



(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**

##### Synopsis:

HB 263 requires hospitals to post information on their public websites that discloses pricing, billing codes, and other detailed information for all items and services provided in inpatient and outpatient settings. Provides penalties for violating the Act, allows patients or a patient guarantor to bring civil action against hospitals they believe to be in violation and prohibits hospitals from taking collection actions against patients while civil actions are pending. Violations include but are not limited to charging more for any item or service than the dollar amount published and “violating an order previously issued by the authority in a disciplinary matter.”

#### **FISCAL IMPLICATIONS**

Compliance with this act would require UNMH to hire several additional analysts at an estimated cost of \$687,000 annually.

Other costs associated with this bill, including deferred or foregone revenue as well as increased civil litigation would likely greatly exceed administrative costs.

#### **SIGNIFICANT ISSUES**

HB 263 overlaps and exceeds the CMS Hospital Price Transparency Rules, greatly increasing the compliance burden on hospitals, potentially confusing consumers with multiple overlapping reports and exposing hospitals to increased litigation without improving the quality or usefulness of information available to consumers.

Since 2021, CMS has required all US hospitals to publicly post via machine-readable files five different “standard charges”: gross charges; payer-specific negotiated rates; de-identified minimum and maximum negotiated rates; and discounted cash prices. CMS also requires hospitals to provide patients with an out-of-pocket cost estimator tool or payer-specific negotiated rates for at least 300 shoppable services.

In compliance with federal law, UNMH already makes charge data publicly available. However, the data provided are average charges. Individual patient charges (for supplies, pharmaceuticals, etc.) vary because medical care is tailored to the needs of individual patients.

Under section 5.B of the proposed Act, hospitals are in violation of the Act if actual charges exceed posted charges. Violations are punishable with civil financial penalties. Furthermore, patients may initiate civil actions against hospitals they believe to have violated the Act and hospitals are prohibited from taking action to collect debt while the civil action is pending.

Given that services and thus charges vary based on individual patient needs, it will be very difficult, if not impossible to ensure that posted charges and actual charges always align, exposing hospitals to delay payments, administrative burden and civil liability.

Similarly, Section 3.A.(f) requires that the file contain the codes used by the hospital. Again, the actual care provided under a specific code can differ from patient to patient based on their medical needs and complexities.

Hospitals need the flexibility to adjust charges if costs change substantially or if new products, services, lab tests, medications or supplies are added. Pharmaceutical pricing is typically based on national average whole sale prices (AWP) which are frequently updated. HB 263 would necessitate that lists be updated daily. In contrast, Federal law requires that lists be updated annually.

HB 263's requirement that lists be maintained on hospital websites for 7 years is especially onerous in light of the need for daily updates.

Despite overlapping the federal reporting mandates, HB 263 does not require the Authority to adopt a compatible file format. Section 3.E. requires the Authority to develop a template that is "substantially similar" to the federal template, but given the differing data elements that must be reported, two separate reports appears likely. This could be very confusing to patients.

The definition of collection action and collection agency appear overly broad. "Collection action" includes "attempting 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 other third party retained by or on behalf of the hospital." This would impede hospitals' abilities to outsource any part of accounts receivable management processes.

## **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**