A BILL FOR AN ACT

CONCERNING LIMITATIONS ON HOSPITAL FACILITY FEES.

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 defines "health-care provider" as a person that is licensed or otherwise authorized in this state to furnish a health-care service, which includes a hospital and other providers and health facilities.

The bill prohibits a health-care provider (provider) affiliated with or owned by a hospital or health system from charging a facility fee for health-care services furnished by the provider for:

- Outpatient services provided at an off-campus location or through telehealth; or
Certain outpatient, diagnostic, or imaging services identified by the medical services board as services that may be provided safely, reliably, and effectively in nonhospital settings.

The bill:

- Requires a provider that charges a facility fee to provide notice to a patient that the provider charges the fee and to use a standardized bill that includes itemized charges identifying the facility fee, as well as other information;
- Requires the administrator of the all-payer health claims database to prepare an annual report of the number and amount of facility fees by payer, codes with the highest total paid amounts and highest volume, and other information; and
- Makes it a deceptive trade practice to charge, bill, or collect a facility fee when doing so is prohibited.

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

SECTION 1. In Colorado Revised Statutes, add 6-20-102 as follows:

6-20-102. Limits on facility fees - rules - definitions.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) "Affiliated with" means:

(I) Employed by a hospital or health system; or

(II) Under a professional services agreement, faculty agreement, or management agreement with a hospital or health system that permits the hospital or health system to bill on behalf of the affiliated entity.

(b) "Campus" means:

(I) A hospital's main buildings;

(II) The physical area immediately adjacent to a hospital's main buildings and structures owned by the hospital that are...
NOT STRICTLY CONTIGUOUS TO THE MAIN BUILDINGS BUT ARE LOCATED
WITHIN TWO HUNDRED FIFTY YARDS OF THE MAIN BUILDINGS; OR

(III) ANY OTHER AREA THAT THE FEDERAL CENTERS FOR
MEDICARE AND MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT
OF HEALTH AND HUMAN SERVICES HAS DETERMINED, ON AN
INDIVIDUAL-CASE BASIS, TO BE PART OF A HOSPITAL’S CAMPUS.

(c) "FACILITY FEE" MEANS ANY FEE A HOSPITAL OR HEALTH
SYSTEM CHARGES OR BILLS FOR OUTPATIENT HOSPITAL SERVICES
PROVIDED IN A HOSPITAL-BASED FACILITY THAT IS:

(I) INTENDED TO COMPENSATE THE HOSPITAL OR HEALTH SYSTEM
FOR ITS OPERATIONAL EXPENSES; AND

(II) SEPARATE AND DISTINCT FROM A PROFESSIONAL FEE CHARGED
OR BILLED BY A HEALTH-CARE PROVIDER FOR PROFESSIONAL MEDICAL
SERVICES PROVIDED IN A HOSPITAL-BASED FACILITY.

(d) "FREESTANDING EMERGENCY DEPARTMENT" MEANS A HEALTH
FACILITY AS DEFINED IN AND REQUIRED TO BE LICENSED UNDER SECTION
25-1.5-114.

(e) "HEALTH-CARE PROVIDER" MEANS ANY PERSON, INCLUDING A
HEALTH FACILITY, THAT IS LICENSED OR OTHERWISE AUTHORIZED IN THIS
STATE TO FURNISH A HEALTH-CARE SERVICE.

(f) "HEALTH-CARE SERVICE" HAS THE MEANING SET FORTH IN
SECTION 10-16-102 (33).

(g) "HEALTH FACILITY" MEANS A FACILITY LICENSED OR CERTIFIED
PURSUANT TO SECTION 25-1.5-103 OR ESTABLISHED PURSUANT TO PART
5 OF ARTICLE 21 OF TITLE 23 OR ARTICLE 29 OF TITLE 25.

(h) "HEALTH SYSTEM" HAS THE MEANING SET FORTH IN SECTION
10-16-1303 (9).
"Hospital" means a hospital currently licensed or certified by the Department of Public Health and Environment pursuant to the Department's authority under Section 25-1.5-103 (1)(a) or established pursuant to Part 5 of Article 21 of Title 23 or Article 29 of Title 25.

"Hospital-based health facility" means a health facility based in a hospital.

"Medical services board" means the Medical Services Board created in Section 25.5-1-301.

"Medicare" means the "Health Insurance for the Aged Act", Title XVIII of the Federal "Social Security Act", as amended by the Social Security Amendments of 1965, and as later amended.

"Off-campus location" has the meaning set forth in Section 25-3-118.

"Owned by" means owned by a hospital or health system when billed under the hospital's tax identification number.

"Payer type" means commercial insurers; Medicare; the medical assistance program established pursuant to Articles 4 to 6 of Title 25.5; individuals who self-pay; a financial assistance plan; or the "Colorado Indigent Care Program", established in Part 1 of Article 3 of Title 25.5.

"Telehealth" has the meaning set forth in Section 10-16-123 (4)(e).

(2) **Site-specific limits.** (a) On and after January 1, 2024, a health-care provider affiliated with or owned by a hospital or
HEALTH SYSTEM SHALL NOT CHARGE, BILL, OR COLLECT A FACILITY FEE FOR HEALTH-CARE SERVICES PROVIDED AT AN OFF-CAMPUS LOCATION OR PROVIDED THROUGH TELEHEALTH, REGARDLESS OF PAYER TYPE.

(b) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, THIS SUBSECTION (2) DOES NOT PROHIBIT A HEALTH-CARE PROVIDER FROM CHARGING A FACILITY FEE FOR:

(I) HEALTH-CARE SERVICES PROVIDED ON A HOSPITAL’S MAIN CAMPUS;

(II) HEALTH-CARE SERVICES PROVIDED AT A HEALTH FACILITY THAT INCLUDES A LICENSED HOSPITAL EMERGENCY DEPARTMENT; OR

(III) EMERGENCY SERVICES PROVIDED AT A LICENSED FREESTANDING EMERGENCY DEPARTMENT.

(3) (a) Service-specific limits. ON AND AFTER JULY 1, 2024, A HEALTH-CARE PROVIDER AFFILIATED WITH OR OWNED BY A HOSPITAL OR HEALTH SYSTEM SHALL NOT CHARGE, BILL, OR COLLECT A FACILITY FEE FOR OUTPATIENT, DIAGNOSTIC, OR IMAGING SERVICES THAT ARE IDENTIFIED BY THE MEDICAL SERVICES BOARD BY RULE PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION.

(b) Identification of services. NOT LATER THAN MARCH 31, 2024, AND NOT MORE THAN ONCE EVERY THREE YEARS THEREAFTER, THE MEDICAL SERVICES BOARD SHALL ADOPT RULES IDENTIFYING HEALTH-CARE SERVICES, AND THE ASSOCIATED SERVICE CODES FOR THE HEALTH-CARE SERVICES, THAT MAY BE PROVIDED SAFELY, RELIABLY, AND EFFECTIVELY IN SETTINGS OTHER THAN A HOSPITAL-BASED HEALTH FACILITY AND THAT ARE SUBJECT TO THE SERVICE-SPECIFIC FACILITY FEE LIMITATION SET FORTH IN SUBSECTION (3)(a) OF THIS SECTION. THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING SHALL POST THE
HEALTH-CARE SERVICES AND ASSOCIATED SERVICE CODES IDENTIFIED IN THE MEDICAL SERVICES BOARD RULES ON ITS PUBLIC-FACING WEBSITE.

(4) Transparency. (a) On and after July 1, 2024, a health-care provider affiliated with or owned by a hospital or health system that charges a facility fee shall:

(I) (A) Provide notice in plain language to patients that a facility fee may be charged, indicate in the notice the amount of the facility fee, and, to the extent practicable, provide the notice to a patient at the time an appointment is scheduled; and

(B) Post a sign, in English and Spanish and that is plainly visible and located in the area within the health facility where an individual seeking care registers or checks in, that states that the patient may be charged a facility fee in addition to the cost of the health-care service. The sign must also include a location within the health facility where a patient may inquire about facility fees and an online location where information about facility fees may be found.

(II) Provide to a patient a standardized bill that:

(A) Includes itemized charges for each health-care service;

(B) Specifically identifies any facility fee;

(C) Identifies specific charges that have been billed to insurance or other payer types for health-care services; and

(D) Includes contact information for filing an appeal to contest charges.

(b) The health-care provider shall provide the required notice and standardized bill in a clear manner and, to the
SECTION 2. In Colorado Revised Statutes, 25.5-1-204, add (3)(d) as follows:

25.5-1-204. Advisory committee to oversee the all-payer health claims database - creation - members - duties - legislative declaration - rules - report - definitions. (3) (d) (I) BEGINNING IN THE 2024-25 STATE FISCAL YEAR, AND ANNUALLY THEREAFTER, SUBJECT TO AVAILABLE APPROPRIATIONS AND AVAILABILITY OF DATA AT THE TIME OF REPORTING, THE ADMINISTRATOR SHALL PROVIDE A REPORT THAT AGGREGATES THE FOLLOWING DATA FROM THE COLORADO ALL-PAYER HEALTH CLAIMS DATABASE AND OTHER SOURCES FOR ALL PAYERS THAT REIMBURSE FACILITY FEES:

(A) THE NUMBER OF PATIENT VISITS FOR WHICH FACILITY FEES WERE CHARGED;

(B) THE TOTAL ALLOWED AMOUNTS COLLECTED IN FACILITY FEES;

(C) THE TOP TEN MOST FREQUENT CPT CODES AND THE TOP TEN CPT CODES WITH THE HIGHEST TOTAL ALLOWED AMOUNTS FROM FACILITY FEES; AND

(D) MEDIAN ALLOWED AMOUNTS, TWENTY-FIFTH AND SEVENTY-FIFTH PERCENTILE ALLOWED AMOUNTS, AND THE PERCENTAGE OF CLAIMS AND VOLUME OF CLAIMS WITH NO ALLOWED AMOUNTS.

(II) TO FACILITATE REPORTING PURSUANT TO THIS SUBSECTION (3)(d), THE ADMINISTRATOR SHALL:

(A) IDENTIFY PAYER DATA SOURCES THAT ARE AFFILIATED WITH OR OWNED BY A HOSPITAL; AND

(B) IDENTIFY FACILITY FEES BY LOCATION, OR, IF NOT PRACTICABLE, BY FACILITY TYPE INDICATED ON THE PROFESSIONAL FEE
OUTPATIENT CLAIM.

(III) AS USED IN THIS SUBSECTION (3)(d), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(A) "AFFILIATED WITH" HAS THE MEANING SET FORTH IN SECTION 6-20-102 (1)(a).

(B) "CPT CODE" HAS THE MEANING SET FORTH IN SECTION 25.5-1-204.7 (1)(d).

(C) "FACILITY FEE" HAS THE MEANING SET FORTH IN SECTION 6-20-102 (1)(c).

(D) "HOSPITAL" HAS THE MEANING SET FORTH IN SECTION 6-20-102 (1)(i).

(E) "OWNED BY" HAS THE MEANING SET FORTH IN SECTION 6-20-102 (1)(n).

SECTION 3. In Colorado Revised Statutes, 6-1-105, add (1)(uuu) as follows:

6-1-105. Unfair or deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(uuu) CHARGES, BILLS, OR COLLECTS A FACILITY FEE OR FAILS TO COMPLY WITH OTHER PROVISIONS RELATING TO FACILITY FEES IN VIOLATION OF SECTION 6-20-102 (2), (3), OR (4).

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.