LFC Requester:	RubyAnn Esquibel

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to **billanalysis@dfa.nm.gov**
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: *2/12/25* *Check all that apply:*
Bill Number: *HB 263* Original _x_ Correction __
Amendment __ Substitute __

Sponsor: Thomson
Short Title: **HOSPITAL PRICE TRANSPARENCY ACT**

Agency Name and Code Number: NM Hospital Association
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	**FY26**		

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	**FY26**	**FY27**		

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

HB 263 is similar to the federal hospital price transparency rule, including the data to be published and where it must be published. However, there are several significant differences that would make implementation of this bill difficult, duplicative, and, in some instances, costly for hospitals in the state. The differences between the federal rule and this bill are:

1. The federal rule allows hospitals to use a price estimator tool in lieu of listing the 300 shoppable services. This option is not provided for in the bill.
2. The federal rule allows systems with multiple hospitals with the same pricing to utilize one machine-readable file for multiple locations, as long as the names/locations of the hospitals are listed clearly. The bill, on page 8, line 14, would not allow that as it requires a machine-readable file for each individual hospital.
3. The federal rule requires hospitals to publish these items annually on their website but does not require more than the current year's information to be posted. The bill, on page 16, line 7, requires hospitals to make seven years' worth of data available.
4. The federal rule requires one annual update of the information, which in itself, is a significant amount of work for hospitals. However, while the bill also only requires annual updates (once the first set of data is posted) (page 10, line 4) in practice, hospitals will be required to update the information any time any of the data may change (see below for the impacts of this requirement).
5. The federal rule requires hospitals to publish the data on their website only. The bill, on page 10, line 23, requires that hospitals also send this data to the Health Care Authority to post on their website.

Where at all possible, this bill should align with the federal rule for ease of implementation for hospitals and clarity for consumers/patients. Having similar but not identical requirements opens the possibility for different data to be posted to meet the federal rule and the state law, which is a disservice to consumers because that will cause confusion. For example, the language on page 9, line 25 "(3) design the template to be substantially similar to the template used by the federal centers for medicare and medicaid services for purposes similar to this section," leaves open the possibility that the HCA could create a template that is different than that allowed by CMS (and utilized by hospitals today). If at all possible, we request more precise language be used so that there is no possibility for misalignment in the requirements of this bill and the federal rule. To align this bill more closely with the federal rule, the option to use a price estimator should be added and the requirement that the data be submitted to HCA for their posting should be removed because the posting is redundant and could to confusion from patients because the HCA is given 60 days to update the data so there could be an instance when the data on a hospital's website is accurate but the data on the HCA's website is inaccurate and this requirement should be removed.

The definition of collection action (page 2, line 10) and collection agency (page 2, line 20) are overly broad and could potentially prohibit hospitals from using a third party to collect payments from self-pay and self-pay-after-insurance patients. These types of agencies are not "bad debt agencies." Rather they are an administrative extension of a hospital helping to collect payments (not collection agencies).

As mentioned above, the bill requires hospitals to publish and then update this information annually. However, the information that is published changes throughout the year (as frequently as weekly) which places a significant liability on hospitals to meet the requirements of this bill (updating, reposting, sending to the Health Care Authority, etc.) or risk being out of compliance (which is a low bar in the bill) and open to litigation as provided for in Section 5. This is an unreasonable expectation for our state's hospitals to meet. This is a personnel-resource intensive requirement where there can be room for mistakes to be made and hospitals to be found out of compliance.

Hospitals are concerned with the liability and enforcement mechanisms outlined in the bill, which are broad and severe. It is very important that Section 5 be reviewed thoroughly and amended to set more realistic standards and expectations for hospitals to meet so that patients have access to timely data, but hospitals are not held to an unachievable standard. For example, the shoppable services are estimates and the charges for each case can be different based on the patient's insurance or whether they are self-pay. Hospitals need flexibility to be able to adjust their charges if their costs change substantially or if they add a new product, service, lab test, medication or supply, without having to first update the data. Further, the financial penalties in this bill are incredibly high. A violation of the act has an escalating scale for violations: $2500 first incident, $5000 second, $10,000 third, $15,000 fourth and subsequent. Each day a violation occurs is a discrete violation, so a violation that involves not having a specified cost for a shoppable service that should be on the list could be fined $32,500 in four days. This far exceeds the financial penalties provided for in the federal rule and in our neighboring state of Texas, which has a law similar to what is proposed in this bill. The federal rule has a maximum penalty of $300 per day, no matter how many discrete violations occur during that day. In Texas, the fines are: $10 for each day the facility violated if the facility's total gross revenue is less than $10 million; $100 for each day, if the facility's total gross revenue is $10 million or more and less than $100 million; and $1,000 for each day if the facility's total gross revenue is $100 million or more (SB 1137). We request more reasonable enforcement penalties be placed in the bill. Additionally, there is no distinction between an intentional or willful violation of the law and an unintentional or mistaken violation and while the discretion is left to the HCA of whether to levy the fines, recognition of intentionality would strengthen the bill.

It's unclear at this time if Section 6 adds to or is in alignment with the Patients' Debt Collection Protection Act. We would urge any misalignment to be removed or the entire section to be stricken since the PDCPA covers these important patient protections.

The bill does not indicate where the funds collected from enforcement actions will be allocated.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS