

**Initiative #146
Transparency in Health Care Billing**

1 **Proposition __ proposes amending the Colorado statutes to:**

- 2 ♦ require every health care provider and facility to publish its fee schedule, to give
3 patients an itemized detailed bill, and to notify patients if services are covered by
4 the patients' health care insurance;
- 5 ♦ require every pharmacy to publish its retail drug prices; and
- 6 ♦ require health insurers to publish contract terms with health care providers and
7 facilities, patient cost-sharing obligations, and prescription drug negotiated rates.

8 **Summary and Analysis**

9 Proposition __ requires health care providers and facilities, pharmacies, and health
10 insurers regulated by the state to make detailed price and billing information accessible
11 to patients in Colorado's health care system.

12 ***Billing and payments between health insurers and providers.*** Private insurance
13 companies, employers, and government programs, such as Medicare and Medicaid,
14 cover a portion of health care costs for most patients. Patients often incur some
15 out-of-pocket costs for care through cost-sharing obligations, such as deductibles,
16 co-pays, and co-insurance. Covered health care services are specified in the insurance
17 policy purchased by the patient. Health insurers enter into contracts with health care
18 providers and facilities to create provider networks. In-network providers agree to serve
19 insured patients and accept a negotiated payment rate for each covered service. These
20 payments are often less than the charge listed on the provider's standard fee schedule,
21 and may be lower than what the health care provider or facility charges uninsured
22 patients. After the delivery of health care services to a patient, the health care provider
23 or facility submits an itemized bill to the insurer. Providers identify each service listed on
24 the bill by a unique billing code. The insurer then determines if the billed service is a
25 covered service and if it was medically necessary prior to reimbursing the health care
26 provider or facility. Once the insurer reimburses the provider, the health care provider or
27 facility bills the patient for any outstanding cost-sharing obligations.

28 ***Current health care price disclosure requirements.*** Current Colorado law
29 requires most health care providers and facilities to publish on their website a list of the
30 charges for the most common health care services they offer. Colorado law also
31 requires hospitals and other health care facilities to notify patients of their right to receive
32 information about the average charges for frequently performed inpatient procedures. If
33 the patient requests the average charge information for his or her treatment, the hospital
34 or facility must provide the information prior to the patient's admission.

35 ***Current health care price data and public reports.*** The Colorado Hospital Price
36 Report, a joint project of the Colorado Division of Insurance and the Colorado Hospital
37 Association, provides information about hospital charges and average reimbursement

1 rates paid by insurance companies or health maintenance organizations for the 25 most
2 common inpatient medical services and surgical procedures performed by hospitals. In
3 addition, Colorado established the Colorado All-Payer Health Claims Database to collect
4 claims information from insurers and other payers of health care services. The data
5 collected is used to create publicly available reports about the cost, quality, and
6 utilization of health care services.

7 ***New fee disclosure requirements for health care providers and facilities.***

8 Proposition __ repeals and replaces the existing requirements that health care providers
9 and facilities disclose the charges for their most common procedures performed. Under
10 the measure, health care providers and facilities instead must publish their entire fee
11 schedule on their website and have a printed copy available in their office. The fee
12 schedule must include the unique billing code, health care service description, and the
13 maximum price charged for each health care service offered. Along with the fee
14 schedule, health care providers and facilities must also publish their billing and payment
15 policies, including discounts available to patients. Health care providers and facilities
16 must update their fee schedule at least annually and maintain a record of changes to the
17 published fee schedule. The measure specifies that if a health care provider or facility
18 has not published its fee schedule as required, then it cannot bill the patient or insurer,
19 and the patient or insurer is not required to pay the charges.

20 ***Itemized billing and other disclosures by health care providers and facilities.***

21 Proposition __ specifies that health care providers and facilities must itemize patient
22 billing statements to list detail about each service provided, including the amount
23 charged and any insurance adjustments or payments applied for each service. When a
24 patient provides insurance information to a health care provider or facility it must let the
25 patient know whether it participates in the health insurance plan. Further, an in-network
26 provider or facility must notify patients if an out-of-network provider will provide any
27 services and of any special payment terms associated with those services. Lastly, the
28 measure requires every health facility to publish a list of all health care providers that
29 practice in the facility and their relationship to the facility.

30 ***New requirements for pharmacies.*** Proposition __ requires every pharmacy to
31 publish a list of its retail drug prices, which must be available at the pharmacy's physical
32 location and on its website. Each pharmacy must update the information promptly when
33 prices change and maintain a record of all changes to the price list. The State Board of
34 Pharmacy may suspended or revoked a pharmacy's license and assess civil penalties if
35 the pharmacy fails to provide drug price information.

36 ***New requirements for health insurers.*** The measure requires every health insurer
37 regulated by the state insurance law to post on its website the following information for
38 all health plans it offers:

- 39
- 40 • the terms of contracts with health care providers and facilities, including the
 - 41 negotiated rates paid to a health care provider or facility for a specific service;
 - 42 • a patient's cost-sharing obligation, such as a required deductible, co-payment, or
 - 43 co-insurance;
 - 44 • the rate the insurer has agreed to pay for prescription drugs to health care
 - 45 providers and facilities, pharmacies, and distributors; and
 - the types of rebates and other incentives received.

1 Contracts between health care providers and facilities and insurers may not include
2 any provision that limits access to the information made available under the measure.
3 The Commissioner of Insurance may suspend or revoke the license of an insurer and
4 impose a civil penalty if the insurer fails to comply with the requirements of the measure.

*For information on those issue committees that support or oppose the measures on the ballot at the **November 6, 2018**, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<http://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

5 **Arguments For**

- 6 1) Requiring transparency in billing practices for services across the health care
7 sector helps create a more affordable, fair, and transparent marketplace. The
8 health care market is much less transparent than the markets for other goods
9 and services because prices are not easily accessible and vary greatly
10 depending on the type of facility where the service is provided, insurance
11 contract terms, and use of various rebates and discounts. Greater price
12 transparency may result in increased competition and lower health care prices.
- 13 2) Disclosing detailed information on health care charges and negotiated insurance
14 rates in advance of care allows patients to plan for the cost, make informed
15 decisions, and, if necessary, find a more affordable provider or insurer. The
16 current lack of information about the price of health care confuses patients and
17 often leads to unexpected costs after receiving care.

18 **Arguments Against**

- 19 1) The charges for health care services and pharmaceuticals disclosed under the
20 measure may not be useful to patients. These charges reflect the maximum
21 potential charge, which patients rarely pay. The actual cost to a patient is often
22 lower and depends on a variety of factors including negotiated prices between
23 providers and insurers, patient deductibles and cost-sharing rates, manufacturer
24 rebates, and discounts. Patients may be reluctant to seek care after reviewing
25 the posted charges if they do not fully understand available patient discounts or
26 that their insurance benefits may cover some or all of the cost.
- 27 2) The measure may reduce competition and increase costs for patients by
28 undermining the confidential negotiation process between insurers and health
29 care providers. By publishing the contract terms with insurers, health care
30 providers have access to negotiated rates paid to other providers, which gives
31 them an advantage when negotiating with insurers. Insurers must maintain a
32 sufficient provider network to ensure that patients have timely access to all
33 covered services. Therefore, providers may demand the highest known rate for
34 services, which in turn may increase the overall cost of health care insurance to
35 patients.

1 **Estimate of Fiscal Impact**

2 *(Please note: A summary of the fiscal impact will be included in this space in the*
3 *second draft of the analysis. A final fiscal impact statement will be prepared and placed*
4 *on the General Assembly's website when the final blue book is sent to voters.)*