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Synopsis of Senate Committee Amendments

(This synopsis does not address amendments that may have been adopted on the Senate Floor.)

H.B. 49 of the 135th General Assembly

Senate Small Business and Economic Opportunity

Logan Briggs, Attorney

Hospital price transparency

Eliminates the majority of the express requirements included in the House version of the bill, which largely mirror federal law but include several differences, and replaces them with a general requirement that hospitals located in this state comply with the federal price transparency law.

Defines “federal price transparency law” as section 2718(e) of the federal “Public Health Service Act,” and hospital price transparency rules adopted by the United States Department of Health and Human Services and the United States Centers for Medicare and Medicaid Services (CMS) implementing that section, including 45 C.F.R. 180.

Requires the Director of Health to submit a report to the General Assembly which recommends amendments to the state’s hospital price transparency laws following any changes to the federal price transparency laws or related rules.

Retains the House requirement that hospitals make public a list of standard charges for the hospital’s shoppable services, with the following changes:

- Eliminates the House requirement that the list be “consumer-friendly.”
- Requires the list to include at least 400 shoppable services beginning two years after the bill’s effective date, and at least 500 shoppable services beginning four years after the bill’s effective date. The House version required at least 300 shoppable services on the bill’s effective date, and all shoppable services on January 1, 2025.
- Requires the list to be published in a machine-readable format, to conform to any CMS template required by the federal price transparency law, and to be readable in plain language without the use of software.
- Allows a hospital to maintain an internet-based price estimator tool rather than publishing the list so long as the tool is deemed acceptable by CMS, the hospital takes reasonable steps to improve the tool’s accuracy and performance, and the hospital regularly updates the underlying data.

- Prohibits a hospital from selling personal data obtained through the use of the internet-based price estimator tool or from using that data for the purposes of targeted advertising.
- Removes all other House requirements pertaining to the list.

Requires the Director to impose an administrative penalty on a hospital only if the hospital fails to comply with the bill, *and* fails to comply with the bill's requirements relating to corrective action plans.

Replaces the *minimum* penalties prescribed by the House version with the following *maximum* penalties:

- \$300 for a hospital with 30 beds or fewer;
- \$10 per bed for a hospital with 31 to 550 beds;
- \$5,500 for a hospital with more than 550 beds.

Requires collected penalties to be deposited to the Hospital Price Transparency fund, to be used by the Director of Health to administer and enforce the bill. The House version required penalties to be deposited to the General Operations Fund.

Specifies that the materials that consist of notices of violations, orders, communications, and determinations of compliance are public records only after the Director of Health has determined that a hospital is not in compliance with the bill.

Collection actions

Removes House provisions that would have done the following:

- Permit a patient or patient guarantor to submit a complaint to the Director of Health if they believe that there has been a violation of the hospital price transparency requirements;
- Prohibit a hospital from taking or continuing to take a collection action against a patient or patient guarantor if the Director of Health determines that the hospital was in violation of the public disclosure requirements on the day that items or services were purchased by or provided to the patient;
- Require the hospital to refund any amount of the debt that has been paid;
- Require the hospital to pay a penalty to the patient or patient guarantor in an amount that is twice the total amount of the debt;
- Require the hospital to dismiss any suit it has brought to collect the debt and to pay any attorney's fees and costs incurred by the patient or patient guarantor related to the suit;
- Require the hospital to remove or cause to be removed from the patient's or patient guarantor's credit report any report made to a consumer reporting agency relating to the debt.

Facility fees

Prohibits a hospital or multi-hospital system that acquires or acquired an existing, independent outpatient physician facility and operates that facility as an outpatient facility subject to the hospital's control 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, beginning July 1, 2027.

Specifies that this prohibition applies only to existing outpatient physician facilities purchased or acquired by a hospital or multi-hospital system, and not outpatient facilities that are constructed by a hospital or multi-hospital system, or that did not previously operate as outpatient physician facilities prior to their acquisition by a hospital or multi-hospital system.