

SENATE BILL 632

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CF 0lr2746

By: **Senators Kelley, Benson, Carter, Elfreth, Ellis, Feldman, Hester, Jennings, Kagan, Klausmeier, Kramer, Lam, Lee, Pinsky, Reilly, Rosapepe, Sydnor, Washington, West, and Young**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Facilities – Hospitals – Disclosure of Outpatient Facility Fees**
3 **(Facility Fee Right-to-Know Act)**

4 FOR the purpose of requiring certain hospitals to provide each patient with a certain
5 written notice related to outpatient facility fees that are charged for services
6 provided at the hospital that is in a certain form; requiring that certain notices be
7 provided to certain patients in certain manners and at certain times; requiring the
8 Health Services Cost Review Commission, in consultation with the Health Education
9 and Advocacy Unit in the Office of the Attorney General, to determine a certain
10 range of fees and fee estimates; requiring each hospital that charges an outpatient
11 facility fee to use a certain range of fees and fee estimates; requiring a hospital, to
12 the extent practicable, to provide a certain notice in a certain language or format
13 under certain circumstances; requiring a patient to acknowledge in a certain manner
14 that a certain notice was provided at a certain time; prohibiting a hospital from
15 charging, billing, or attempting to collect a certain fee except under certain
16 circumstances; requiring certain hospitals to report certain information to the
17 Commission on or before a certain date each year; requiring the Commission to post
18 certain information on its website and to provide certain information to the
19 Maryland Insurance Administration and the Unit on or before a certain date each
20 year; requiring the Unit, in consultation with the Commission, consumers, and other
21 stakeholders, to develop a process for determining and updating certain information
22 on or before a certain date; defining certain terms; and generally relating to hospitals
23 and the disclosure of outpatient facility fees.

24 BY adding to
25 Article – Health – General
26 Section 19–349.2
27 Annotated Code of Maryland
28 (2019 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 **19–349.2.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) “ELECTRONICALLY” MEANS A SECURE DIGITAL OR ELECTRONIC
8 TRANSMISSION IN COMPLIANCE WITH FEDERAL AND STATE LAW, INCLUDING BY:

9 (I) PATIENT INTERNET PORTAL;

10 (II) ENCRYPTED E-MAIL; OR

11 (III) TEXT MESSAGE WITH A LINK TO AN ENCRYPTED NOTICE.

12 (3) “OUTPATIENT FACILITY FEE” MEANS A RATE APPROVED BY THE
13 COMMISSION CHARGED BY A HOSPITAL FOR OUTPATIENT SERVICES PROVIDED IN A
14 BUILDING ON THE CAMPUS OF A HOSPITAL IN WHICH HOSPITAL SERVICES ARE
15 PROVIDED THAT IS SEPARATE AND DISTINCT FROM A FEE FOR PROFESSIONAL
16 SERVICES.

17 (4) (I) “PATIENT” MEANS AN INDIVIDUAL WHO RECEIVES HEALTH
18 CARE.

19 (II) “PATIENT” INCLUDES:

20 1. A PERSON AUTHORIZED TO CONSENT TO HEALTH
21 CARE FOR AN INDIVIDUAL CONSISTENT WITH THE AUTHORITY GRANTED,
22 INCLUDING A GUARDIAN, SURROGATE, OR PERSON WITH A MEDICAL POWER OF
23 ATTORNEY;

24 2. AN INDIVIDUAL WHO IS A MINOR, IF THE MINOR
25 SEEKS TREATMENT TO WHICH THE MINOR HAS THE RIGHT TO CONSENT AND HAS
26 CONSENTED UNDER TITLE 20, SUBTITLE 1 OF THIS ARTICLE;

27 3. A PARENT, GUARDIAN, CUSTODIAN, OR
28 REPRESENTATIVE OF AN INDIVIDUAL WHO IS A MINOR; AND

29 4. A PERSON AUTHORIZED TO CONSENT TO HEALTH

1 CARE FOR AN INDIVIDUAL WHO IS A MINOR CONSISTENT WITH THE AUTHORITY
2 GRANTED.

3 (B) SUBJECT TO SUBSECTIONS (C), (D), AND (E) OF THIS SECTION, IF A
4 HOSPITAL CHARGES AN OUTPATIENT FACILITY FEE, THE HOSPITAL SHALL PROVIDE
5 THE PATIENT WITH A WRITTEN NOTICE, SEPARATE FROM ANY OTHER FORMS OR
6 NOTICES, IN THE FOLLOWING FORM OR A SUBSTANTIALLY SIMILAR FORM:

7 **IMPORTANT FINANCIAL INFORMATION**

8 (PATIENT NAME)_____ APPOINTMENT DATE:_____

9 **NOTICE OF HOSPITAL OUTPATIENT FACILITY FEE AND BILLING DISCLOSURE**

10 A. YOUR APPOINTMENT WITH (PROVIDER, PRACTICE, OR CLINIC NAME)
11 WILL TAKE PLACE IN AN OUTPATIENT DEPARTMENT OF (HOSPITAL NAME).

12 B. (HOSPITAL NAME) WILL CHARGE AN OUTPATIENT FACILITY FEE THAT IS
13 SEPARATE FROM AND IN ADDITION TO THE BILL YOU WILL RECEIVE FROM
14 (PROVIDER).

15 C. YOU WILL RECEIVE TWO CHARGES FOR YOUR VISIT:

- 16 1. A PROVIDER SERVICES BILL FROM (PROVIDER); AND
- 17 2. A HOSPITAL FACILITY BILL FROM (HOSPITAL NAME).

18 **EXPECTED FEE**

19 (IF KNOWN) THE AMOUNT OF THE FACILITY FEE THAT WILL BE CHARGED BY
20 (HOSPITAL NAME) FOR YOUR APPOINTMENT IS \$ _____.

21 (IF UNKNOWN) (HOSPITAL NAME’S) FACILITY FEE IS LIKELY TO RANGE FROM
22 \$ _____ TO \$ _____.

23 (IF UNKNOWN) BASED ON APPOINTMENTS LIKE THE ONE YOU ARE
24 SCHEDULED FOR, WE ESTIMATE THE FACILITY FEE TO BE \$ _____.

25 (IF UNKNOWN) WE ARE PROVIDING YOU WITH A RANGE OF FEES AND AN
26 ESTIMATE BECAUSE THE ACTUAL AMOUNT OF THE FACILITY FEE WILL DEPEND ON
27 THE HOSPITAL SERVICES THAT ARE ACTUALLY PROVIDED. THE FEE COULD BE
28 HIGHER IF YOU REQUIRE SERVICES DURING YOUR APPOINTMENT THAT WE CANNOT
29 REASONABLY PREDICT TODAY.

1 **FINANCIAL HELP FOR YOUR PORTION OF THE OUTPATIENT FACILITY FEE BILL**
2 **MAY BE AVAILABLE. IF YOU NEED FINANCIAL HELP WITH THE OUTPATIENT FACILITY**
3 **BILL, PLEASE CONTACT (HOSPITAL FINANCIAL ASSISTANCE OFFICE, WITH**
4 **TELEPHONE NUMBER AND DIRECT WEBSITE ADDRESS).**

5 **RECEIVING SERVICES HERE MAY RESULT IN GREATER FINANCIAL LIABILITY**
6 **THAN RECEIVING SERVICES AT A LOCATION WHERE A FACILITY FEE MAY NOT BE**
7 **CHARGED.**

8 **(IF APPLICABLE) NO FACILITY FEE LOCATION**

9 **YOU CAN SEE (PROVIDER) AT ANOTHER LOCATION THAT DOES NOT CHARGE A**
10 **FACILITY FEE.**

11 **(ADDRESS AND CONTACT INFORMATION)**

12 **CONTACT YOUR INSURANCE CARRIER TO SEE IF (PROVIDER) IS A PARTICIPATING**
13 **PROVIDER AND IN-NETWORK AT THE (ADDRESS OF ALTERNATIVE LOCATION)**
14 **LOCATION.**

15 **INSURANCE INFORMATION**

16 **1. THE AMOUNT OF THE FACILITY FEE THAT YOU WILL BE RESPONSIBLE FOR**
17 **PAYING WILL DEPEND ON YOUR INSURANCE COVERAGE.**

18 **2. INSURANCE COMPANIES COULD IMPOSE DEDUCTIBLES OR HIGHER**
19 **COPAYMENT OR COINSURANCE AMOUNTS FOR SERVICES PROVIDED IN HOSPITAL**
20 **OUTPATIENT DEPARTMENTS.**

21 **3. IF YOU HAVE INSURANCE, YOU SHOULD CONTACT YOUR CARRIER TO**
22 **DETERMINE YOUR INSURANCE COVERAGE AND YOUR ESTIMATED FINANCIAL**
23 **RESPONSIBILITY FOR THE FACILITY FEE, INCLUDING COPAYMENTS, COINSURANCE,**
24 **AND DEDUCTIBLE AMOUNTS FOR THE OUTPATIENT FACILITY FEE.**

25 **FACILITY FEE COMPLAINTS**

26 **IF YOU HAVE A FACILITY FEE COMPLAINT, YOU SHOULD FILE IT WITH THE**
27 **HEALTH SERVICES COST REVIEW COMMISSION, (CONTACT INFORMATION).**

28 **IF YOU NEED ADDITIONAL INFORMATION REGARDING YOUR FACILITY FEE**
29 **CHARGES OR IF YOU NEED ASSISTANCE MEDIATING A FACILITY FEE COMPLAINT**
30 **AGAINST A HOSPITAL, CONTACT THE HEALTH EDUCATION AND ADVOCACY UNIT OF**

1 THE OFFICE OF THE ATTORNEY GENERAL, 1-877-261-8807 |
2 HEAU@OAG.STATE.MD.US | WWW.MARYLANDCARE.ORG.

3 ACKNOWLEDGMENT

4 1. I UNDERSTAND THAT I WILL BE BILLED A HOSPITAL FACILITY FEE AND A
5 PROVIDER FEE.

6 2. (HOSPITAL NAME) PROVIDED ME WITH (THE FACILITY FEE CHARGE)(A RANGE
7 OF FACILITY FEES AND AN ESTIMATE OF THE FACILITY FEE CHARGE) THAT WILL BE
8 BILLED FOR MY APPOINTMENT.

9 3. I UNDERSTAND THAT THE FEE COULD VARY BASED ON CONDITIONS AND
10 SERVICES PROVIDED TO ME THAT THE HOSPITAL CANNOT REASONABLY PREDICT
11 TODAY.

12 4. I UNDERSTAND THAT MY OUT-OF-POCKET COSTS WILL DEPEND ON MY
13 INSURANCE COVERAGE.

14 _____(INITIAL HERE) – BY INITIALING HERE, I CONFIRM THAT I RECEIVED THE
15 FACILITY FEE INFORMATION AT THE TIME I MADE MY APPOINTMENT WITH
16 (PROVIDER).

17 BY SIGNING THIS FORM, I ACKNOWLEDGE THAT I HAVE RECEIVED THIS
18 INFORMATION BEFORE RECEIVING SERVICES TODAY.

19 _____
20 SIGNATURE DATE

21 TO REQUEST THIS NOTICE IN AN ALTERNATIVE FORMAT, PLEASE CALL (CONTACT
22 INFORMATION) OR E-MAIL (CONTACT INFORMATION).

23 (SAME SENTENCE IN SPANISH).

24 (C) IF A PATIENT DOES NOT SPEAK ENGLISH OR REQUIRES THE WRITTEN
25 NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO BE IN AN
26 ALTERNATIVE FORMAT, THE HOSPITAL SHALL, TO THE EXTENT PRACTICABLE,
27 PROVIDE THE NOTICE IN A LANGUAGE OR FORMAT THAT IS UNDERSTOOD BY THE
28 PATIENT.

29 (D) (1) THE HEALTH SERVICES COST REVIEW COMMISSION, IN
30 CONSULTATION WITH THE HEALTH EDUCATION AND ADVOCACY UNIT IN THE
31 OFFICE OF THE ATTORNEY GENERAL, SHALL DETERMINE THE RANGE OF HOSPITAL

1 OUTPATIENT FACILITY FEES AND FEE ESTIMATES TO BE PROVIDED IN THE WRITTEN
2 NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION.

3 (2) EACH HOSPITAL THAT CHARGES AN OUTPATIENT FACILITY FEE
4 SHALL USE THE RANGE OF HOSPITAL OUTPATIENT FACILITY FEES AND FEE
5 ESTIMATES DETERMINED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

6 (E) (1) FOR AN APPOINTMENT MADE IN PERSON OR BY TELEPHONE:

7 (I) ORAL NOTICE OF ALL THE INFORMATION THAT WOULD BE
8 PROVIDED IN THE FORM REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL
9 BE GIVEN AT THE TIME THE APPOINTMENT IS MADE; AND

10 (II) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
11 SUBSECTION, THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS
12 SECTION SHALL BE SENT TO THE PATIENT ELECTRONICALLY AT THE TIME THE
13 APPOINTMENT IS MADE.

14 (2) FOR AN APPOINTMENT MADE ELECTRONICALLY OR USING A
15 WEBSITE, THE WRITTEN NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS
16 SECTION SHALL BE:

17 (I) PROVIDED AT THE TIME THE APPOINTMENT IS MADE; AND

18 (II) SENT TO THE PATIENT ELECTRONICALLY AT THE TIME THE
19 APPOINTMENT IS MADE.

20 (3) IF THE PATIENT REFUSES ELECTRONIC COMMUNICATION UNDER
21 PARAGRAPH (1)(II) OF THIS SUBSECTION, THE WRITTEN NOTICE SHALL BE SENT TO
22 THE PATIENT BY FIRST-CLASS MAIL AT THE TIME THE APPOINTMENT IS MADE.

23 (F) BEFORE PROFESSIONAL MEDICAL SERVICES ARE PROVIDED ON THE
24 DATE OF THE APPOINTMENT, THE PATIENT SHALL ACKNOWLEDGE IN WRITING THAT
25 THE NOTICE REQUIRED UNDER THIS SECTION WAS PROVIDED AT THE TIME THE
26 APPOINTMENT WAS MADE.

27 (G) A HOSPITAL MAY NOT CHARGE, BILL, OR ATTEMPT TO COLLECT AN
28 OUTPATIENT FACILITY FEE UNLESS THE PATIENT WAS GIVEN NOTICE IN
29 ACCORDANCE WITH THIS SECTION.

30 (H) (1) ON OR BEFORE JANUARY 31 EACH YEAR, BEGINNING IN 2021,
31 EACH HOSPITAL SHALL REPORT TO THE HEALTH SERVICES COST REVIEW
32 COMMISSION A LIST OF THE HOSPITAL-BASED, RATE-REGULATED OUTPATIENT
33 SERVICES PROVIDED BY THE HOSPITAL.

1 **(2) ON OR BEFORE FEBRUARY 28 EACH YEAR, BEGINNING IN 2021,**
2 **THE HEALTH SERVICES COST REVIEW COMMISSION ANNUALLY SHALL:**

3 **(I) POST ON ITS WEBSITE THE LIST OF THE**
4 **HOSPITAL-BASED, RATE-REGULATED OUTPATIENT SERVICES REPORTED BY EACH**
5 **HOSPITAL UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND**

6 **(II) PROVIDE THE LIST OF THE HOSPITAL-BASED,**
7 **RATE-REGULATED OUTPATIENT SERVICES REPORTED BY EACH HOSPITAL TO THE**
8 **MARYLAND INSURANCE ADMINISTRATION AND THE HEALTH EDUCATION AND**
9 **ADVOCACY UNIT IN THE OFFICE OF THE ATTORNEY GENERAL.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
11 2020, the Health Education and Advocacy Unit within the Office of the Attorney General,
12 in consultation with the Health Care Services Cost Review Commission, the Maryland
13 Hospital Association, consumers, and other stakeholders, shall develop a process for
14 determining and updating the range of fees and fee estimates to be used under §
15 19-349.2(d) of the Health – General Article, as enacted by Section 1 of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2020.