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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research and Drafting

Legislative Budget Office

H.B. 49
135th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 49's Bill Analysis

Version: As Reported by Senate Small Business and Economic Opportunity

Primary Sponsors: Reps. Ferguson and Barhorst

Local Impact Statement Procedure Required: No

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Highlights

- The Ohio Department of Health (ODH) will experience costs to monitor each hospital's compliance with federal price transparency requirements. This will include costs to evaluate complaints, monitor compliance and corrective action, post a list of noncompliant hospitals on its website, and prepare required reports.
- Any government-owned hospital will be subject to administrative penalties if the hospital is in noncompliance with these transparency requirements.
- Administrative penalties collected are to be deposited into the Hospital Price Transparency Fund, which the bill creates. The funds are to be used by ODH to offset costs related to monitoring compliance.
- Government-owned hospitals could experience the loss of certain facility fee revenues beginning July 1, 2027. The total amount is unknown. However, this loss would only apply to fees associated with existing outpatient physician facilities purchased or otherwise acquired by a hospital or multi-hospital system.

Detailed Analysis

Availability of hospital price information

The bill requires each hospital to comply with the federal price transparency law. This includes maintaining and making public a list of standard charges for a set of shoppable services, or services that a health care consumer may schedule in advance. The bill requires, (1) beginning two years after the bill's effective date, the set to include at least 400 shoppable services on the list, unless the hospital provides fewer than 400 services, and (2) beginning four years after the bill's effective date, the set to include at least 500, unless the hospital provides fewer than

500 shoppable services. The bill requires each hospital to publish the list in a machine-readable format that conforms with any template required by the federal price transparency law, which is also readable without the use of software. Under the bill, a hospital that maintains an internet-based price estimator tool deemed by the U.S. Centers for Medicare and Medicaid (CMS) to meet the requirements of the federal price transparency law also meets the requirements of the bill if the hospital takes reasonable steps to do both of the following: (1) improve the accuracy and performance of the tool, and (2) regularly update the underlying data used by the estimator tool and audit price estimates generated by the tool for quality assurance purposes. The bill also prohibits a hospital from (1) selling personal data acquired from the use of the price estimator tool and (2) using, selling, or processing personal data from the use of the price estimator tool for the purposes of targeted advertising.

As part of establishing these requirements, the bill repeals current law requiring every hospital to make available for public inspection a price information list, which includes charges for certain hospital services.

The federal hospital price transparency rule adopted by CMS has been effective since January 1, 2021. To the extent that the bill and federal requirements differ, there could be costs to government-owned hospitals.

Director of Health duties

The Director of Health is required to monitor each hospital to determine compliance with federal transparency requirements, evaluate complaints, and audit internet websites of hospitals for compliance. The Director is required to create and make publicly available a list identifying each hospital that is not in compliance. The initial list of noncompliant hospitals must be created and included on the Ohio Department of Health's (ODH) website no later than 90 days after the bill's effective date. The Director must update the list and website at least every 30 days thereafter. If the Director determines that a violation has occurred, the Director must issue a notice of violation to the hospital and require the hospital to submit a corrective action plan. The corrective action plan is subject to the Director's review and approval. The Director must monitor and evaluate the hospital's compliance with the plan. The Director must also prepare an annual report on the hospitals that have violated the bill's provisions, as well as a report to the General Assembly with recommended amendments to the state's hospital price transparency laws within 60 days of any federal law or rule changes.

ODH will experience an increase in costs to evaluate complaints, monitor compliance, monitor corrective action, post a list of noncompliant hospitals on its website, prepare the required annual report regarding compliance, and prepare any report on recommended amendments to the state's transparency laws following any federal changes. However, the bill establishes administrative penalties (described directly below) which may help to offset these costs. ODH's total costs will depend a great deal on the number of hospitals not in compliance with transparency requirements and the amount of time required to review, approve, and monitor corrective plans.

Administrative penalties

If a hospital fails to maintain and make public the bill's required list or either or both of the lists required by the federal price transparency law, and fails to respond to a notice of violation or submit a corrective action plan or complete the corrective action, the Director must

impose an administrative penalty on the hospital. The bill specifies that each day a hospital is in violation of these requirements is considered a separate violation. In the case of a hospital with a bed count of 30 or fewer, the penalty must not be higher than $300. For a hospital with a bed count that is greater than 30 and equal to or fewer than 550, the penalty must not be higher than $10 per bed. And with respect to a hospital whose bed count exceeds 550, the penalty must not be higher than $5,500. Penalties are to be deposited in the Hospital Price Transparency Fund, which the bill creates. Penalties collected under the bill must be used to administer and enforce its provisions, except that the Director may use a portion for purposes of informing the public about the availability of hospital price information and other consumer rights under the bill. Under the federal rule, CMS may also assess administrative penalties.

Any government-owned hospital not in compliance would have to pay a penalty as described above. ODH will be able to use any penalty revenue received to help offset administrative costs. The amount of penalty revenue will depend on the number and size of hospitals that are not in compliance.

Medical debt

The bill prohibits a medical creditor or medical debt collector from sharing or reporting any patient medical debt to a consumer reporting agency for a period of one year after the patient's first bill. This provision should have no direct fiscal impact on state or local entities.

Facility fees

The bill prohibits, beginning July 1, 2027, a hospital or multi-hospital system that acquires, or acquired in the past, an existing, independent outpatient physician facility and operates that facility as an outpatient facility subject to the control and direction of the hospital or system from requiring a third-party payor or self-pay individual to pay facility fees in connection with any health care services or items provided to a patient at that outpatient facility. Any government-owned hospitals that charge facility fees to third-party payors or self-pay individuals currently or would have charged fees in the future would realize a loss of facility fee revenues. The total loss is unknown. However, the bill states that this provision only applies to existing outpatient physician facilities purchased or otherwise acquired by a hospital or multi-hospital system. It states that nothing in the bill is to be construed as applying to an outpatient facility that is constructed by a hospital or multi-hospital system, or that did not previously operate as an outpatient physician facility prior to its acquisition. The bill also excludes governmental health plans from the definition of "third-party payors," thus, these health plans, including Medicaid managed care, will not realize any savings regarding the facility fee provisions, as they may continue to be charged.

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