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Maryland House Health and Government Operations Committee

Hearing on **HB 565 – Health Facilities – Hospitals – Medical Debt Protection**

Testimony of Jenifer Bosco, National Consumer Law Center

February 12, 2021

**Position -- SUPPORT**

To the Members of the House Health and Government Operations Committee:

Thank you for holding this hearing on House Bill 565 – Health Facilities – Hospitals – Medical Debt Protection. My name is Jenifer Bosco, and I am an attorney at the National Consumer Law Center, where I focus on debt collection issues that affect low-income consumers, including medical debt. The National Consumer Law Center or NCLC is a nonprofit organization that, since 1969, has used its expertise in consumer law and policy to work for consumer justice and economic security for low-income and other disadvantaged people.

Medical debt is a problem faced by millions of consumers. Even before the onset of the COVID-19 pandemic, medical debt was one of the most common types of consumer debt and the top reason that consumers are contacted by debt collectors. In 2018, 37% of non-elderly adults reported medical bill or medical debt problems over the past year.<sup>1</sup> According to the Consumer Financial Protection Bureau (CFPB), 59% of consumers contacted about a debt reported receiving calls and letters regarding a medical debt in collections.<sup>2</sup> Medical debt is a contributing

cause to more than half of all consumer bankruptcies filed.<sup>3</sup>

Medical debt has an even more severe impact on communities of color: 31% of non-elderly Black Americans have past-due medical bills, which exceeds the national average of 24%.<sup>4</sup>

Fear of medical debt should not discourage individuals from seeking testing and treatment, yet in light of the aggressive collection practices<sup>5</sup> used by some health care providers, many consumers report fearing medical debt more than they fear a medical diagnosis.<sup>6</sup>

Strong consumer protections are needed to help consumers access the healthcare that they need, without leading to financial ruin. The measures included in HB 565 would provide important protections for Maryland consumers.

#### Financial Assistance Plan Improvements

Maryland has a good financial assistance requirement that would be made even stronger and more evenhanded with the adoption of HB 565. Pursuant to Md. Code Ann., Health-Gen. § 19-214.1, hospitals must provide free and reduced cost care to certain patients. HB 565 would provide clarity to both patients and health care providers about the method for calculating assistance, by directing the hospital to consider financial hardships at the date of service and those that arise during the eight months after the date of service has passed. This flexibility is particularly important for patients with medical debt, since illness and accidents frequently lead to a loss of household income.<sup>7</sup> A patient who would not have been eligible for financial assistance before the date of service could experience loss of employment or significant financial hardship as a result of the medical crisis.

HB 565 also provides additional opportunities for patients to receive information about the availability of financial assistance, to request assistance, and to seek a review of a hospital's

decision to deny assistance. Where a patient is first denied financial assistance but is later found to be eligible, HB 565 would provide the right to a refund of amounts already paid by the patient in excess of the patient's obligation. These protections will help ensure that needy patients receive the assistance promised under Maryland law.

### Debt Collection and Credit Reporting Protections

Medical debt is not discretionary. It is different from many other types of consumer debt – people do not plan to get sick or injured, and health care services are not only necessary, but can be a matter of life and death. For patients who need care but struggle to afford it, aggressive collection activities cause further harm. HB 565 contains needed protections for these consumers, who continue to face aggressive debt collection by some Maryland hospitals.<sup>8</sup>

HB 565 would implement significant medical debt collection and credit reporting protections for Maryland families including:

- Limits on interest or fees charged for medical debt
- Limits on credit reporting of medical debt, and clarifying the hospital's responsibility to revoke erroneous credit reporting<sup>9</sup>
- Pausing certain collection activities while the patient pursues insurance appeals or financial assistance appeals
- Pausing collection lawsuits for the first 180 days after the patient's first post-discharge hospital bill
- Protection of the patient's primary residence from medical liens
- Prohibition of the use of body attachments and arrest warrants for hospital bills
- Prohibition of wage garnishment where the patient was eligible for financial assistance
- Prohibition of lawsuits when the patient owes \$1,000 or less, or was eligible for financial

assistance, or was uninsured when the care was provided

- Limits on the use of debt collectors to pursue hospital bills of \$1,000 or less
- Notices to patients about the availability of financial assistance, payment plans and health insurance appeal rights

HB 565 also imposes essential requirements for hospitals that pursue debt collection lawsuits, clearly mandating that each complaint filed in court must be accompanied by an affidavit that the hospital has complied with Maryland medical debt collection law, has already evaluated the patient's eligibility for financial assistance, has billed the patient properly, and has attested to the correct amount of the remaining debt. These requirements will not only protect consumers, but should provide an additional barrier to prevent inappropriate, frivolous or erroneous medical debt lawsuits from clogging the court system.

While hospitals are under unique pressures during the COVID-19 pandemic, it is clear that Maryland consumers are also struggling financially. Wage garnishments and lawsuits generally have only the smallest impact on a hospital's bottom line, but can drive households into bankruptcy or poverty. The protections in HB 565 strike a better balance between the hospital's efforts to collect payment, and the need to address the growing pressures of medical debt and aggressive collection practices on healthcare consumers.

### Data Reporting

The reporting requirements in HB 565 will provide needed information for the General Assembly and regulators to monitor medical debt and collections issues, and address problems as they arise. In particular, reporting on the use of debt collection by the patient's race, gender and zip code will illuminate disproportionate impacts on people of color, giving policymakers additional tools to address discriminatory practices. Publication of this information will provide

needed transparency.

**In conclusion, NCLC supports House Bill 565, to provide consumers access to financial assistance and to better protect struggling families from harmful medical debt collection practices.** If you have questions regarding this testimony, please contact Jenifer Bosco, Staff Attorney, National Consumer Law Center, at [jbosco@nclc.org](mailto:jbosco@nclc.org) or 617-542-8010.

Sincerely,

Jenifer Bosco, Staff Attorney  
National Consumer Law Center

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<sup>1</sup> The Commonwealth Fund, Health Insurance Coverage Eight Years After the ACA: Fewer Uninsured Americans and Shorter Coverage Gaps, But More Underinsured (Feb. 2019), at Table 4, [https://www.commonwealthfund.org/sites/default/files/2019-02/Collins\\_hlt\\_ins\\_coverage\\_8\\_years\\_after\\_ACA\\_2018\\_biennial\\_survey\\_sb.pdf](https://www.commonwealthfund.org/sites/default/files/2019-02/Collins_hlt_ins_coverage_8_years_after_ACA_2018_biennial_survey_sb.pdf).

<sup>2</sup> Consumer Financial Protection Bureau, *Consumer Experiences with Debt Collection: Findings from the CFPB's Survey of Consumer Views on Debt* (Jan. 2017).

<sup>3</sup> Himmelstein et al., American Journal of Public Health, *Medical Bankruptcy: Still Common Despite the Affordable Care Act* (Feb. 6, 2019), at <https://ajph.aphapublications.org/doi/10.2105/AJPH.2018.304901>; CNBC, "Medical Bills Are the Biggest Cause of US Bankruptcies: Study" (July 24, 2013), at <https://www.cnbc.com/id/100840148>.

<sup>4</sup> Urban Institute, Urban Wire: Health and Health Policy, "Past-due medical debt a problem, especially for black Americans," (March 27, 2017), at <https://www.urban.org/urban-wire/past-due-medical-debt-problem-especially-black-americans>.

<sup>5</sup> The Pew Charitable Trusts, *How Debt Collectors Are Transforming the Business of State Courts* (May 6, 2020), at <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/05/how-debt-collectors-are-transforming-the-business-of-state-courts>.

<sup>6</sup> NORC at the University of Chicago, *Issue Brief: Americans' Views of Healthcare Costs, Coverage and Policy*, (March 2018).

<sup>7</sup> See, e.g., Zajacova et al., Cancer, *Employment and income losses among cancer survivors: Estimates from a national longitudinal survey of American families* (Dec. 2015), at <https://pubmed.ncbi.nlm.nih.gov/26501494/>; Bennett et al., Support Cancer Care, *Changes in employment and household income during the 24 months following a cancer diagnosis* (Aug. 2009), at <https://pubmed.ncbi.nlm.nih.gov/19037665/>.

<sup>8</sup> E.g., Meredith Cohn, Baltimore Sun, "As Maryland hospitals continue to sue patients, state lawmakers call for 'guardrails'" (Feb. 28, 2020); Alec MacGillis, ProPublica, "One Thing the Pandemic Hasn't Stopped: Aggressive Medical-Debt Collection" (April 28, 2020), at <https://www.propublica.org/article/one-thing-the-pandemic-hasnt-stopped-aggressive-medical-debt-collection>.

<sup>9</sup> For more information about the harms associated with credit reporting of medical debt, see, National Consumer Law Center, *Don't Add Insult to Injury: Medical Debt & Credit Reports* (Nov. 2019), at [https://www.nclc.org/images/pdf/debt\\_collection/report-dont-add-insult-nov2019.pdf](https://www.nclc.org/images/pdf/debt_collection/report-dont-add-insult-nov2019.pdf).