

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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.

HOUSE
Amended 2nd Reading
April 22, 2022

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 BY REFERRING THE DEBT, DIRECTLY OR INDIRECTLY, TO A

1 DEBT COLLECTOR, A COLLECTION AGENCY, OR OTHER THIRD PARTY
2 RETAINED BY OR ON BEHALF OF THE HOSPITAL;

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

6 (c) DIRECTLY OR INDIRECTLY CAUSING A REPORT TO BE MADE TO
7 A CONSUMER REPORTING AGENCY.

8 (2) "COLLECTION AGENCY" MEANS ANY:

9 (a) PERSON WHO ENGAGES IN A BUSINESS THE PRINCIPAL PURPOSE
10 OF WHICH IS THE COLLECTION OF DEBTS; OR

11 (b) PERSON WHO:

12 (I) REGULARLY COLLECTS OR ATTEMPTS TO COLLECT, DIRECTLY
13 OR INDIRECTLY, DEBTS OWED OR DUE OR ASSERTED TO BE OWED OR DUE
14 TO ANOTHER;

15 (II) TAKES ASSIGNMENT OF DEBTS FOR COLLECTION PURPOSES; OR

16 (III) DIRECTLY OR INDIRECTLY SOLICITS FOR COLLECTION DEBTS
17 OWED OR DUE OR ASSERTED TO BE OWED OR DUE TO ANOTHER.

18 (3) (a) "CONSUMER REPORTING AGENCY" MEANS ANY PERSON
19 THAT, FOR MONETARY FEES, DUES, OR ON A COOPERATIVE NONPROFIT
20 BASIS, REGULARLY ENGAGES, IN WHOLE OR IN PART, IN THE PRACTICE OF
21 ASSEMBLING OR EVALUATING CONSUMER CREDIT INFORMATION OR OTHER
22 INFORMATION ON CONSUMERS FOR THE PURPOSE OF FURNISHING
23 CONSUMER REPORTS TO THIRD PARTIES. "CONSUMER REPORTING AGENCY"
24 INCLUDES ANY PERSON DEFINED IN 15 U.S.C. sec. 1681a (f) OR SECTION
25 5-18-103 (4).

26 (b) "CONSUMER REPORTING AGENCY" DOES NOT INCLUDE ANY
27 BUSINESS ENTITY THAT PROVIDES CHECK VERIFICATION OR CHECK

1 GUARANTEE SERVICES ONLY.

2 (4) (a) "DEBT" MEANS ANY OBLIGATION OR ALLEGED OBLIGATION
3 OF A CONSUMER TO PAY MONEY ARISING OUT OF A TRANSACTION,
4 WHETHER OR NOT THE OBLIGATION HAS BEEN REDUCED TO JUDGMENT.

5 (b) "DEBT" DOES NOT INCLUDE A DEBT FOR BUSINESS,
6 INVESTMENT, COMMERCIAL, OR AGRICULTURAL PURPOSES OR A DEBT
7 INCURRED BY A BUSINESS.

8 (5) "DEBT COLLECTOR" MEANS ANY PERSON EMPLOYED OR
9 ENGAGED BY A COLLECTION AGENCY TO PERFORM THE COLLECTION OF
10 DEBTS OWED OR DUE OR ASSERTED TO BE OWED OR DUE TO ANOTHER.

11 (6) "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 (7) "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 (8) "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 (9) "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) (a) EXCEPT AS**

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

8 (b) THIS PART 8 APPLIES, ON AND AFTER FEBRUARY 15, 2023, TO
9 CRITICAL ACCESS HOSPITALS LICENSED AND CERTIFIED BY THE
10 DEPARTMENT PURSUANT TO 42 CFR 485 SUBPART F.

11 (2) IF A PATIENT BELIEVES THAT A HOSPITAL WAS NOT IN
12 MATERIAL COMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS ON
13 A DATE ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION THAT ITEMS
14 OR SERVICES WERE PURCHASED BY OR PROVIDED TO THE PATIENT, AND
15 THE HOSPITAL TAKES A COLLECTION ACTION AGAINST THE PATIENT OR
16 PATIENT GUARANTOR, THE PATIENT OR PATIENT GUARANTOR MAY FILE
17 SUIT TO DETERMINE IF THE HOSPITAL WAS MATERIALLY OUT OF
18 COMPLIANCE WITH THE HOSPITAL PRICE TRANSPARENCY LAWS AND RULES
19 AND REGULATIONS ON THE DATE OF SERVICE. THE HOSPITAL SHALL NOT
20 TAKE A COLLECTION ACTION AGAINST THE PATIENT OR PATIENT
21 GUARANTOR WHILE THE LAWSUIT IS PENDING.

22 (3) A HOSPITAL THAT HAS BEEN FOUND BY A JUDGE OR JURY,
23 CONSIDERING COMPLIANCE STANDARDS ISSUED BY THE FEDERAL CENTERS
24 FOR MEDICARE AND MEDICAID SERVICES, TO BE MATERIALLY OUT OF
25 COMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS AND RULES AND
26 REGULATIONS:

27 (a) SHALL REFUND THE PAYER ANY AMOUNT OF THE DEBT THE

1 PAYER HAS PAID AND SHALL PAY A PENALTY TO THE PATIENT OR PATIENT
2 GUARANTOR IN AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF THE DEBT;

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

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

9 (4) NOTHING IN THIS PART 8:

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

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

16 ■ ■ ■

17 **SECTION 2. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly; except
20 that, if a referendum petition is filed pursuant to section 1 (3) of article V
21 of the state constitution against this act or an item, section, or part of this
22 act within such period, then the act, item, section, or part will not take
23 effect unless approved by the people at the general election to be held in
24 November 2022 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.