

SENATE BILL 803

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9lr2687
CF HB 849

By: **Senators Kelley, Benson, Elfreth, Feldman, Hayes, Klausmeier, and Kramer**

Introduced and read first time: February 4, 2019

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 28, 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 Office of the Attorney General and the
9 Health Services Cost Review Commission jointly to develop a certain form and
10 develop a certain process; requiring the Commission to determine a certain range of
11 fees and fee estimates; requiring each hospital that charges an outpatient facility fee
12 to use a certain form and a certain range of fees and fee estimates for a certain
13 purpose; requiring that, to the extent practicable, a certain notice be provided in a
14 certain language or format under certain circumstances; requiring certain hospitals
15 annually to report certain information to the Commission; requiring the Commission
16 to post certain information on its website and to provide certain information to the
17 Maryland Insurance Administration and the Unit; requiring that a certain notice be
18 in plain language and in a certain form; requiring certain patients to acknowledge
19 in writing that a certain notice was provided at a certain time before professional
20 medical services are provided on the date of the appointment; prohibiting a hospital
21 from charging, billing, or attempting to collect a certain fee unless the patient was
22 given certain notice; ~~prohibiting a certain charge from qualifying as uncompensated~~
23 ~~care or bad debt under certain circumstances;~~ requiring the Unit, in consultation
24 with the Commission, consumers, and other stakeholders, to develop a certain
25 uniform disclosure form and a process for determining and updating 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 information on or before a certain date; requiring the Office of the Attorney General
 2 to submit a certain report to certain committees on or before a certain date; defining
 3 certain terms; and generally relating to hospitals and the disclosure of outpatient
 4 facility fees.

5 BY adding to

6 Article – Health – General

7 Section 19–349.2

8 Annotated Code of Maryland

9 (2015 Replacement Volume and 2018 Supplement)

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

12 **Article – Health – General**

13 **19–349.2.**

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 15 INDICATED.

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

18 (I) PATIENT INTERNET PORTAL;

19 (II) ENCRYPTED ELECTRONIC MAIL; OR

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

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

26 (4) “PATIENT” ~~MEANS~~ INCLUDES:

27 (I) ~~AN ADULT;~~

28 ~~(II)~~ A PERSON AUTHORIZED TO CONSENT TO HEALTH CARE FOR
 29 AN ~~ADULT~~ INDIVIDUAL CONSISTENT WITH THE AUTHORITY GRANTED, INCLUDING A
 30 GUARDIAN, SURROGATE, OR PERSON WITH A MEDICAL POWER OF ATTORNEY;

1 ~~(II)~~ (II) ~~A~~ AN INDIVIDUAL WHO IS A MINOR, IF THE MINOR
2 SEEKS TREATMENT TO WHICH THE MINOR HAS THE RIGHT TO CONSENT AND HAS
3 CONSENTED UNDER TITLE 20, SUBTITLE 1 OF THIS ARTICLE;

4 ~~(III)~~ (III) A PARENT, GUARDIAN, CUSTODIAN, OR
5 REPRESENTATIVE OF ~~THE~~ AN INDIVIDUAL WHO IS A MINOR; ~~OR~~ AND

6 ~~(IV)~~ (IV) A PERSON AUTHORIZED TO CONSENT TO HEALTH
7 CARE FOR ~~THE~~ AN INDIVIDUAL WHO IS A MINOR CONSISTENT WITH THE AUTHORITY
8 GRANTED.

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

12 (I) THAT THE PATIENT'S APPOINTMENT WILL TAKE PLACE AT
13 THE HOSPITAL;

14 (II) THAT THE HOSPITAL WILL CHARGE AN OUTPATIENT
15 FACILITY FEE THAT IS SEPARATE FROM THE PROFESSIONAL FEE CHARGED BY THE
16 PROVIDER BECAUSE THE APPOINTMENT IS AT THE HOSPITAL;

17 (III) ~~THAT~~ WHETHER THE SAME PROFESSIONAL MEDICAL
18 SERVICES COULD BE OBTAINED FROM THE PROVIDER AT A LOCATION THAT IS NOT
19 AT THE HOSPITAL;

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

24 ~~(V)~~ (V) THAT RECEIVING THE PROFESSIONAL MEDICAL
25 SERVICES AT THE HOSPITAL MAY RESULT IN GREATER FINANCIAL LIABILITY THAN
26 RECEIVING THE PROFESSIONAL MEDICAL SERVICES AT A LOCATION NOT AT THE
27 HOSPITAL; ~~AND~~

28 (VI) THAT THE PATIENT SHOULD CONTACT THE PATIENT'S
29 INSURANCE CARRIER, IF ANY, TO DETERMINE THE PATIENT'S INSURANCE
30 COVERAGE AND ESTIMATED FINANCIAL RESPONSIBILITY, INCLUDING
31 CO-PAYMENTS, COINSURANCE, AND DEDUCTIBLE AMOUNTS FOR THE OUTPATIENT
32 FACILITY FEE;

1 (VII) THAT THE PATIENT SHOULD CONTACT THE HEALTH
2 SERVICES COST REVIEW COMMISSION IF THE PATIENT HAS A COMPLAINT
3 DISPUTING A HOSPITAL CHARGE FOR AN OUTPATIENT FACILITY FEE; AND

4 ~~(v)~~ (VIII) BEGINNING JULY 1, 2020:

5 1. THE AMOUNT OF THE OUTPATIENT FACILITY FEE, IF
6 KNOWN, OTHERWISE THE RANGE OF OUTPATIENT FACILITY FEES THE HOSPITAL
7 MAY CHARGE FOR THE APPOINTMENT, INCLUDING AN ESTIMATE BASED ON TYPICAL
8 OR AVERAGE FACILITY FEES FOR THE SAME OR SIMILAR APPOINTMENTS; AND

9 2. THAT A FEE RANGE IS PROVIDED BECAUSE THE
10 ACTUAL AMOUNT OF THE FACILITY FEE INCURRED WILL DEPEND ON THE SERVICES
11 ACTUALLY PROVIDED.

12 (2) (I) THE HEALTH EDUCATION AND ADVOCACY UNIT IN THE
13 OFFICE OF THE ATTORNEY GENERAL AND THE HEALTH SERVICES COST REVIEW
14 COMMISSION JOINTLY SHALL:

15 1. DEVELOP A UNIFORM DISCLOSURE FORM TO NOTIFY
16 PATIENTS OF OUTPATIENT FACILITY FEES, WHICH SHALL INCLUDE CONTACT
17 INFORMATION FOR:

18 A. THE HEALTH EDUCATION AND ADVOCACY UNIT; AND

19 B. THE HEALTH SERVICES COST REVIEW COMMISSION;

20 AND

21 2. DEVELOP THE PROCESS FOR DETERMINING THE
22 RANGE OF HOSPITAL OUTPATIENT FACILITY FEES AND FEE ESTIMATES TO BE
23 PROVIDED UNDER PARAGRAPH (1)(VIII) OF THIS SUBSECTION.

24 (II) THE HEALTH SERVICES COST REVIEW COMMISSION SHALL
25 DETERMINE THE RANGE OF HOSPITAL OUTPATIENT FACILITY FEES AND FEE
26 ESTIMATES TO BE PROVIDED UNDER PARAGRAPH (1)(VIII) OF THIS SUBSECTION.

27 (III) TO COMPLY WITH PARAGRAPH (1) OF THIS SUBSECTION,
28 EACH HOSPITAL THAT CHARGES AN OUTPATIENT FACILITY FEE SHALL:

29 1. USE THE UNIFORM DISCLOSURE FORM DEVELOPED
30 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND

1 **2. USE THE RANGE OF HOSPITAL OUTPATIENT FACILITY**
2 **FEES AND FEE ESTIMATES DETERMINED UNDER SUBPARAGRAPH (I) OF THIS**
3 **PARAGRAPH.**

4 **(IV) 1. ~~THE~~ SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS**
5 **SUBPARAGRAPH, THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS**
6 **SUBSECTION SHALL BE IN PLAIN LANGUAGE THAT MAY BE REASONABLY**
7 **UNDERSTOOD BY A PATIENT WHO DOES NOT POSSESS SPECIAL KNOWLEDGE**
8 **REGARDING MEDICAL BILLING OR HOSPITAL FACILITY FEE CHARGES.**

9 **2. IF A PATIENT DOES NOT SPEAK ENGLISH OR**
10 **REQUIRES THE NOTICE TO BE IN AN ALTERNATIVE FORMAT, THE HOSPITAL SHALL,**
11 **TO THE EXTENT PRACTICABLE, PROVIDE THE NOTICE IN A LANGUAGE OR FORMAT**
12 **THAT IS UNDERSTOOD BY THE PATIENT.**

13 **(3) (I) EACH HOSPITAL ANNUALLY SHALL REPORT TO THE**
14 **HEALTH SERVICES COST REVIEW COMMISSION A LIST OF THE HOSPITAL-BASED,**
15 **RATE-REGULATED OUTPATIENT SERVICES PROVIDED BY THE HOSPITAL.**

16 **(II) THE HEALTH SERVICES COST REVIEW COMMISSION**
17 **ANNUALLY SHALL:**

18 **1. POST ON ITS WEBSITE THE LIST OF THE**
19 **HOSPITAL-BASED, RATE-REGULATED OUTPATIENT SERVICES REPORTED BY EACH**
20 **HOSPITAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND**

21 **2. PROVIDE THE LIST OF THE HOSPITAL-BASED,**
22 **RATE-REGULATED OUTPATIENT SERVICES REPORTED BY EACH HOSPITAL TO THE**
23 **MARYLAND INSURANCE ADMINISTRATION AND THE HEALTH EDUCATION AND**
24 **ADVOCACY UNIT IN THE OFFICE OF THE ATTORNEY GENERAL.**

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

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

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

31 **(2) FOR AN APPOINTMENT MADE ELECTRONICALLY OR USING A**
32 **WEBSITE:**

1 (I) WRITTEN NOTICE SHALL BE PROVIDED AT THE TIME THE
2 APPOINTMENT IS MADE; AND

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

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

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

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

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

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

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

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

27 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before July 31, 2022,
28 the Office of the Attorney General, in consultation with the Health Services Cost Review
29 Commission and the Maryland Hospital Association, shall report to the Senate Finance
30 Committee and the House Health and Government Operations Committee, in accordance
31 with § 2-1246 of the State Government Article, on the development and use of the uniform
32 disclosure form required under § 19-349.2(b)(2) of the Health – General Article.

33 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2019.