAT THAT IS UNDERSTOOD BY THE
 15 PATIENT.

16 (D) (1) ~~THE HEALTH SERVICES COST REVIEW COMMISSION, IN~~
 17 ~~CONSULTATION WITH THE HEALTH EDUCATION AND ADVOCACY UNIT IN THE~~
 18 ~~OFFICE OF THE ATTORNEY GENERAL, SHALL DETERMINE THE RANGE OF HOSPITAL~~
 19 ~~OUTPATIENT FACILITY FEES AND FEE ESTIMATES TO BE PROVIDED IN THE WRITTEN~~
 20 ~~NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION~~ A HOSPITAL SHALL
 21 DETERMINE THE RANGE OF HOSPITAL OUTPATIENT FACILITY FEES AND FEE
 22 ESTIMATES, BASED ON TYPICAL OR AVERAGE FACILITY FEES FOR THE SAME OR
 23 SIMILAR APPOINTMENTS, TO BE PROVIDED IN THE NOTICE REQUIRED UNDER THIS
 24 SECTION, CONSISTENT WITH THE HOSPITAL'S MOST RECENT RATE ORDER AS
 25 APPROVED BY THE COMMISSION.

26 (2) EACH HOSPITAL THAT CHARGES AN OUTPATIENT FACILITY FEE
 27 SHALL USE THE RANGE OF HOSPITAL OUTPATIENT FACILITY FEES AND FEE
 28 ESTIMATES DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

29 (E) (1) FOR AN APPOINTMENT MADE IN PERSON OR BY TELEPHONE:

30 (I) ORAL NOTICE OF ALL THE INFORMATION THAT WOULD BE
 31 PROVIDED IN THE FORM REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL
 32 BE GIVEN AT THE TIME THE APPOINTMENT IS MADE; AND

33 (II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
 34 SUBSECTION, THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS

1 SECTION SHALL BE SENT TO THE PATIENT ELECTRONICALLY AT THE TIME THE
2 APPOINTMENT IS MADE.

3 (2) FOR AN APPOINTMENT MADE ELECTRONICALLY OR USING A
4 WEBSITE, THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS
5 SECTION SHALL BE:

6 (I) PROVIDED AT THE TIME THE APPOINTMENT IS MADE; AND

7 (II) SENT TO THE PATIENT ELECTRONICALLY AT THE TIME THE
8 APPOINTMENT IS MADE.

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

12 (F) BEFORE PROFESSIONAL MEDICAL SERVICES ARE PROVIDED ON THE
13 DATE OF THE APPOINTMENT, THE PATIENT SHALL ACKNOWLEDGE IN WRITING THAT
14 THE NOTICE REQUIRED UNDER THIS SECTION WAS PROVIDED AT THE TIME THE
15 APPOINTMENT WAS MADE.

16 (G) A HOSPITAL MAY NOT CHARGE, BILL, OR ATTEMPT TO COLLECT AN
17 OUTPATIENT FACILITY FEE UNLESS THE PATIENT WAS GIVEN NOTICE IN
18 ACCORDANCE WITH THIS SECTION.

19 (H) (1) ON OR BEFORE JANUARY 31 EACH YEAR, BEGINNING IN 2021,
20 EACH HOSPITAL SHALL REPORT TO THE HEALTH SERVICES COST REVIEW
21 COMMISSION A LIST OF THE HOSPITAL-BASED, RATE-REGULATED OUTPATIENT
22 SERVICES PROVIDED BY THE HOSPITAL.

23 (2) ON OR BEFORE FEBRUARY 28 EACH YEAR, BEGINNING IN 2021,
24 THE HEALTH SERVICES COST REVIEW COMMISSION ANNUALLY SHALL:

25 (I) POST ON ITS WEBSITE THE LIST OF THE
26 HOSPITAL-BASED, RATE-REGULATED OUTPATIENT SERVICES REPORTED BY EACH
27 HOSPITAL UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

28 (II) PROVIDE THE LIST OF THE HOSPITAL-BASED,
29 RATE-REGULATED OUTPATIENT SERVICES REPORTED BY EACH HOSPITAL TO THE
30 MARYLAND INSURANCE ADMINISTRATION AND THE HEALTH EDUCATION AND
31 ADVOCACY UNIT IN THE OFFICE OF THE ATTORNEY GENERAL.

32 (3) WHEN LACK OF NOTICE IN ACCORDANCE WITH THIS SECTION IS
33 ALLEGED IN A CONSUMER COMPLAINT, THE COMMISSION SHALL GIVE

1 CONSIDERATION IN ITS INVESTIGATORY AND AUDIT PROCEDURES AS TO WHETHER
2 NOTICE WAS NOT FEASIBLE DUE TO CIRCUMSTANCES BEYOND THE HOSPITAL'S
3 CONTROL.

4 ~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,~~
5 ~~2020, the Health Education and Advocacy Unit within the Office of the Attorney General,~~
6 ~~in consultation with the Health Care Services Cost Review Commission, the Maryland~~
7 ~~Hospital Association, consumers, and other stakeholders, shall develop a process for~~
8 ~~determining and updating the range of fees and fee estimates to be used under §~~
9 ~~19-349.2(d) of the Health General Article, as enacted by Section 1 of this Act.~~

10 SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 ~~October 1, 2020~~ July 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.