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February 28, 2020

To: The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee

From: Patricia F. O'Connor, Health Education and Advocacy Unit

Re: House Bill 1081 (Health Facilities - Hospitals - Medical Debt Protection):
Support

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) supports House Bill 1081 which would overhaul current law on hospital collection of debts and provide increased protections to consumers, which are urgently needed. Because the HEAU assists consumers in hospital billing disputes, we see on a regular basis the harms caused to consumers by billing errors, improperly denied insurance claims, improper adverse reporting, and aggressive debt collection practices including lawsuits and actions to enforce judgments. Consumers struggle to find fairness and equity in complex systems with rules that seem to favor the needs of institutions – hospitals, debt collection businesses and courts—over the needs of individuals with temporarily acute or chronic medical conditions.

The affected consumers frequently experience involuntary reductions in income and increases in medical spending that may be short-term, long-term, or sporadic. Their lives, in short, are in flux and full of uncertainty. These circumstances do not align well with current laws that impose short deadlines and high payment obligations, with punishing consequences for a consumer's inability to comply with a deadline or payment obligation.

We support the many ways this bill addresses the frequent misalignments between consumers and hospital debt collection institutions. In addition, in the attached friendly amendments, the HEAU proposes replacing the term “eligible for free care on the date of

the service” with the term “eligible for free care or reduced care on or after the date of the service” throughout Health-General § 19–214.2, and will work in subcommittee to address other amendments that may be necessary as a result. We believe this change is necessary to give full effect to House Bill 1420’s provisions that prohibit time limits on consumer financial assistance applications and increase a hospital’s notice and communication requirements about financial assistance policies (FAP).

The change would also give full effect to this bill’s requirement that a hospital and any debt collector it hires would be “jointly and severally responsible” for meeting the requirements of the bill. In other words, they would be indivisibly responsible for fulfilling a hospital’s FAP compliance obligations. Both must act in accordance with the bill’s prohibitions against adverse reporting, debt collector delegations or lawsuit initiation while health insurance appeals, applications for financial assistance, or requests to reconsider financial assistance are pending. In another friendly amendment, the HEAU proposes adding another category: hospital billing error complaints.

Based on complaints we have received, hospital billing errors frequently occur and are hard to resolve quickly. Here are a few examples (potentially identifying information redacted):

“Billing copay was paid by check at the time of service. Amount paid was \$25. Check was cashed by [hospital] which claims it has no record of check (copy of cashed check was presented to [hospital]). I paid \$20 again to stop their collection per their request. I have paid twice (with proof) and the account has been sent to [debt collector] for collection (letter received).”

“Consumer had multiple issues with [hospital] billing regarding when and how much she owed for her inpatient stay. They told her that her account balance was zero, but then sent her account to a collection agency.”

““This service was paid by [HMO], based on an intra-hospital cooperative contract for [hospital] to provide surgery while I was a member of the HMO. [Hospital] billed a duplicate to [HMO] which retracted their payment for the duplicate billing as they had paid the original billing. [Hospital] applied the extra duplicated billing to my account. They agreed to hold the balance of \$760.00 but turned me over to collections. They refuse to remove this from my account. I do not owe this amount. It was not an insurance payment. [Hospital] billing made an error and is trying to collect triple the payments and is harassing me. The contract for surgery was between [HMO and Hospital] and must be resolved between the two institutions.”

The proposed amendment would prohibit adverse reporting or other collection activity until such billing errors are finally resolved.

We also believe these remedial provisions in the bill would be particularly beneficial for many consumers: prohibiting debt collection lawsuits for hospital debt of \$5,000 or less; mandatory offers of monthly payment plans capped at 5% of the patient's gross monthly income for periods of at least 36 months; prohibiting liens on a patient's home or garnishing wages for hospital debt if a patient is uninsured and/or qualifies for free or reduced-cost care.

We urge the committee to give this bill a favorable report.

cc: Delegate Charkoudian, Sponsor
Members of the Health and Government Operations Committee