

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1435 Disclosure of Health Care Financial Information
SPONSOR(S): Healthcare Council; Zapata and others
TIED BILLS: **IDEN./SIM. BILLS:** 1488

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Healthcare Council	17 Y, 0 N, As CS	Quinn-Gato/ Massengale	Gormley
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

CS/HB 1435, which may be cited as the "Health Care Consumer's Right to Information Act," has a stated purpose of providing health care consumers with reliable and understandable information about facility charges in order to assist consumers in making informed decisions about health care. The bill specifies information that must be provided to uninsured persons in the form of a reasonable estimate of charges and information regarding the provider's or facility's discount or charity policies for which the uninsured person may be eligible. The bill specifies time limits for providing certain information regarding billing estimates, provides that the estimate may be based on average charges, and requires facilities to post a notice in their reception area regarding their charity care policies. The bill provides for a \$500 fine for each instance of a facility's failure to provide the requested information.

Additionally, the bill modifies the current reporting and data collection requirements pertaining to the Agency for Health Care Administration ("AHCA") and health care facilities by including the average of undiscounted charges on frequently preformed procedures and preventive diagnostic procedures, the range of procedure charges from highest to lowest, in the information that AHCA shall disclose. Furthermore, the bill requires AHCA to publish electronically the charges for no fewer than 150 of the most commonly performed adult and pediatric procedures, including outpatient, inpatient, diagnostic, and preventative procedures.

Finally, the bill requires AHCA to conduct and publish a study, by January 1, 2009, regarding the use of community benefits programs in other states, and specifies information that must be included in that report. The bill also requires the Office of Program Policy Analysis and Government Accountability to conduct and publish, by January 1, 2009, a study of 501(c)(3), non-profit hospitals and the benefits received by those hospitals for the last three fiscal years from various tax exemptions applicable to them. The bill defines the term "community benefits" and specifies information that must be included in the reports.

The bill appears to have a minimal fiscal impact on the Agency for Health Care Administration, which can be absorbed within agency resources.

The effective date of the bill is January 1, 2009.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Limited government – The bill creates additional reporting requirements for health care practitioners and facilities providing care to Floridians.

Empower families – By modifying current reporting, publication, and billing requirements pertaining to health care providers and facilities, the bill creates more transparency and allows families to make more informed decisions about their health care needs.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Patient's Bill of Rights and Responsibilities

Florida law provides for a patient's bill of rights for patients of licensed facilities and health care providers in this state.¹ The rights generally include the right of the patient to:

- *individual dignity*, including the right to privacy, to have prompt answers to questions or concerns, and to retain and use personal clothing or possessions as space permits.
- *information*, including information about the providers tending to the patient, what patient support services are available at the facility, information concerning diagnoses and the planned course of treatment, alternatives, risks, and prognoses, what facility rules and regulations apply to patient conduct, what express grievances or file complaints with regulators, interpreters if the patient does not speak English.
- *financial information and disclosure*, including information about known resources for the patient's health care, information about whether the provider accepts assignment under Medicare reimbursement, a reasonable estimate of charges performance outcome and financial data, receive a copy of an itemized bill. (See below).
- *access to health care*, including impartial access to medical treatment or accommodations regardless of race, national origin, sex, handicap, or source of payment; treatment for emergency medical care; any mode of treatment that is best for the patient based upon the patient's and practitioner's judgment.
- *experimental research*, the patient has a right to know if medical treatment is for purposes of experimental research and consent prior to participation in such.
- *knowledge of rights and responsibilities*, patient has a right to know these in receiving health care.²

The financial information and disclosure provisions pertaining to the Patient's Bill of Rights provide that:

- A request is necessary before a health care provider or health care facility must disclose to a Medicare-eligible patient whether the provider or facility accepts Medicare payment as full payment for medical services and treatment rendered in the provider's office or health care facility.
- A request is necessary before a health care provider or health care facility is required to furnish a person an estimate of charges for medical services before providing the services. The Florida

¹ s. 381.026, F.S.

² *Id.*

Patient's Bill of Rights and Responsibilities does not require that the components making up the estimate be itemized or that the estimate be presented in a manner that is easily understood by an ordinary layperson.

- A licensed facility must place a notice in its reception area that financial information related to that facility is available on the Agency's website. The facility may indicate that the pricing information is based on a compilation of charges for the average patient and that an individual patient's charges may vary.
- A patient has the right to receive an itemized bill and explanation of charges upon request.

Further, the patient must receive a "Summary of the Florida Patient's Bill of Rights," including specified information within, from health care facilities and providers upon request.³ The Agency for Health Care Administration is required to make printed materials and make a summary of the Patient's Bill of Rights and Responsibilities available to health care facilities and practitioners. Upon request, health care providers and facilities are required to provide patients of the address and telephone number of each state agency responsible for patient complaints related to a facility's or practitioner's noncompliance with licensing requirements, and are required to have policies and procedures to ensure that patients receive information about their rights and how to file complaints with the facility and appropriate state agencies.⁴ Administrative action may be taken against a facility for failure to comply with these statutory requirements.⁵

Health Care Facility Disclosures Related to Patient Bills

Hospitals, ambulatory surgical centers, and mobile surgical facilities are health care facilities licensed under and regulated by chapter 395, F.S.⁶ Pursuant to s. 395.301(7), F.S., a health care facility is required to provide, within 7 days of a written request, a good faith estimate of reasonably anticipated charges for the facility to treat the patient's condition. Upon request, the facility must also provide revisions to the estimate. The estimate may represent the average charges for that diagnosis related group or the average charges for that procedure. The facility is required to place a notice in the reception area that this information is available. A facility that fails to provide the estimate as required may be fined \$500 for each instance of the facility's failure to provide the requested information.

Also pursuant to s. 395.301(1), F.S., a licensed facility is required to notify each patient during admission and at discharge of his or her right to receive an itemized bill upon request. If requested, within 7 days of discharge or release, the licensed facility must provide an itemized statement, in language comprehensible to an ordinary layperson, detailing the specific nature of charges or expenses incurred by the patient. This initial bill must contain a statement of specific services received and expenses incurred for the items of service, enumerating in detail the constituent components of the services received within each department of the licensed facility and including unit price data on rates charged by the licensed facility. The patient or patient's representative may elect to receive this level of detail in subsequent billings for services.

Facility Charges

Hospitals generally have a variety of charges for a procedure depending upon whether the procedure will be paid for by public funds, such as Medicaid or Medicare; private insurance, in which case the charge could vary depending upon contractual or negotiated rates; or private funds. Some hospitals also offer discounted rates for patients who are uninsured or underinsured and meet the particular hospital's eligibility criteria. Ambulatory surgical facilities do not typically bill for detailed items associated with medical supplies and pharmaceuticals. Many hospitals no longer bill for supplies.

³ *Id.*

⁴ s. 381.0261, F.S.

⁵ *Id.*

⁶ s. 395.002(16), F.S.

Agency Published Comparative Data

Both the Florida Patient's Bill of Rights and Responsibilities and the health care facilities' regulatory provisions in s. 395.301, F.S., require each licensed facility to make available on its website a link to performance outcome and financial data that is published by the Agency, and to post a notice in the reception area that this information is available along with the website address.

Pursuant to chapter 408, the Florida Center for Health Information and Policy Analysis (Florida Center) within AHCA, is responsible for collecting, compiling, analyzing, and disseminating health-related data and statistics. The information is published on the Florida Health Finder website at <http://www.floridahealthfinder.gov>. Health care providers and health care facilities are subject to administrative sanctions for failure to comply with data and record submission requirements.

One component of the Florida Center's responsibilities involves making available health care quality measures and financial data to allow consumers to compare health care services. Specific patient charge data that the Florida Center is required to disclose include the average charge, average net revenue per adjusted patient day, average cost per adjusted patient day, and average cost per admission.

The Agency currently displays charges (undiscounted prices) on the Florida Health Finder website for 71 selected high-volume inpatient and outpatient procedures, as recommended by the Consumer Health Information Policy Advisory Committee. The procedures are determined by analysis of the procedure codes in the patient discharge data submitted by licensed facilities.

Community Benefits

There is currently no system in Florida to monitor whether the sales tax exemption provided in s. 212.08(7)(p), F.S., or other tax exemptions enjoyed by non-profit hospitals are financially greater, less than, or equivalent to the partially reimbursed community services, or un-reimbursed community services, provided by the hospital that provide benefit to the local community. Several other states; however, including Texas, Indiana and California, have developed community benefits programs. In Texas, non-profit hospitals must provide community benefits, which include charity care and government-sponsored indigent health care, at specified levels in order to qualify as a charitable organization under the Texas Tax Code.⁷

Effect of Proposed Changes

House Bill 1435 may be cited as the "Health Care Consumer's Right to Information Act." The Health Care Consumer's Right to Information Act amends current law with regard to the information that must be provided to patients by health care providers and facilities, the information that must be submitted to and collected by AHCA for the Florida Center for Health Information and Policy Analysis, and requires the AHCA and Office of Program Policy Analysis and Government Accountability to conduct studies with regard to community benefit programs. The stated purpose of the act is to provide health care consumers with reliable and understandable information about facility charges to assist consumers in making informed decisions about health care. In furtherance thereof, the bill does the following:

Florida Patient's Bill of Rights

The bill amends the current rights of patients provided under s. 381.026, F.S., by requiring all non-state health care providers and facilities to provide to each uninsured person, prior to the provision of planned, nonemergency services, a reasonable estimate of charges for such services and information regarding the provider's or facility's charity care policies for which the uninsured person may be eligible.

⁷ ss. 311.042 and 311.043, Tex.Stat. Ann.

The bill provides that such estimates must be written in a language comprehensible to an ordinary layperson.

Further, the bill requires each licensed facility not operated by the state to provide to uninsured persons seeking planned, nonemergency care, a written, good-faith estimate of reasonable anticipated charges for treatment. The estimate must be provided within seven business days after the person notifies the facility and the facility confirms that the person is uninsured, and may be comprised of the average charges for that diagnosis-related group or the average charges for that procedure. The estimate does not preclude the actual charges from exceeding the estimate; however, upon request, the facility must update the person if there is a revision to the good faith estimate.

The bill further requires that the uninsured person also be provided with a copy of the facility's discount and charity care discount policies for which the uninsured person may be eligible, and the facility must place a notice in the reception area where such information is available. The bill provides for a \$500 fine per instance when a facility fails to provide the estimate required in this section.

Florida Center for Health Information and Policy Analysis

The bill amends s. 408.05, F.S. by requiring AHCA, when determining which health care quality measures to disclose related to patient charge data, to consider such measures as the average of undiscounted charges on frequently performed procedures and preventive diagnostic procedures, and the range of procedure charges from highest to lowest. These measures are in addition to average net revenue per adjusted patient day, average cost per adjusted patient day, and average cost per admission provided for in current law.

Moreover, the bill requires AHCA to publish on its website undiscounted charges no fewer than 150 of the most commonly performed adult and pediatric procedures, including outpatient, inpatient, diagnostic, and preventative procedures.

Community Benefits Program

In Section 6 of the bill, the bill requires AHCA to study the use of community benefits programs in other states, and submit a report of such study to the relevant House and Senate committees by January 1, 2009. The bill provides that the report shall include recommendations for community benefits requirements in Florida, including standards and guidelines for 501(c)(3), not-for-profit hospitals.

The bill also requires OPPAGA to conduct a study of 501(c)(3), not-for-profit hospitals and the benefits received by such hospitals from sales and lease tax exemptions obtained pursuant to s. 212.08(7)(p), F.S., and from federal income and property tax exemptions. The bill specifies that the OPPAGA report shall also include:

- The dollar value of those exemptions determined for each hospital for the last three complete fiscal years
- An assessment of the actual cost of charity care provided by each hospital for the last three complete fiscal years
- An evaluation of the profitability of not-for-profit hospitals and the allocation hospital resources to provide a community benefit and executive compensation, with comparables to other states
- An analysis and recommendation regarding a state standard that would provide accurate and measurable figures as they relate to reporting for charity and uncompensated care

OPPAGA is required to submit a report to the relevant House and Senate committees regarding the above by January 1, 2009.

The bill defines "community benefits" for purposes of the AHCA and OPPAGA studies to mean "the unreimbursed cost to a hospital of providing charity care, uncompensated government sponsored

indigent health care, donations, uncompensated government-sponsored program services, free screening, testing services and subsidized health services provided by the hospital.

The bill provides for an effective date of January 1, 2009.

C. SECTION DIRECTORY:

Section 1. Provides that this act may be cited as the "Health Care Consumer's Right to Information Act."

Section 2. Provides a purpose for the act.

Section 3. Amends s. 381.026, F.S.; relating to Florida Patient's Bill of Rights and Responsibilities.

Section 4. Amends s. 395.301, F.S.; relating to Itemized patient bill; form and content prescribed by the agency.

Section 5. Amends s. 408.05, F.S.; relating to Florida Center for Health Information and Policy Analysis.

Section 6. Providing for studies to be conducted by the Agency for Health Care Administration and the Office of Program Policy Analysis .

Section 7. Providing an effective date of January 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill creates more administrative and reporting requirements for facilities and practitioners.

D. FISCAL COMMENTS:

The bill directs AHCA to study the use of community benefit program in other states and present the findings to the Legislature by January 1, 2009. The bill also directs OPPAGA to conduct a study of not-for-profit charitable 501 (c) (3) hospitals and the benefits received by not-for-profit hospitals from sales and lease tax exemption certificates, as well as property and federal income tax exemptions. AHCA has indicated this study can be accomplished within their existing agency resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires AHCA and OPPAGA to submit reports related to community benefits to the relevant House and Senate committees by January 1, 2009; however, the effective date of the bill is that same date.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 17, 2008, the Healthcare Council adopted one strike-all amendment and one amendment to the strike-all amendment.

The strike-all amendment does the following:

- Provides that the act shall be cited as the “Health Care Consumer’s Right to Information Act,” and states a purpose for the act.
- Reinstates a provisions stricken in the original bill requiring a health care facility or provider disclose, upon the request of the patient, information about whether the provider accepts assignment under Medicare reimbursement as payment in full and that the patient has the right to receive a copy of an itemized bill. The bill required facilities and providers to provide this information regardless of a patient’s request for the information.
- Removes provisions in the bill requiring patients to be provided with “itemized” estimates of charges from health care providers and facilities and, instead, requires health care providers and facilities to provide an uninsured person, prior to the provision of non-emergency services, a reasonable estimate of charges, written in language comprehensible to an ordinary layperson, and information regarding the provider’s or facility’s discount or charity policies for which the uninsured person may be eligible.
- Removes provisions requiring health care facilities to publish pricing information—lowest, average, and highest charge, and reinstates provisions removed in the original bill that allow facilities to indicate that pricing information is based on a compilation of charges for the average patient.
- Requires licensed facilities not operated by the state to:
 - provide an uninsured person seeking planned, nonemergency elective admission a written good faith estimate of charges for treatment within 7 business days after the facility confirms that the person is uninsured. Failure to provide this information will result in a \$500 fine to the facility for each instance.
 - notify the person of revisions to the good faith estimate upon request

- provide the uninsured person a copy of facility and charity care discount policies for which the uninsured person may be eligible
 - place a notice in the reception area where such information is available
- Removes provisions in the bill requiring AHCA to consider a price list of procedures, supplies, and services and a range of charges, from highest charge to lowest charge, among other measures, when determining patient charge data to disclose to health care consumers. Instead, the amendment requires AHCA to include the average of undiscounted charges on frequently performed procedures and preventive diagnostic procedures, and the range of procedures, from highest to lowest.
 - Removes all provisions in Section 2 of the bill related to the sales and use tax exemption by non-profit hospitals. Instead, the amendment directs AHCA to study the use of community benefits programs in other states and submit its report to the relevant committees in the House and Senate by January 1, 2009, which shall include specified information. The amendment also requires the Office of Program Policy Analysis and Government Accountability to conduct a study of non-profit 501(c)(3) hospitals and the benefits they receive from sales and lease tax, property tax, and federal tax exemptions, and specifies the scope and extent of the study. The amendment provides that the study shall be submitted to the relevant committees of the House and Senate by January 1, 2009, and defines the term community benefits.
 - The amendment modifies a provision in the bill requiring AHCA to report on a price list for not fewer than the 100 most commonly performed procedures, based on a statewide average of procedures, and the 500 most commonly used supplies by, instead, requiring AHCA to report on its website the charges for no fewer than 150 of the most commonly performed adult and pediatric procedures, including outpatient, inpatient, diagnostic, and preventative procedures.
 - The amendment removes a provision in the bill providing that the amount of charity care or uncompensated care be valued and reported at Medicaid rates.

The amendment to the strike-all amendment adds executive compensation to the list of items that OPPAGA is required to study concerning non-profit hospitals.

The bill, as amended, was reported favorably as a Council Substitute. The analysis reflects the Council Substitute.