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SENATE JOINT RESOLUTION NO. 57

Offered January 10, 2018

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Directing the Joint Legislative Audit and Review Commission to study balance billing by out-of-network health care providers. Report.

Patron—Sturtevant

Referred to Committee on Rules

WHEREAS, balance billing occurs when a physician or other health care provider who does not participate in a health benefit plan's network of providers bills a patient for the difference between the provider's billed charge and the amount, if any, paid to the provider under an assignment of patient to the provider; and

WHEREAS, the practice of balance billing arises with out-of-network providers because in-network providers generally are bound by network agreements that provide that the participating provider agrees to accept the payment under the health benefit plan, in addition to any required cost-sharing payment, as full payment for the covered patient's obligations; and

WHEREAS, hospitals do not generally require all physicians who work at the hospital to be participating providers in the same health benefit plans as the hospital; and

WHEREAS, providers of certain medical specialties, including emergency care and anesthesiology, often work in a hospital as independent contractors rather than as the hospital's employees; and

WHEREAS, studies published in *Health Affairs* and the *New England Journal of Medicine* have found that 20 percent of emergency department visits and resulting admissions at in-network facilities involved an out-of-network physician and that that 21 percent of insured non-elderly adults have received care at a hospital they thought was in-network yet were billed by an out-of-network physician; and

WHEREAS, according to a 2016 Kaiser Family Foundation study, 70 percent of consumers with unaffordable out-of-network medical bills did not know their provider was out-of-network at the time they received care; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Joint Legislative Audit and Review Commission be directed to study balance billing by out-of-network health care providers.

In conducting its study, the Joint Legislative Audit and Review Commission (JLARC) shall (i) examine the practice by hospitals of independently contracting with out-of-network physicians to provide emergency care rather than hiring physicians as employees and the effect of such practice on (a) the costs of emergency department care and (b) covered patients who receive emergency medical services at an in-network hospital and are subsequently billed for the services by an independent contractor out-of-network physician; (ii) identify the costs of balance billing in circumstances when consumers receive health care services at an in-network hospital's emergency care department from an out-of-network provider; and (iii) and identify ways to protect covered patients from balance billing by out-of-network providers in situations, such as medical emergencies and surgical support services, where a patient is not able to select the provider of the health care services on the basis of whether the provider participates in the his health benefit plan's provider network.

Technical assistance shall be provided to the Joint Legislative Audit and Review Commission by the Bureau of Insurance of the State Corporation Commission. All agencies of the Commonwealth shall provide assistance to JLARC for this study, upon request.

The Joint Legislative Audit and Review Commission shall complete its meetings for the first year by November 30, 2018, and for the second year by November 30, 2019, and the Director shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year. Each executive summary shall state whether JLARC intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summaries and reports shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

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