March 9, 2026

The Honorable J. Sandy Bartlett, Chair
The Honorable Debra Davis, Vice Chair
House Judiciary Committee
100 Taylor House Office Building
Annapolis, Maryland 21401

Re: Opposition to House Bill 385 – Rebuttable Presumption of Medical Bills

Dear Chair Bartlett, Vice Chair Davis, and members of the House Judiciary Committee:

Thank you for the opportunity to submit written testimony in opposition to House Bill (HB) 385, which would create a rebuttable presumption that medical bills submitted in personal injury lawsuits are authentic, fair, and reasonable and would shift the burden of proof to personal injury defendants to demonstrate otherwise by a preponderance of the evidence. On behalf of the Allstate Insurance Company enterprise, I respectfully urge the members of this Committee to issue an unfavorable report on HB 385.

HB 385 would represent a substantial public policy shift in Maryland personal injury litigation. Presently, Maryland case law requires personal injury plaintiffs seeking damages for medical care costs to submit evidence that their medical bills were fair and reasaonable, necessary, and causally connected to the alleged negligence of the defendant(s). In circuit courts, this is typically achieved using the testimony of the plaintiff's treating medical doctor.

However, § 10-104 of the Courts and Judicial Proceedings Article, which applies to personal injury cases in District Court with amounts in controversy below $30,000, allows medical bills or records to be admitted as evidence of the amount, fairness, and reasonableness of medical treatment charges without the supporting testimony of a health care provider.[1] In cases using § 10-104, the finder of fact may attach whatever weight to medical bills that they deem appropriate. This process does not limit the parties' ability to compel the attendance of a witness, to cross-examine an appearing witness, or to engage in other discovery.

Because the bill would shift the burden of proving the fairness and reasonableness of medical bills from plaintiffs to defendants, the Maryland Department of Legislative Services (DLS) has concluded that passage of HB 385 could increase costs to the state of Maryland for the retention and use of expert witnesses and for the handling of additional claims brought owing to the new, lower barrier to entry to bring and prove claims under the Government Tort Claims Act.[2]

[1] Maryland Courts & Judicial Proceedings Article § 10-104, "Admissibility of Writings or Records of Health Care Providers"
[2] 25.02.03 | Library of Maryland Regulations.

Because such costs are funded by the State Insurance Trust Fund (SITF), the bill's passage is expected to increase the financial liabilities of the SITF. Similarly, the tort liability of the Maryland Transit Administration is funded by the Transportation Trust Fund (TTF). The bill is expected to add expenses to those agencies while leaving state revenues unchanged.[3] Similarly, the bill's passage could increase litigation-related expenses for local governments while leaving local government revenues unchanged.

Its passage would significantly compromise the current application of the collateral source rule by forcing charged medical bills into evidence without regard for the amount actually paid, if any. While the bill may be intended to reduce the costs of personal injury litigation, it would increase the costs of claims and litigation and artificially raise average settlement values and jury awards. The end result would be an increase in insurance costs to Maryland policyholders when insurance affordability is already a struggle.

HB 385 would increase costs to Maryland policyholders. Other states that have enacted laws similar to HB 385 have experienced anywhere from a five to a 15 percent increase in the average amount paid per paid bodily injury claim. Its passage would raise the average cost per claim, and it would prompt insurers to build those anticipated increased losses into the pricing of premiums and policy terms, raising the cost of coverage for consumers and making coverage less affordable.

Shifting the burden of proof from the plaintiff to the defendant will increase the pressure on parties to settle, increase litigation costs, and lead to larger verdicts, all of which will place upward pressure on insurance premiums as carriers adjust to these new expenses. Taken together, these adjustments will place insurance affordability in Maryland in an increasingly precarious position.

The passage of HB 385 is also likely to prompt carriers to implement stricter underwriting guidelines, higher deductibles, and lower policy limits, all of which will increase consumers' out-of-pocket exposure in the event of a loss.

By contrast, several states recently passed measures limiting recoveries to medical bills' amounts paid, or allowing the introduction of evidence showing both the amount billed and the amount paid. In the most recent examples,[4] consumers are already experiencing a reduction in premiums.

Passage of HB 385 would exacerbate existing inequities in medical billing. Billing for health care services is already inconsistent depending on the patient; insured, uninsured, and Medicare/Medicaid patients are already often charged different amounts for the same care. These variations already complicate personal injury litigation because the amount printed on a medical provider's invoice is often different from the amount the provider requires the patient to pay. HB 385 would permit the admission of medical bills without interrogating the relationship between the charge printed on them and the compensation collected. HB 385 would require defendants to ignore deviations between the medical bill and the amount accepted as satisfaction by the provider and to ignore differences between the market value of a billed treatment and the amount contained on a medical bill for that treatment.

[3] See 2026 Regular Session - Fiscal and Policy Note for House Bill 385.
[4] See, e.g., Louisiana Act No. 18 (2025), prohibiting a presumption of causation of injuries in personal injury lawsuits.

HB 385 will encourage providers to submit higher bills because they know the submissions will carry a presumption of fairness. This will exacerbate existing concerns about overbilling, as bad actors who already produce inflated medical bills will be emboldened by the change. It could also exacerbate overtreatment; as the care will be presumed reasonable, the burden will be on defendants to demonstrate patterns of unnecessary treatment, aggravating the potential for bad actors to exploit the vulnerability of injured parties.

The shifting of this burden is also likely to necessitate changes to jury instructions. Even in cases where defendants offer effective expert testimony and make compelling arguments, jurors may be less likely to listen to defense arguments disputing the reasonableness of medical bills.

HB 385 would prevent defendants from vigorously interrogating medical bill evidence presented by plaintiffs and would thereby undermine fundamental evidentiary rules. By shifting the burden of proof in all personal injury cases in Maryland courts from plaintiffs to defendants,[5] the bill would permit medical bills to be admitted into evidence without the testimony of an authenticating witness and/or custodian of records and would prevent defendants from fully scrutinizing the evidence through such witnesses. Presently, defendants can cross-examine fact witnesses presented to validate the accuracy and authenticity of a plaintiff's medical bills. If the legislature passes HB 385, defendants would be precluded from engaging in the most basic evaluation of the evidence proffered against them.

The shift in burden of proof demanded by HB 385 would violate basic principles of due process by placing the burden on defendants to demonstrate that they are not liable for medical costs, rather than placing that burden on plaintiffs, the party asserting claims of liability. Civil litigation has historically required the party seeking relief—i.e., plaintiffs—to bear the risk of their arguments falling short. Plus, plaintiffs control the choice to file suit and the individual claims being asserted; plaintiffs should be required to substantiate the elements of those claims, including the validity and fairness of medical bills.

HB 385 would also create redundancy with existing evidentiary law. The language of the bill on page 3, lines 1-3 states that, "expert testimony is not required to prove the authenticity, fairness, or reasonableness of a medical bill …" This implies that existing evidentiary standards require expert testimony to prove the authenticity of a medical bill. In fact, under current law, plaintiffs can prove the reasonableness of a medical bill without expert testimony, simply by offering the testimony of treating providers, who are considered fact witnesses. Indeed, most personal injury *plaintiffs* do not engage expert witnesses to testify on billing issues, but personal injury *defendants* often do engage expert witnesses to testify to billing issues, because defendants lack plaintiffs' access to treating providers and have no other way to refute medical bill evidence.

[5] Plaintiffs—and defendants—in Maryland district courts can already avail themselves of this burden shift. In cases where the amount in controversy does not exceed $30,000, Article § 10-104 permits parties in personal injury cases to admit medical bills without the testimony of a health-care provider. HB 385 deviates from Article § 10-104 in one key respect, however: Article § 10-104 affords equal benefit to plaintiffs and defendants by providing this avenue of medical record admissibility to both parties. Unlike HB 385, Article § 10-104 does not shift the burden of proof from the plaintiff to the defendant; it simply streamlines—equally for both parties—the introduction of medical records into evidence in low-value cases. Similarly, Article §10-104 requires that either party availing themselves of this benefit provide notice to the other party; in addition to unfairly favoring plaintiffs over defendants, HB 385 does not include any notice requirement.

Passage of HB 385 is likely to raise the average cost of bodily injury claims, and carriers will price those increases into premiums, imperiling consumer affordability. It would also prompt carriers to impose more restrictive underwriting standards, higher deductibles, and lower policy limits, all of which will increase consumers' out of pocket costs following a loss. HB 385 would make insurance in Maryland less affordable than it is today. For these reasons, we respectfully urge Committee members to issue an unfavorable report on HB 385.

Allstate appreciates the opportunity to provide written comments in opposition to HB 385. Thank you for your time and consideration of this important issue.

Sincerely,

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