



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 173\*  
135<sup>th</sup> General Assembly

## Bill Analysis

[Click here for H.B. 173's Fiscal Note](#)

**Version:** As Reported by Senate General Government

**Primary Sponsor:** Rep. Troy

Emily E. Wendel and Logan Briggs, Attorneys

## SUMMARY

### Special designations

- Designates the month of May as Older Ohioans Month.
- Designates the week that includes March 16 as Ohio Black Media Week.

### Availability of hospital price information

- Requires each hospital to maintain and make public a list of all standard charges for all hospital items or services.
- Also requires the hospital to maintain and make public a consumer-friendly list of standard charges for at least 300 of the hospital's shoppable services.
- Requires the list of standard charges for shoppable services to include the 70 services specified as shoppable services by the United States Centers for Medicare and Medicaid Services, or as many of those services as the hospital provides.
- Permits hospitals to fulfill the requirement for a list of standard charges for shoppable services by providing a qualifying internet-based price estimator tool.
- Prohibits hospitals from selling the personal data of a person in this state acquired from an internet-based price estimator tool.
- Prohibits hospitals from using, selling, or processing the personal data of a person in this state acquired from an internet-based price estimator tool for the purposes of targeted advertising.

---

\* This analysis was prepared before the report of the Senate General Government Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Requires the Director of Health to monitor each hospital’s compliance with the bill’s requirements and in cases of noncompliance, to impose penalties, including fines.
- Creates the Hospital Price Transparency Fund.
- Requires the Director to create a public list of hospitals not in compliance with the price transparency requirements.
- Requires the Director to submit to the General Assembly and the Governor reports regarding noncompliant hospitals, changes to the federal price transparency law, and recommendations for changing state hospital price transparency requirements.

---

## TABLE OF CONTENTS

Availability of hospital price information .....	1
Special designations.....	3
Availability of hospital price information .....	3
Overview.....	3
Definitions .....	4
Standard charges for hospital items and services .....	5
Single digital file – machine readable format.....	6
List items.....	6
Hospital location.....	6
Standard charges for shoppable services .....	6
Hospital selection of shoppable services .....	6
List items.....	7
Price estimator tool.....	7
Publication and updates.....	8
Accessibility and formatting.....	8
Templates .....	8
Hospital website .....	9
Updates.....	9
Director of Health duties.....	9
Monitoring.....	9
List of noncompliant hospitals .....	9
Notice of violation and corrective action plan .....	10
Administrative penalties.....	10
Reports .....	11
Background.....	11
Hospital price information list – current law .....	11

Enforcement .....	12
CMS hospital price transparency rule .....	12

## DETAILED ANALYSIS

### Special designations

Special Designations		
Designation	Date	Other Information
Older Ohioans Month <sup>1</sup>	The month of May	n/a
Ohio Black Media Week <sup>2</sup>	Week that includes March 16	Recognizes the freedom of the press, information, equity, and equality.

### Availability of hospital price information

#### Overview

The bill directs each institution or facility that provides inpatient medical or surgical services for a continuous period longer than 24 hours, i.e., a “hospital,” to maintain and make public both of the following:

- A digital file in a machine-readable format that contains a list of all standard charges for all hospital items and services;<sup>3</sup>
- Either a consumer-friendly list of standard charges for a limited set of “shoppable services,” which are services that a health care consumer may schedule in advance, or an internet-based price estimator tool.<sup>4</sup>

The bill repeals current law requiring every hospital to make available for public inspection a price information list, which includes charges for certain hospital services.<sup>5</sup> Many of the bill’s provisions closely mirror those in the hospital price transparency rule adopted by the federal Centers for Medicare and Medicaid Services (CMS) and effective since January 1, 2021.

---

<sup>1</sup> R.C. 5.2410.

<sup>2</sup> R.C. 5.59.

<sup>3</sup> R.C. 3727.32 and 3727.33.

<sup>4</sup> R.C. 3727.32 and 3727.34.

<sup>5</sup> R.C. 3727.42, 3727.44, and 3727.45.

The bill's requirements are not entirely consistent with more recent changes to the hospital price transparency rule, which took effect January 1, 2024, and July 1, 2024.<sup>6</sup>

## Definitions

The bill relies on the following definitions.<sup>7</sup>

- **“Standard charge”** means the regular rate established by the hospital for a hospital item or service provided to a specific group of paying patients and includes the gross charge, the payor-specific negotiated charge, the de-identified minimum negotiated charge, the de-identified maximum negotiated charge, and the discounted cash price.
- **“Hospital items or services”** mean all items or services that may be provided to a patient in connection with an inpatient admission or outpatient department visit for which the hospital has established a standard charge, including supplies and procedures, room and board, hospital fees, and professional charges.
- **“Federal price transparency law”** means section 2718(e) of the “Public Health Service Act,” 42 U.S.C. 300gg-18, and hospital price transparency rules adopted by the United States Department of Health and Human Services and CMS implementing that section, including the rules and requirements under 45 C.F.R. 180.
- **“Shoppable service”** means a service that a health care consumer may schedule in advance.
- **“Chargemaster”** means the list maintained by the hospital of each hospital item or service for which the hospital has established a charge.
- **“Ancillary service”** means a hospital item or service that a hospital customarily provides as part of a shoppable service.
- **“De-identified maximum negotiated charge”** means the highest charge that a hospital has negotiated with all third-party payors for a hospital item or service.
- **“De-identified minimum negotiated charge”** means the lowest charge that a hospital has negotiated with all third-party payors for a hospital item or service.
- **“Discounted cash price”** means the charge that applies to an individual who pays cash, or a cash equivalent, for a hospital item or service.
- **“Gross charge”** means the charge for a hospital item or service that is reflected on a hospital's chargemaster, absent any discounts.
- **“Machine-readable format”** means a digital representation of information in a file that can be imported or read into a computer system for further processing and includes .XML, .JSON, and .CSV formats.

---

<sup>6</sup> 45 Code of Federal Regulations (C.F.R.) Part 180.

<sup>7</sup> R.C. 3727.31.

- **“Payor-specific negotiated charge”** means the charge that a hospital has negotiated with a third-party payor for a hospital item or service.
- **“Service package”** means an aggregation of individual hospital items or services into a single service with a single charge.
- **“Third-party payor”** means an entity that is, by statute, contract, or agreement, legally responsible for payment of a claim for a hospital item or service.
- **“Personal data”** means any information that is linked or reasonably linkable to an identified or identifiable person in Ohio. It does not include publicly available information or personal data that has been de-identified or aggregated so that neither the associated person nor a device linked to that person can be reasonably identified.
- **“Process”** or **“processing”** means any operation or set of operations that are performed on personal data, whether or not by automated means, including the collection, use, storage, disclosure, analysis, deletion, transfer, or modification of personal data.
- **“Publicly available information”** means information that is lawfully made available from federal, state, or local government records or widely available media.
- **“Targeted advertising”** means displaying an advertisement that is selected based on personal data obtained from the use of a hospital’s internet-based price estimator tool by a person in Ohio. It does not include any of the following:
  - Advertising in response to the user’s request for information or feedback;
  - Advertisements based on activities within a hospital’s own websites or online applications;
  - Advertisements based on the context of a user’s current search query, visit to a website, or online application;
  - Processing personal data solely for measuring or reporting advertising performance, reach, or frequency.<sup>8</sup>

### **Standard charges for hospital items and services**

Under the bill, each hospital must maintain a list of all standard charges, expressed in dollar amounts, for all hospital items or services. A hospital also must ensure that the list of standard charges is made available at all times to the public, including by posting the list electronically.<sup>9</sup>

---

<sup>8</sup> R.C. 3727.31.

<sup>9</sup> R.C. 3727.33(A).

## **Single digital file – machine readable format**

The bill requires the information contained in the list to be published in a single digital file that is in a machine-readable format.<sup>10</sup>

### **List items**

Each hospital must include all of the following items in the list of standard charges:

- A description of each hospital item or service that the hospital provides;
- The following charges for each hospital item or service when provided in either an inpatient setting or outpatient department setting: the gross charge, the de-identified minimum negotiated charge, the de-identified maximum negotiated charge, the discounted cash price, the payor-specific negotiated charge, and any billing or accounting code used by the hospital for the item or service.

In the case of the payor-specific negotiated charge, the bill requires the charge to be listed by the third-party payor's name and health plan associated with the charge and be displayed in a manner that clearly associates the charge with each third-party payor and plan.

With respect to billing and accounting codes, the list may include the current procedural terminology (CPT) code, the healthcare common procedure coding system (HCPCS) code, the diagnosis related group (DRG) code, the national drug code (NDC), or another common identifier.<sup>11</sup>

### **Hospital location**

The standard charges contained in a hospital's list must reflect the standard charges applicable to a specific location, regardless of whether the hospital operates in more than one location or under the same license as another hospital.<sup>12</sup>

### **Standard charges for shoppable services**

Under the bill, each hospital must maintain and make publicly available a list of certain standard charges for the hospital's shoppable services. These standard charges include the following: the de-identified minimum negotiated price, the de-identified maximum negotiated price, the discounted cash price, and the payor-specific negotiated charge.<sup>13</sup>

### **Hospital selection of shoppable services**

A hospital may select the shoppable services to be included on its list, subject to certain conditions. First, the list must include at least 300 shoppable services, unless the hospital

---

<sup>10</sup> R.C. 3727.33(D).

<sup>11</sup> R.C. 3727.33(C).

<sup>12</sup> R.C. 3727.33(B).

<sup>13</sup> R.C. 3727.34(A).

provides fewer than 300 shoppable cases. In that case, the list must include the number of shoppable services the hospital provides.

Second, the list must include the 70 services that CMS specifies as shoppable services. If the hospital does not provide all 70 of those services, the list must include as many of those services as the hospital provides.

Third, in selecting a shoppable service for inclusion on the list, the bill requires the hospital to consider how frequently it provides the service and the billing rate for the service. The hospital also must prioritize the selection of services that are among the services it most frequently provides.<sup>14</sup>

### **List items**

The bill requires each hospital's list of shoppable services to contain the following information:

- A plain-language description of each shoppable service the list includes;
- The following charges for each shoppable service included on the list and any ancillary service: the payor-specific negotiated charge, the discounted cash price or gross charge, the de-identified minimum negotiated charge, the de-identified maximum negotiated price, and any billing or accounting code used by the hospital.

In the case of the payor-specific negotiated charge, the bill requires it to be listed by the third-party payor's name and health plan associated with the charge and be displayed in a manner that clearly associates the charge with each third-party payor and plan.

With respect to billing and accounting codes, the list may include the CPT code, the HCPCS code, the DRG code, the NDC, or another common identifier.

If applicable, the list must state each location at which the hospital provides the shoppable service and whether the standard charges included in the list apply at that location to the provision of that service in an inpatient setting, an outpatient department setting, or both. The list also must indicate if one or more of the shoppable services specified by CMS is not provided by the hospital.<sup>15</sup>

### **Price estimator tool**

As an alternative to the list of standard charges for shoppable services, the bill allows a hospital to make available an internet-based price estimator tool which does all of the following:

- Provides a cost estimate for each shoppable service and ancillary service required to be included on the list of shoppable services;
- Allows a person to obtain an estimate of the amount they will be obligated to pay the hospital for the service in question;

---

<sup>14</sup> R.C. 3727.34(A).

<sup>15</sup> R.C. 3727.34(B) and (C).

- Is available free of charge; without having to register or establish a user account or password; without having to submit personal identifying information, including any information relating to an individual's health care coverage or other benefits; and without having to overcome any other impediment in order to access the list, including entering a code or completing any security measure.

The bill specifies that a price estimator tool meets the requirements of the bill if the tool meets the requirements set forth by the federal price transparency law.

The bill prohibits hospitals from selling the personal data of a person Ohio acquired from an internet-based price estimator tool. Furthermore, the bill prohibits hospitals from using, selling, or processing that personal data for the purposes of targeted advertising.<sup>16</sup>

## **Publication and updates**

### **Accessibility and formatting**

The bill requires the list of standard charges for hospital items and services and the list of standard charges for shoppable services to meet certain accessibility and formatting conditions. The conditions are as follows:

- Each list must be available free of charge; without having to register or establish a user account or password; without having to submit personal identifying information, including any information relating to an individual's health care coverage or other benefits; and without having to overcome any other impediment in order to access the list, including entering a code or completing any security measure;
- Each list must be accessible to a common commercial operator of an internet search engine to the extent necessary for the search engine to index the list and display the list as a result of a search engine user's search query;
- The list of standard charges for hospital items and services must be digitally searchable use the naming convention specified by CMS, specifically <ein>\_<hospital-name>\_standardcharges.[jsonxmlcsv];
- The list of standard charges for shoppable services must be searchable by service description, billing code, and payor;
- Each list must be formatted in a manner prescribed by the template the Director of Health develops.<sup>17</sup>

### **Templates**

The bill requires the Director to develop a template that each hospital must use in formatting both lists. In developing the template, the Director must do the following:

---

<sup>16</sup> R.C. 3727.34(E).

<sup>17</sup> R.C. 3727.33(E) and (F) and 3727.34(D).



- Consider any applicable federal guidelines for formatting similar lists required by federal law;
- Ensure that the template design enables health care consumers or other researchers to compare the charges contained in the lists maintained by each hospital;
- Design the template to be substantially similar to that used by CMS, if the Director determines designing the template in that manner serves the bill's purposes and that ODH benefits from requiring a substantially similar design.<sup>18</sup>

### **Hospital website**

The bill requires each list to either be displayed in a prominent location on the hospital's home page of its website or accessible by selecting a dedicated link that is prominently displayed on the home page. If a hospital operates multiple locations, but maintains a single website, it must provide a separate list for each location on the website in a manner that clearly associates each list with the applicable location.<sup>19</sup>

### **Updates**

At least once each year, the hospital must update each list. In updating a list, the hospital must clearly indicate the date of the update, either on the list itself or in a manner that is clearly associated with the list.<sup>20</sup>

Once a list has been updated, the hospital must submit it to the Director of Health. The bill requires the Director to prescribe the form in which an updated list must be submitted.<sup>21</sup>

### **Director of Health duties**

The bill charges the Director of Health with enforcing the bill's provisions, including by monitoring hospitals for compliance and imposing penalties on them.

### **Monitoring**

The Director of Health is required to monitor each hospital's compliance with the bill's price transparency requirements. Such monitoring may include reviewing credible analyses regarding hospital compliance or noncompliance, auditing hospital websites, and confirming that hospitals have submitted updated lists to the Director.<sup>22</sup>

### **List of noncompliant hospitals**

The bill requires the Director to create and make publicly available a list identifying each hospital that is not in compliance with the bill's price transparency requirements. The list must include hospitals that are sent notice of a violation, are subject to an administrative penalty, or

---

<sup>18</sup> R.C. 3727.33(G) and 3727.34(D)(4).

<sup>19</sup> R.C. 3727.33(E) and 3727.34(D).

<sup>20</sup> R.C. 3727.33(H) and 3727.34(D).

<sup>21</sup> R.C. 3727.35.

<sup>22</sup> R.C. 3727.36(B).

have been sent any other written communication from the Director regarding a violation of the bill's price transparency requirements. After the Director determines that a hospital is not compliant with the price transparency requirements, all associated notices, orders, communications, and determinations are public records. Furthermore, the bill specifies that the list, itself, is a public record.

The initial list of noncompliant hospitals must be created and included on the Department of Health's (ODH's) website not later than 90 days after the bill's effective date. The Director then must update the list and website at least every 30 days thereafter.<sup>23</sup>

### **Notice of violation and corrective action plan**

If the Director of Health determines that a violation has occurred, the Director must issue a notice of violation to the hospital. In the notice, the Director must clearly explain the manner in which the hospital is not in compliance.

When issuing a notice of violation, the Director must require the hospital to submit a corrective action plan. The notice must indicate the form and manner in which the corrective action plan is to be submitted and the date by which it must be submitted. Under the bill, the submission date must not be less than 60 days after the notice of violation is sent.

In the plan, the hospital must provide a detailed description of the corrective action it will take to address each violation the Director has identified. The hospital also must specify the date by which it will complete the corrective action, which cannot be more than 180 days after it submits the plan to the Director.

The corrective action plan is subject to the Director's review and approval. If approved, the Director must monitor and evaluate the hospital's compliance with the plan. The bill specifically prohibits a hospital from failing to submit a corrective action plan, failing to submit the plan in the form and manner and by the date specified by the Director, or failing to complete the corrective action by the date specified in the plan.<sup>24</sup>

### **Administrative penalties**

If a hospital violates the bill's price transparency requirements and fails to submit and complete a corrective action plan, the Director must impose an administrative penalty on the hospital. Each day that a violation continues is considered a separate violation. In imposing the penalty, the Director is required to act in accordance with Ohio's Administrative Procedure Act.<sup>25</sup>

The Director must select the penalty amount for a violating hospital, subject to the minimum amounts outlined in the bill. In the case of a hospital with a bed count of 30 or fewer, the penalty must not be lower than \$300. For a hospital with a bed count that is greater than

---

<sup>23</sup> R.C. 3727.36(C) and (D).

<sup>24</sup> R.C. 3727.37.

<sup>25</sup> R.C. 3727.38; R.C. Chapter 119, not in the bill.

30, and equal to or fewer than 550, the penalty must not be lower than \$10 per bed. And with respect to a hospital whose bed count exceeds 550, the penalty must not be lower than \$5,500.

In selecting a penalty amount, the Director must choose one that is sufficient to ensure compliance. The Director also is required by the bill to consider any previous violations by the hospital's operator, the seriousness of the violation, the demonstrated good faith of the hospital's operator, and any other matter as justice may require.

The bill creates the Hospital Price Transparency Fund in the state treasury, which is administered by the Director. Penalties collected under the bill must be deposited into that fund and used to administer and enforce this bill's provisions. The Director may use a portion of such amounts for the purposes of informing the public about the availability of hospital price information and other consumer rights under the bill.<sup>26</sup>

## **Reports**

The bill requires the Director of Health to prepare two different reports. First, on an annual basis, the Director must prepare a report on the hospitals that have violated its the bill's price transparency requirements. Second, within 60 days following any change to the federal price transparency law, the Director must prepare a report containing recommendations for conforming the bill's provisions with the federal price transparency law, or stating that no changes are necessary. These reports must be submitted to the Governor, General Assembly, and chairpersons of the standing committees with primary responsibility for health legislation.<sup>27</sup>

## **Background**

### **Hospital price information list – current law**

Under current law repealed by the bill, a hospital must compile and make available to the public a price information list containing all of the following:

- The usual and customary room and board charges for each level of care within the hospital, including private rooms, semiprivate rooms, other multiple patient rooms, and intensive care or other specialty units;
- Rates charged for nursing care;
- The usual and customary charges for the following services: the 30 most common X-ray and radiologic procedures; the 30 most common laboratory procedures; emergency room services; operating room services; delivery room services; physical, occupational, and pulmonary therapy services; and any other services designated as high volume in rules adopted by the Director of Health;
- The hospital's billing policies, including whether it charges interest on an amount not paid in full by any person or government entity and the interest rate charged;

---

<sup>26</sup> R.C. 3727.38 and 3727.381.

<sup>27</sup> R.C. 3727.39.

- Whether or not the charges listed include fees for the services of hospital-based anesthesiologists, radiologists, pathologists, and emergency room physicians and, if a charge does not include those fees, how that fee information may be obtained.<sup>28</sup>

Current law requires the hospital to make the price information list publicly available in each of the following three ways. First, it must be available free of charge on the hospital's website. Second, on request, the hospital must provide a paper copy of the list to any person or governmental agency, subject to payment of a reasonable fee for copying and processing. And third, at the time of a patient's admission or as soon as practical after admission, the hospital must inform the patient of the list's availability and on request, provide the patient with a free copy of it.<sup>29</sup>

### **Enforcement**

If a hospital does not make its price information list publicly available, the Director of Health may seek from the court of common pleas a temporary or permanent injunction restraining the hospital from failing to make it publicly available.<sup>30</sup>

### **CMS hospital price transparency rule**

Since January 1, 2021, each hospital operating in the U.S. is required to make public both of the following under CMS's hospital price transparency rule:

- A machine-readable file containing a list of all standard charges for all items and services;
- A consumer-friendly list of standard charges for a limited set of shoppable services.<sup>31</sup>

Under the current rule, the list of standard charges must include – for each item or service – the item's or service's description, gross charge, payor-specific negotiated charge, de-identified minimum negotiated charge, de-identified maximum negotiated charge, discounted cash price, and any billing or accounting code. Such a list must be updated annually.

In the case of shoppable services, a hospital must make public the standard charges for as many of the 70 CMS-specified shoppable services it provides. It also must make public as many additional hospital-selected shoppable services for a combined total of at least 300 shoppable services. CMS requires the standard charge information for shoppable services to be updated annually.

Should a hospital fail to comply with the federal hospital price transparency rule, CMS may provide written notice to the hospital of a specific violation, request a corrective action plan from the hospital, or impose a civil monetary penalty on the hospital and publicize the penalty on a CMS website. Monetary penalties range from \$300 per day for smaller hospitals with a bed

---

<sup>28</sup> R.C. 3727.42(B).

<sup>29</sup> R.C. 3727.42(C).

<sup>30</sup> R.C. 3727.45.

<sup>31</sup> 45 C.F.R. Part 180.

count of 30 or fewer to \$10 per bed per day for hospitals with a bed count greater than 30, for a maximum daily amount of \$5,500.

---

---

## HISTORY

Action	Date
Introduced	05-16-23
Reported, H. Families and Aging	11-29-23
Passed House (88-0)	12-06-23
Reported, S. General Government	---

---