

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0589.01 Brita Darling x2241

HOUSE BILL 22-1285

HOUSE SPONSORSHIP

Neville and Esgar, Daugherty

SENATE SPONSORSHIP

Moreno and Cooke,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION AGAINST A HOSPITAL TAKING CERTAIN**
102 **DEBT COLLECTION ACTIONS AGAINST A PATIENT IF THE**
103 **HOSPITAL IS NOT IN COMPLIANCE WITH HOSPITAL PRICE**
104 **TRANSPARENCY LAWS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill prohibits a hospital or other person or entity collecting on behalf of the hospital from initiating or pursuing collection actions against a patient or patient guarantor for debt incurred by the patient on

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the date or dates of service when the hospital was not in compliance with federal hospital price transparency laws.

Nothing in the bill:

- Prohibits a hospital from billing a patient or health insurer for items or services provided to the patient; or
- Requires a hospital to refund a payment made to the hospital for items or services provided to a patient.

A hospital that initiates or pursues a prohibited collection action is subject to a penalty equal to the amount of the debt and must refund any amount paid on the debt and pay attorney fees and costs.

The bill makes attempting to collect the debt an unfair practice under the "Colorado Fair Debt Collections Act".

The bill authorizes the department of public health and environment, in considering a hospital's license renewal application, to consider whether the hospital is or has been in compliance with federal hospital price transparency laws.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 8 to article
3 of title 25 as follows:

4 PART 8

5 CONSUMER PROTECTION RELATING TO

6 HOSPITAL PRICE TRANSPARENCY

7 **25-3-801. Legislative declaration.** (1) THE GENERAL ASSEMBLY
8 FINDS AND DECLARES THAT:

9 (a) SECTION 1001 OF THE "PATIENT PROTECTION AND
10 AFFORDABLE CARE ACT OF 2010", PUB.L. 111-148, AS AMENDED BY
11 SECTION 10101 OF THE "HEALTH CARE AND EDUCATION RECONCILIATION
12 ACT OF 2010", PUB.L. 111-152, AMENDED TITLE XXVII OF THE "PUBLIC
13 HEALTH SERVICE ACT", PUB.L. 78-410, IN PART, BY ADDING A NEW
14 SECTION 2718(e), REQUIRING, IN PART, THAT EACH HOSPITAL OPERATING
15 WITHIN THE UNITED STATES ESTABLISH, UPDATE, AND MAKE PUBLIC A LIST
16 OF THE HOSPITAL'S STANDARD CHARGES FOR THE ITEMS AND SERVICES

1 THAT THE HOSPITAL PROVIDES;

2 (b) EFFECTIVE JANUARY 1, 2021, THE FEDERAL CENTERS FOR
3 MEDICARE AND MEDICAID SERVICES PUBLISHED THE FINAL RULE TO
4 IMPLEMENT THE LAW, CODIFIED AT 45 CFR 180;

5 (c) IN ITS SUMMARY OF THE FINAL RULE, CMS STATES THAT
6 INFORMATION ON HOSPITAL STANDARD CHARGES IS NECESSARY FOR THE
7 PUBLIC TO "MAKE MORE INFORMED DECISIONS ABOUT THEIR CARE" AND
8 THAT THE "IMPACT OF THESE FINAL POLICIES WILL HELP TO INCREASE
9 MARKET COMPETITION, AND ULTIMATELY DRIVE DOWN THE COST OF
10 HEALTH CARE SERVICES, MAKING THEM MORE AFFORDABLE FOR ALL
11 PATIENTS";

12 (d) ON JULY 9, 2021, PRESIDENT BIDEN, BUILDING UPON EFFORTS
13 OF PAST PRESIDENTS, ISSUED THE "EXECUTIVE ORDER ON PROMOTING
14 COMPETITION IN THE AMERICAN ECONOMY", DIRECTING THE SECRETARY
15 OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES
16 TO SUPPORT NEW AND EXISTING PRICE TRANSPARENCY INITIATIVES FOR
17 HOSPITALS;

18 (e) HEALTH-CARE PRICE TRANSPARENCY IS IN THE BEST INTEREST
19 OF ALL COLORADANS, INCLUDING:

20 (I) THE STATE GOVERNMENT, WHICH PURCHASES HEALTH-CARE
21 SERVICES FOR ALMOST A QUARTER OF ALL COLORADANS;

22 (II) COLORADO BUSINESSES, WHICH FUND EMPLOYEE MEDICAL
23 EXPENSES; AND

24 (III) COLORADO RESIDENTS, WHO ULTIMATELY BEAR THE BRUNT
25 OF HIGH HEALTH-CARE COSTS IN THE FORM OF HIGHER TAXES, LOWER
26 WAGES, AND RESIDENTS' OWN OUT-OF-POCKET SPENDING;

27 (f) MOREOVER, HEALTH-CARE PRICES IN COLORADO ARE AMONG

1 THE HIGHEST IN THE NATION;

2 (g) HOWEVER, NOT ALL COLORADO HOSPITALS ARE IN
3 COMPLIANCE WITH ALL OF THE DISCLOSURE REQUIREMENTS UNDER
4 FEDERAL LAW AND OTHER STATE LAWS GOVERNING HEALTH-CARE PRICE
5 TRANSPARENCY; AND

6 (h) THIS LACK OF COMPLIANCE WITH HEALTH-CARE PRICE
7 TRANSPARENCY LAWS BY COLORADO HOSPITALS DECREASES THE
8 LIKELIHOOD THAT COLORADO CONSUMERS WILL BE FULLY AWARE OF
9 AFFORDABLE HEALTH-CARE OPTIONS BEFORE PURCHASING ITEMS AND
10 SERVICES FROM HOSPITALS, PLACING HEALTH-CARE CONSUMERS AT
11 GREATER RISK OF COLLECTION ACTIONS AND OTHER ADVERSE ACTIONS
12 RELATING TO UNPAID MEDICAL BILLS.

13 (2) THEREFORE, THE GENERAL ASSEMBLY FINDS AND DECLARES
14 THAT IT IS IMPERATIVE TO PROTECT COLORADO HEALTH-CARE CONSUMERS
15 FROM COLLECTION ACTIONS AND OTHER ADVERSE ACTIONS TAKEN BY
16 COLORADO HOSPITALS DURING THE TIME WHEN THE HOSPITAL WAS NOT IN
17 MATERIAL COMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS
18 INTENDED TO PROTECT HEALTH-CARE CONSUMERS.

19 **25-3-802. Definitions.** AS USED IN THIS SECTION, UNLESS THE
20 CONTEXT OTHERWISE REQUIRES:

21 (1) "COLLECTION ACTION" MEANS ANY OF THE FOLLOWING
22 ACTIONS TAKEN WITH RESPECT TO A DEBT FOR ITEMS AND SERVICES THAT
23 WERE PURCHASED FROM OR PROVIDED TO A PATIENT BY A HOSPITAL ON A
24 DATE DURING WHICH THE HOSPITAL WAS NOT IN MATERIAL COMPLIANCE
25 WITH HOSPITAL PRICE TRANSPARENCY LAWS:

26 (a) ATTEMPTING TO COLLECT A DEBT FROM A PATIENT OR PATIENT
27 GUARANTOR, WHETHER BY THE HOSPITAL, AN INDEPENDENT BILLING

1 OFFICE, A DEBT COLLECTOR AS DEFINED IN SECTION 5-16-103 (9), A
2 COLLECTION AGENCY AS DEFINED IN SECTION 5-16-103 (3), OR OTHER
3 THIRD PARTY RETAINED BY OR ON BEHALF OF THE HOSPITAL;

4 (b) SUING THE PATIENT OR PATIENT GUARANTOR, OR ENFORCING
5 AN ARBITRATION OR MEDIATION CLAUSE IN ANY HOSPITAL DOCUMENTS
6 INCLUDING CONTRACTS, AGREEMENTS, STATEMENTS, OR BILLS; OR

7 (c) DIRECTLY OR INDIRECTLY CAUSING A REPORT TO BE MADE TO
8 A CONSUMER REPORTING AGENCY, AS DEFINED IN SECTION 5-16-103 (6).

9 (2) "DEBT" HAS THE SAME MEANING AS SET FORTH IN SECTION
10 5-16-103.

11 (3) "FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES"
12 OR "CMS" MEANS THE CENTER FOR MEDICARE AND MEDICAID SERVICES
13 IN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

14 (4) "HOSPITAL" MEANS, CONSISTENT WITH 45 CFR 180.20, A
15 HOSPITAL:

16 (a) LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT TO
17 SECTION 25-1.5-103 (1)(a); OR

18 (b) APPROVED BY THE DEPARTMENT AS MEETING THE STANDARDS
19 ESTABLISHED FOR LICENSING A HOSPITAL.

20 (4) "HOSPITAL PRICE TRANSPARENCY LAWS" MEANS SECTION
21 2718(e) OF THE "PUBLIC HEALTH SERVICE (PHS) ACT", PUB.L. 78-410, AS
22 AMENDED, AND RULES ADOPTED BY THE UNITED STATES DEPARTMENT OF
23 HEALTH AND HUMAN SERVICES IMPLEMENTING SECTION 2718 (e).

24 (5) "ITEMS AND SERVICES" OR "ITEMS OR SERVICES" MEANS "ITEMS
25 AND SERVICES" AS DEFINED IN 45 CFR 180.20.

26 **25-3-803. Failure to comply with hospital price transparency**
27 **laws - prohibiting collection of debt - penalty. (1) ON AND AFTER THE**

1 EFFECTIVE DATE OF THIS SECTION, A HOSPITAL THAT IS NOT IN MATERIAL
2 COMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS ON THE DATE
3 THAT ITEMS OR SERVICES ARE PURCHASED FROM OR PROVIDED TO A
4 PATIENT BY THE HOSPITAL SHALL NOT INITIATE OR PURSUE A COLLECTION
5 ACTION AGAINST THE PATIENT OR PATIENT GUARANTOR FOR A DEBT OWED
6 FOR THE ITEMS OR SERVICES.

7 (2) A HOSPITAL THAT INITIATES OR PURSUES A COLLECTION
8 ACTION FOR A DEBT AGAINST A PATIENT OR PATIENT GUARANTOR IN
9 VIOLATION OF THIS SECTION:

10 (a) SHALL REFUND THE PAYER ANY AMOUNT OF THE DEBT THE
11 PAYER HAS PAID AND SHALL PAY A PENALTY TO THE PATIENT OR PATIENT
12 GUARANTOR IN AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF THE DEBT;

13 (b) SHALL DISMISS OR CAUSE TO BE DISMISSED ANY COURT ACTION
14 WITH PREJUDICE AND PAY ANY ATTORNEY FEES AND COSTS INCURRED BY
15 THE PATIENT OR PATIENT GUARANTOR RELATING TO THE ACTION; AND

16 (c) REMOVE OR CAUSE TO BE REMOVED FROM THE PATIENT'S OR
17 PATIENT GUARANTOR'S CREDIT REPORT ANY REPORT MADE TO A
18 CONSUMER REPORTING AGENCY RELATING TO THE DEBT.

19 (3) NOTHING IN THIS PART 8:

20 (a) PROHIBITS A HOSPITAL FROM BILLING A PATIENT, PATIENT
21 GUARANTOR, OR THIRD-PARTY PAYER, INCLUDING HEALTH INSURER, FOR
22 ITEMS OR SERVICES PROVIDED TO THE PATIENT; OR

23 (b) REQUIRES A HOSPITAL TO REFUND ANY PAYMENT MADE TO THE
24 HOSPITAL FOR ITEMS OR SERVICES PROVIDED TO THE PATIENT, SO LONG AS
25 NO COLLECTION ACTION IS TAKEN IN VIOLATION OF THIS PART 8.

26



27 **SECTION 2. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly; except
3 that, if a referendum petition is filed pursuant to section 1 (3) of article V
4 of the state constitution against this act or an item, section, or part of this
5 act within such period, then the act, item, section, or part will not take
6 effect unless approved by the people at the general election to be held in
7 November 2022 and, in such case, will take effect on the date of the
8 official declaration of the vote thereon by the governor.