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February 16, 2021

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 565 (Health Facilities - Hospitals - Medical Debt Protection): Support

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) supports House Bill 565. This bill would simplify hospital legal compliance by expressly incorporating, into one state law, the federal law's minimum hospital debt protections plus enhanced state law protections needed because Maryland's care delivery system is increasingly hospital-centric. The enhanced protections also dovetail with and would fully effectuate the enhanced financial assistance policy protections enacted into Maryland law last session. We supported this bill last session because it was urgently needed then. We now consider the bill's protections to be essential in the economic devastation of the pandemic and its aftermath, especially for Marylanders in low income and minority communities who have been disproportionately impacted by the pandemic. Their vulnerabilities are documented in the Attorney General's COVID-19 Access to Justice Task Force report.¹

The HEAU is familiar with patient harms caused by billing errors, improperly denied insurance claims, improper adverse reporting, and aggressive debt collection practices, including lawsuits and actions to enforce judgments, because we assist patients with hospital billing disputes. Without improved hospital debt protections, we foresee greater financial harm for an increasing number of patients related to the pandemic and its aftermath. Hospital patients have long struggled to find access to justice, equity and simple fairness because the needs of institutions –hospitals, debt collection businesses

¹ <https://www.marylandattorneygeneral.gov/Pages/A2JC/default.aspx>

and courts- are often legally favored over the needs of individuals with temporarily acute or chronic medical conditions.

The affected patients 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 patients and hospital debt collection institutions. For instance, the bill makes clear that a hospital and any debt collector it hires are "jointly and severally responsible" for meeting the requirements of the bill. This would help to harmonize the legal and financial obligations and incentives of a hospital and any debt collector it hires. Both must act in accordance with the bill's prohibitions against adverse reporting or lawsuit initiation while health insurance appeals, applications for financial assistance, or requests to reconsider financial assistance are pending.

This provision also would prevent adverse reports or debt collection actions based on erroneous hospital bills like those described below. We have assisted patients with complaints about hospital billing errors which 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)."

"[Patient] 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."

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

cc: Delegate Charkoudian, Sponsor