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Senate Bill 952 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Jonathan Lindsey
Committee: Finance, Insurance, And Consumer Protection

Date Completed: 12-26-24

CONTENT

The bill would enact the "Hospital Price Transparency Act" to prohibit hospitals from attempting to collect debts when not in compliance with specified price transparency laws.

The bill is tie-barred to Senate Bill 1179, which would amend the Public Health Code to prohibit a drug manufacturer, wholesaler, or wholesale distributor-broker from limiting a 340B Program entity's access to drugs covered under the Program.¹

Definitions

"Collection action" would mean any of the following actions taken with respect to a debt for items and services that were purchased from, or provided to a patient by, a hospital on a date during which the hospital was not in material compliance with hospital price transparency laws:

- An attempt to collect a debt from a patient or patient guarantor by referring the debt, directly or indirectly, to a debt collector, a collection agency, or another third party retained by or on behalf of the hospital.
- Suing the patient or patient guarantor or enforcing an arbitration or mediation clause in any hospital documents, including contracts, agreements, statements, or bills.
- Directly or indirectly having a report made to a consumer reporting agency.

"Collection agency" would mean a person that does any of the following:

- Engages in a business, the principal purpose of which is the collection of debts.
- Regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another.
- Takes assignment of debts for collection purposes.
- Directly or indirectly solicits for the collection of debts owed or due or asserted to be owed or due to another.

The term would not include any of the following:

- An officer or employee of a creditor while, in the name of the creditor, the officer or employee is collecting debts for the creditor.
- A person while acting as a collection agency for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a collection agency does so only for creditors to whom it is so related or affiliated and if the principal business of the person is not the collection of debts.

¹ The Federal 340B Drug Pricing Program requires manufacturers that participate in Medicaid to sell certain drugs at reduced prices.

- An officer or employee of the U.S. or any state to the extent that collecting or attempting to collect a debt is in the performance of the officer's or employee's official duties.
- A person while serving or attempting to serve legal process on another person in connection with the judicial enforcement of a debt.
- A person licensed to provide debt management services under the Debt Management Act.
- A person whose principal business is the making of loans or the servicing of debt not in default and that acts as a loan correspondent, seller and servicer for the owner, or holder of a debt that is secured by a deed of trust on real property, regardless of whether the debt is also secured by an interest in personal property.

A person that was collecting or attempting to collect a debt owed or due or asserted to be owed or due to another person would be considered a "collection agency" to the extent that any of the following applied:

- The activity was incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement.
- The activity concerned a debt that was extended by the person attempting to collect the debt.
- The activity concerned a debt that was not in default at the time it was obtained by the person attempting to collect the debt.
- The activity concerns a debt obtained by the person attempting to collect the debt as a secured party in a commercial credit transaction involving the creditor.

A licensee under any of the following acts would be considered a collection agency:

- The Horse Racing Law.
- The Lottery Act.
- The Bingo Act.
- The Michigan Gaming Control and Revenue Act.
- The Lawful Sports Betting Act.
- The Fantasy Contests Consumer Protection Act.
- The Lawful Internet Gaming Act.

The term also would include a person that, in the process of collecting the person's own debts, uses another name that would indicate that a third person is collecting or attempting to collect the debts.

"Consumer reporting agency" would mean a person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

"Debt" would mean an obligation or alleged obligation of a consumer to pay money arising out of a transaction, regardless of whether the obligation has been reduced to judgment. The term would not include a debt for business, investment, commercial, or agricultural purposes or a debt incurred by a person engaged in business.

"Debt collector" would mean any person employed or engaged by a collection agency to perform the collection of debts owed or due or asserted to be owed or due to another person.

"Hospital" would mean, consistent with 45 Code of Federal Regulations 180.20 (Hospital Price Transparency), a hospital licensed under the Public Health Code.

"Hospital price transparency laws" would mean 42 U.S. Code 300gg-18(e) (Public Health and Welfare) and regulations adopted by the U.S. Department of Health and Human Services implementing 42 U.S. Code 300gg-18(e).

Adherence to Hospital Price Transparency Laws

After the bill's effective date, a hospital that was not in material compliance with hospital price transparency laws on the date that items and services were purchased from or provided to a patient could not initiate or pursue a collection action against the patient or patient guarantor for a debt owed for the items and services. The bill would apply to critical access hospitals licensed and certified by the DHHS under Federal rules six months after its effective date.

If a patient had evidence that a hospital was not in material compliance with hospital price transparency laws on a date after the bill's effective date and that items and services were purchased by or provided to the patient on that date, and if the hospital took a collection action against the patient or patient guarantor regarding the items and services, the patient or patient guarantor could file a civil action to determine if the hospital were materially out of compliance with hospital price transparency laws in effect on the date of service and if the noncompliance were related to the items and services. The hospital could not take collective action against the patient or patient guarantor while the civil action was pending.

If the judge or a jury in a civil action under the bill, considering compliance standards issued by the Centers for Medicare and Medicaid Services, determined that a hospital was materially out of compliance with hospital price transparency laws, the hospital would have to do all of the following:

- Refund the payer any amount of the debt the payer had paid and pay a penalty to the patient or patient guarantor an amount equal to the total amount of the debt.
- Dismiss or move to dismiss with prejudice any court action based on the debt and pay any attorney fees and costs incurred by the patient or patient guarantor relating to the action.
- Remove or have removed from the patient's or patient guarantor's credit record any report made to a consumer reporting agency relating to the debt.

The Act would not prohibit a hospital from billing a patient, patient guarantor, or third-party payer, including a health insurer, for items and services provided to the patient. The Act would not require a hospital to refund any payment made to the hospital for items and services provided to the patient, if no collection action were taken in violation of the Act.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have no fiscal impact on State or local courts.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.