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HOUSE BILL NO. 2427

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions)

(Patron Prior to Substitute—Delegate Freitas)

House Amendments in [] - February 6, 2023

A BILL to amend and reenact § 32.1-137.05, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-137.05:1, relating to hospital price transparency; private right of action; patient payment disputes; noncompliance; prohibition of debt collection.

Be it enacted by the General Assembly of Virginia:

1. That § 32.1-137.05, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-137.05:1 as follows:

§ 32.1-137.05. (Effective until July 1, 2023) Information regarding standard charges; advance estimate of patient payment amount for elective procedure, test, or service.

A. Every hospital shall, upon request of a patient scheduled to receive an elective procedure, test, or service to be performed by the hospital, or upon request of such patient's legally authorized representative, made no less than three days in advance of the date on which such elective procedure, test, or service is scheduled to be performed, furnish the patient with an estimate of the payment amount for which the participant will be responsible for such elective procedure, test, or service. Every hospital shall provide written information about the patient's ability to request an estimate of the payment amount pursuant to this section. Such written information shall be posted conspicuously in public areas of the hospital, including admissions or registration areas, and included on any website maintained by the hospital.

B. *In addition to being subject to any other penalty provided by the provisions of this section, any hospital that is not in material compliance with hospital price transparency laws on the date that the elective procedure, test, or service is provided to a patient by the hospital in accordance with subsection A shall be liable for the price of the elective procedure, test, or service provided and an additional equal amount as liquidated damages, plus interest at an annual rate of eight percent accruing from the date the elective procedure, test, or service was provided.*

C. *If a hospital is not in material compliance with hospital price transparency laws on the date that the elective procedure, test, or service is provided to a patient by the hospital, the patient may bring an action, individually, jointly, with other aggrieved patients, against the hospital in a court of competent jurisdiction to recover payment of the price of the elective procedure, test, or service, and the court shall award the price of the elective procedure, test, or service owed; an additional equal amount as liquidated damages, plus prejudgment interest thereon as provided in subsection B; and reasonable attorney fees and costs. If the court finds that the hospital knowingly was not in material compliance with hospital price transparency laws on the date that the elective procedure, test, or service was provided to a patient by the hospital, the court may award the patient an amount up to triple the amount of the price of the elective procedure, test, or service and reasonable attorney fees and costs.*

D. *Whenever a dispute arises between a hospital and a patient over a patient payment amount, the list of all standard charges for all procedures, tests, and services required by subsection A shall be used to determine the correct payment amount and reasonableness of the payment.*

§ 32.1-137.05. (Effective July 1, 2023) Information regarding standard charges; advance estimate of patient payment amount for elective procedure, test, or service.

A. Every hospital shall make available to the public on its website a machine-readable file containing a list of all standard charges for all items and services provided by the hospital in accordance with 45 C.F.R. § 180.50, as amended. As used in this subsection, "hospital," "items and services," "machine-readable," and "standard charge" have the same meaning as set forth in 45 C.F.R. § 180.20.

B. Every hospital shall, upon request of a patient scheduled to receive an elective procedure, test, or service to be performed by the hospital, or upon request of such patient's legally authorized representative, made no less than three days in advance of the date on which such elective procedure, test, or service is scheduled to be performed, furnish the patient with an estimate of the payment amount for which the participant will be responsible for such elective procedure, test, or service. Every hospital shall provide written information about the patient's ability to request an estimate of the payment amount pursuant to this section. Such written information shall be posted conspicuously in public areas of the hospital, including admissions or registration areas, and included on any website maintained by the hospital.

C. *In addition to being subject to any other penalty provided by the provisions of this section, any*

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59 hospital that is not in material compliance with hospital price transparency laws on the date that the
60 elective procedure, test, or service is provided to a patient by the hospital in accordance with subsection
61 B shall be liable for the price of the elective procedure, test, or service provided and an additional
62 equal amount as liquidated damages, plus interest at an annual rate of eight percent accruing from the
63 date the elective procedure, test, or service was provided.

64 D. Upon notification from a patient of a material noncompliance with the provisions of this section,
65 a hospital shall have 30 days to take the following corrective actions:

66 1. If the hospital maintains that it is in compliance, respond to the patient and provide the patient
67 with proof of material compliance; or

68 2. If the hospital is not in compliance, respond to the patient and provide the patient with the steps
69 the hospital shall take to (i) provide the patient with a refund for the overpayment and (ii) correct the
70 list of standard charges required by subsection A.

71 E. If a hospital is not in material compliance with hospital price transparency laws on the date that
72 the elective procedure, test, or service is provided to a patient by the hospital, and the hospital fails to
73 comply with the corrective actions set forth in subsection D, the patient may bring an action,
74 individually, jointly, with other aggrieved patients, against the hospital in a court of competent
75 jurisdiction to recover payment of the price of the elective procedure, test, or service, and the court
76 shall award the price of the elective procedure, test, or service owed; an additional equal amount as
77 liquidated damages, plus prejudgment interest thereon as provided in subsection C; and reasonable
78 attorney fees and costs. If the court finds that the hospital knowingly was not in material compliance
79 with hospital price transparency laws on the date that the elective procedure, test, or service was
80 provided to a patient by the hospital, the court may award the patient an amount up to triple the
81 amount of the price of the elective procedure, test, or service and reasonable attorney fees and costs.

82 F. Whenever a dispute arises between a hospital and a patient over a patient payment amount, the
83 list of all standard charges for all items and services required by subsection A shall be used to
84 determine the correct payment amount and reasonableness of the payment.

85 **§ 32.1-137.05:1. Failure to comply with hospital price transparency laws; prohibiting collection of**
86 **debt; penalty.**

87 A. As used in this section, "hospital" means a critical access hospital licensed and certified by the
88 Department pursuant to 42 C.F.R. Part 485, Subpart F.

89 B. A hospital that is not in material compliance with hospital price transparency laws on the date
90 that an elective procedure, test, or service is provided to a patient by the hospital shall not initiate or
91 pursue a collection action against the patient or patient guarantor for a debt owed for the elective
92 procedure, test, or service

93 C. If a patient believes that a hospital was not in material compliance with the hospital price
94 transparency laws on a date that an elective procedure, test, or service was provided to the patient, and
95 the hospital initiates a collection action against the patient or patient guarantor, the patient or patient
96 guarantor may file suit to determine if (i) the hospital was materially out of compliance with the
97 hospital price transparency laws on the date of service and (ii) the noncompliance is related to the
98 elective procedure, test, or service. The hospital shall not initiate a collection action against the patient
99 or patient guarantor while the lawsuit is pending.

100 D. A hospital that has been found by a judge or jury to be materially out of compliance with
101 hospital price transparency laws and rules and regulations shall:

102 1. Refund to the payer any amount of the debt the payer has paid and shall pay a penalty to the
103 patient or patient guarantor in an amount equal to the total amount of the debt;

104 2. Dismiss or cause to be dismissed any court action with prejudice and pay any attorney fees and
105 costs incurred by the patient or patient guarantor relating to the actions; and

106 3. Remove or cause to be removed from the patient's or patient guarantor's credit report any report
107 made to a consumer reporting agency relating to the debt.

108 E. Nothing in this section shall:

109 1. Prohibit a hospital from billing a patient, patient guarantor, or third-party payer, including health
110 insurer, for items or services provided to the patient; or

111 2. Require a hospital to refund any payment made to the hospital for services provided to the
112 patient, so long as no collection action is taken in violation of this section.

113 [2. That the provisions of this act shall become effective on July 1, 2024.]