

SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2825

As Recommended by House Committee on
Insurance

Brief*

HB 2825 would create the Consumer Protection Related to Hospital Price Transparency Act (Act), which would establish requirements for hospitals to provide certain pricing information to the public, provide the Attorney General (AG) with enforcement authority, and establish procedures for hospitals not in compliance with the Act.

Definition (New Section 1)

The bill would define “hospital” as used in the Act to mean a general hospital or special hospital licensed under KSA 65-425. Those terms are defined in law, as follows:

- “General hospital” means an establishment with an organized medical staff of physicians, permanent facilities that include inpatient beds and with medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day to provide diagnosis and treatment for patients who have a variety of medical conditions; and
- “Special hospital” means an establishment with an organized medical staff of physicians with permanent facilities that include inpatient beds and with medical services, including physician services, and continuous registered professional nursing

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

services for not less than 24 hours of every day, to provide diagnosis and treatment for patients who have specified medical conditions.

Requirements (New Section 2)

Pursuant to federal regulation (45 CFR § 180), each hospital operating in the United States is required to provide clear, accessible pricing information online about the items and services that each hospital provides. The bill would require each hospital that is licensed in Kansas to provide:

- A list of the hospital's top 300 procedures with corresponding pricing information and a plain language description of each procedure included in a consumer-friendly format on a public-facing website;
- Upon request of a patient scheduled to receive an elective procedure, test, or service to be performed by the hospital or, upon request of a patient's legally authorized representative, made at least three days in advance of the date on which the elective procedure, test, or service is scheduled to be performed, furnish the patient with an estimate of the payment amount for which the patient will be responsible; and
- Written information about the patient's ability to request an estimate of the payment amount.

The bill would require written information about the patient's ability to request an estimate of the payment amount to be posted in conspicuous public areas of the hospital, including registration or admission areas, and included on any website maintained by the hospital.

Enforcement (New Section 3)

The bill would provide the AG with the authority to enforce the provisions of the Act. If the AG finds that a hospital is non-compliant with 45 CFR § 180, as in effect on July 1, 2024, then the hospital would be fined \$250 per day of non-compliance.

Non-compliance with the provisions of the Act would constitute an unlawful or deceptive trade practice under the Kansas Consumer Protection Act.

Non-compliance (New Section 4)

Any hospital not in material compliance with the Act on the date that items or services are purchased by or provided to a patient would not be able to initiate or pursue a collection action against the patient or a patient guarantor for any debt owed for those items or services.

If a patient believes that a hospital was not in material compliance with the Act on the date that items or services were purchased by or provided to the patient and the hospital undertakes a collection action against the patient or patient guarantor, the bill would provide for the patient or patient guarantor to file a civil action against the hospital to determine if:

- The hospital was materially out of compliance with the Act or rules and regulations promulgated under the Act on the date that the items or services were purchased or provided; and
- Such non-compliance with the Act is related to the items or services purchased by or provided to the patient.

The bill would provide that a hospital would not be able to undertake a collection against a patient or patient guarantor while a civil action is pending.

Court Order

If the trier of fact finds that the hospital was materially out of compliance with the Act or rules and regulations promulgated under the Act, after considering standards issued by the federal Centers for Medicare and Medicaid Services (CMS) and standards set by the Act, the bill would direct the court to order the hospital to:

- Refund the payor any amount of the debt the payor has paid and pay a penalty to the patient or patient guarantor in an amount equal to the amount of the debt;
- Move to dismiss, with prejudice, any collection action relating to the debt and pay any attorney fees and costs incurred by the patient or the patient guarantor relating to such action; and
- Cause to be removed from the patient or the patient guarantor's credit report any report made to a consumer reporting agency relating to this debt and take necessary actions to cause any report made to a consumer credit agency relating to the debt to be removed from the patient's or patient guarantor's credit report.

The bill would require the court to provide a copy of the order issued to the AG to notify the AG of the material non-compliance finding.

The bill would state that nothing in the Act would be construed to:

- Prohibit a hospital from billing a patient guarantor or third-party payor, including a health insurer, for

items and services purchased by or provided to the patient; or

- Require a hospital to refund any payment made to the hospital by a patient, patient guarantor, or third-party payor for items purchased by or provided to the patient so long as the hospital has not undertaken a collection action against the patient, patient guarantor, or third-party payor in violation of the Act.

Kansas Consumer Protection Act

The bill would add violations of the Act to the list of deceptive acts and practices under the Kansas Consumer Protection Act.

Background

The bill was introduced by the House Committee on Appropriations at the request of Representative Sutton.

House Committee on Insurance

In the House Committee hearing, **proponent** testimony was provided by a representative of Opportunity Solutions Project, who stated that many hospitals have failed to comply with the federal hospital price transparency rules, and the bill would provide enforcement mechanisms that would help ensure patients have access to pricing information and cannot be pursued by collection agencies for medical debt that was not properly communicated.

Written-only proponent testimony was provided by a representative of the Kansas Chamber.

Opponent testimony was provided by representatives of Great Plains Health Alliance, Greenwood County Hospital,

Kansas Hospital Association, and Stormont Vail Health. The opponents generally stated that pricing medical procedures and services is complicated, hospitals are already required to comply with federal rules regarding price transparency, and instituting additional requirements would increase the financial burden on hospitals.

Written-only opponent testimony was provided by representatives of Ascension Via Christi, Kansas Association of Counties, Mountain Region CommonSpirit Health, Physician Hospitals of Kansas, and Salina Regional Health Center.

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of the Attorney General (Office) states that if it finds that a hospital is non-compliant with 45 CFR § 180, then the hospital would be fined \$250 for each day the hospital is non-compliant, which would result in additional revenues that would be credited to the State General Fund (SGF). However, the agency cannot estimate the additional revenue the fines could generate. To enforce the Act, the Office would need 3.0 FTE positions at a total cost of \$345,000 from the SGF starting in FY 2025. The Office would require 1.0 First Assistant Attorney General FTE position at a cost of \$135,000, 1.0 Assistant Attorney General FTE position at a cost of \$125,000, and 1.0 Legal Assistant FTE position at a cost of \$85,000.

The Office of Judicial Administration (OJA) states the bill could increase the number of cases filed in district court because the bill creates a new crime and allows a party to bring a civil action. The increase in cases would also increase the time spent by district court judicial and non-judicial personnel in processing, researching, and hearing cases. The bill could also result in the collection of docket fees that would

be deposited into the SGF. However, the OJA cannot estimate the additional expenditures or revenues the bill could generate.

The Kansas Department of Health and Environment reports that there would be no fiscal effect on agency operations.

Any fiscal effect associated with the bill is not reflected in *The FY 2025 Governor's Budget Report*.

For counties that have hospitals, there could be additional expenditures associated with making the required information available to the public. In addition, there could be additional expenditures related to ensuring compliance with the bill's requirements. However, the Kansas Association of Counties states that a fiscal effect cannot be estimated. The League of Kansas Municipalities states that the bill would not have a fiscal effect on cities.

Health; health care; hospitals; pricing; consumer protection; Consumer Protection Related to Hospital Price Transparency Act