

{As Amended by House Committee of the Whole}

Session of 2024

HOUSE BILL No. 2825

By Committee on Appropriations

Requested by Representative Sutton

3-12

1 AN ACT concerning health and healthcare; relating to hospitals; requiring
2 that hospitals provide online pricing information for certain items and
3 services; enacting the consumer protection related to hospital price
4 transparency act; deeming noncompliance with such act to be an unfair
5 or deceptive trade practice; providing for monetary penalties for
6 hospitals found to be noncompliant with such act; amending K.S.A.
7 2023 Supp. 50-626 and repealing the existing section.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. (a) Sections 1 through 4, and amendments thereto,
11 shall be known and may be cited as the consumer protection related to
12 hospital price transparency act.

13 (b) As used in the consumer protection related to hospital price
14 transparency act, "hospital" means the same as defined in K.S.A. 65-450,
15 and amendments thereto.

16 New Sec. 2. (a) Pursuant to 45 C.F.R. § 180, each hospital operating
17 in the United States is required to provide clear, accessible pricing
18 information online about the items and services that each such hospital
19 provides. Each hospital that is licensed in Kansas pursuant to K.S.A. 65-
20 427, and amendments thereto, shall provide:

21 (1) A list of the hospital's top 300 procedures with corresponding
22 pricing information and a plain language description of each such
23 procedure included in a consumer-friendly format on a public-facing
24 website;

25 (2) upon request of a patient scheduled to receive an elective
26 procedure, a test or service to be performed by the hospital or, upon
27 request of such patient's legally authorized representative, made not fewer
28 than three days in advance of the date on which such elective procedure,
29 test or service is scheduled to be performed, furnish the patient with an
30 estimate of the payment amount for which the patient will be responsible;
31 and

32 (3) written information about the patient's ability to request an
33 estimate of the payment amount pursuant to this section.

34 (b) The written information required pursuant to subsection (a)(3)
35 shall be posted in conspicuous public areas of the hospital, including

1 registration or admission areas, and included on any website maintained by
2 the hospital.

3 New Sec. 3. (a){(1)} The attorney general shall have the authority to
4 enforce the provisions of this act.

5 **{(2) Prior to July 1, 2024, the attorney general shall send each
6 hospital a letter notifying such hospital of the requirements of this act
7 and its effective date.}**

8 (b){(1)} If the attorney general finds that a hospital is noncompliant
9 with 45 C.F.R. § 180, as in effect on July 1, 2024, then such hospital shall
10 be fined \$250 per day that such hospital is noncompliant.

11 **{(2) The attorney general shall consult with the commissioner of
12 insurance, or the commissioner's designee, prior to imposing any fine
13 for noncompliance with the provisions of this act.}**

14 (c) Noncompliance with the provisions of this act shall constitute an
15 unlawful or deceptive trade practice as provided in K.S.A. 50-626, and
16 amendments thereto.

17 New Sec. 4. (a) ~~Any hospital not in material compliance with this act
18 on the date that items or services are purchased by or provided to a patient
19 shall not initiate or pursue a collection action against the patient or a
20 patient guarantor for any debt owed for such items or services.~~

21 (b) (1)-(A) If a patient believes that a hospital was not in material
22 compliance with this act on the date that items or services were purchased
23 by or provided to the patient ~~and the hospital undertakes a collection
24 action against such patient or patient guarantor~~, then such patient or patient
25 guarantor may file a civil action against the hospital to determine if:

26 (i) ~~{(A)}~~ **{(A)}** The hospital was materially out of compliance with this act
27 or rules and regulations promulgated thereunder, on the date that the items
28 or services were purchased or provided; and

29 (ii) ~~{(B)}~~ **{(B)}** such noncompliance with this act is related to the items or
30 services purchased by or provided to the patient.

31 ~~(B) A hospital shall not undertake a collection against a patient or
32 patient guarantor while a civil action as described in this section is
33 pending.~~

34 (2) (A) If the trier of fact finds that the hospital was materially out of
35 compliance with this act or rules and regulations promulgated thereunder,
36 after considering standards issued by the federal centers for medicare and
37 medicaid services and standards set by this act, the court shall order the
38 hospital to:

39 (i) Refund the payor any amount of the debt the payor has paid and
40 pay a penalty to the patient or patient guarantor in an amount equal to the
41 amount of the debt;

42 (ii) move to dismiss, with prejudice, any collection action relating to
43 the debt and pay any attorney fees and costs incurred by the patient or the

1 patient guarantor relating to such action; and

2 (iii) cause to be removed from the patient or the patient guarantor's
3 credit report any report made to a consumer reporting agency relating to
4 the debt and take necessary actions to cause any report made to a
5 consumer credit agency relating to the debt to be removed from the
6 patient's or patient guarantor's credit report.

7 (B) The court shall provide a copy of the order issued pursuant to this
8 subsection to the attorney general to notify the attorney general of the
9 material noncompliance finding.

10 ~~(e)}~~**{(b)}** Nothing in this act shall be construed to:

11 (1) Prohibit a hospital from billing a patient guarantor or third-party
12 payor, including a health insurer, for items and services purchased by or
13 provided to the patient; or

14 (2) require a hospital to refund any payment made to such hospital by
15 a patient, patient guarantor or third-party payor for items purchased by or
16 provided to the patient ~~so long as~~ **{unless}** such hospital has ~~not~~
17 ~~undertaken a collection action against such patient, patient guarantor or~~
18 ~~third-party payor in violation of subparagraph (b)(1)(B)~~ **{been found to**
19 **have been out of compliance with this act, in accordance with**
20 **subsection (a)(2)(A)}**.

21 Sec. 5. K.S.A. 2023 Supp. 50-626 is hereby amended to read as
22 follows: 50-626. (a) No supplier shall engage in any deceptive act or
23 practice in connection with a consumer transaction.

24 (b) Deceptive acts and practices include, but are not limited to, the
25 following, each of which is hereby declared to be a violation of this act,
26 whether or not any consumer has in fact been misled:

27 (1) Representations made knowingly or with reason to know that:

28 (A) Property or services have sponsorship, approval, accessories,
29 characteristics, ingredients, uses, benefits or quantities that they do not
30 have;

31 (B) the supplier has a sponsorship, approval, status, affiliation or
32 connection that the supplier does not have;

33 (C) property is original or new, if such property has been deteriorated,
34 altered, reconditioned, repossessed or is second-hand or otherwise used to
35 an extent that is materially different from the representation;

36 (D) property or services are of particular standard, quality, grade,
37 style or model, if they are of another which differs materially from the
38 representation;

39 (E) the consumer will receive a rebate, discount or other benefit as an
40 inducement for entering into a consumer transaction in return for giving
41 the supplier the names of prospective consumers or otherwise helping the
42 supplier to enter into other consumer transactions, if receipt of benefit is
43 contingent on an event occurring after the consumer enters into the

1 transaction;

2 (F) property or services has uses, benefits or characteristics unless the
3 supplier relied upon and possesses a reasonable basis for making such
4 representation; or

5 (G) use, benefit or characteristic of property or services has been
6 proven or otherwise substantiated unless the supplier relied upon and
7 possesses the type and amount of proof or substantiation represented to
8 exist;

9 (2) the willful use, in any oral or written representation, of
10 exaggeration, falsehood, innuendo or ambiguity as to a material fact;

11 (3) the willful failure to state a material fact, or the willful
12 concealment, suppression or omission of a material fact;

13 (4) disparaging the property, services or business of another by
14 making, knowingly or with reason to know, false or misleading
15 representations of material facts;

16 (5) offering property or services without intent to sell them;

17 (6) offering property or services without intent to supply reasonable,
18 expectable public demand, unless the offer discloses the limitation;

19 (7) making false or misleading representations, knowingly or with
20 reason to know, of fact concerning the reason for, existence of or amounts
21 of price reductions, or the price in comparison to prices of competitors or
22 one's own price at a past or future time;

23 (8) falsely stating, knowingly or with reason to know, that a consumer
24 transaction involves consumer rights, remedies or obligations;

25 (9) falsely stating, knowingly or with reason to know, that services,
26 replacements or repairs are needed;

27 (10) falsely stating, knowingly or with reason to know, the reasons
28 for offering or supplying property or services at sale or discount prices;

29 (11) sending or delivering a solicitation for goods or services which
30 could reasonably be interpreted or construed as a bill, invoice or statement
31 of account due, unless:

32 (A) Such solicitation contains the following notice, on its face, in
33 conspicuous and legible type in contrast by typography, layout or color
34 with other printing on its face:

35 "THIS IS A SOLICITATION FOR THE PURCHASE OF GOODS OR
36 SERVICES AND NOT A BILL, INVOICE OR STATEMENT OF
37 ACCOUNT DUE. YOU ARE UNDER NO OBLIGATION TO MAKE
38 ANY PAYMENTS UNLESS YOU ACCEPT THIS OFFER"; and

39 (B) such solicitation, if made by any classified telephone directory
40 service not affiliated with a local telephone service in the area of service,
41 contains the following notice, on its face, in a prominent and conspicuous
42 manner:

43 " _____ IS NOT

1 (name of telephone directory service)

2 AFFILIATED WITH ANY LOCAL TELEPHONE COMPANY";

3 (12) using, in any printed advertisement, an assumed or fictitious
4 name for the conduct of such person's business that includes the name of
5 any municipality, community or region or other description of the
6 municipality, community or region in this state in such a manner as to
7 suggest that such person's business is located in such municipality,
8 community or region unless: (A) Such person's business is, in fact, located
9 in such municipality, community or region; or (B) such person includes in
10 any such printed advertisement the complete street and city address of the
11 location from which such person's business is actually conducted. If
12 located outside of Kansas, the state in which such person's business is
13 located also shall be included. The provisions of this subsection shall not
14 apply to the use of any trademark or service mark registered under the
15 laws of this state or under federal law; any such name that, when applied
16 to the goods or services of such person's business, is merely descriptive of
17 them; or any such name that is merely a surname. Nothing in this
18 subsection shall be construed to impose any liability on any publisher
19 when such publisher had no knowledge the business was not, in fact,
20 located in such municipality, community or region;

21 (13) (A) making an oral solicitation for products or services based on
22 a mortgage trigger lead unless the solicitation clearly and conspicuously
23 states in the initial phase of the solicitation that the solicitor is not
24 affiliated with the lender or broker with which the consumer initially
25 applied and that the solicitation is based on personal information about the
26 consumer that was purchased, directly or indirectly, from a consumer
27 reporting agency without the knowledge or permission of the lender or
28 broker with which the consumer initially applied;

29 (B) making a written solicitation for products or services based on a
30 mortgage trigger lead unless the solicitation clearly and conspicuously
31 states on the first page of the solicitation that the solicitor is not affiliated
32 with the lender or broker with which the consumer initially applied and
33 that the solicitation is based on personal information about the consumer
34 that was purchased, directly or indirectly, from a consumer reporting
35 agency without the knowledge or permission of the lender or broker with
36 which the consumer initially applied. Clear and conspicuous shall include
37 legible type in contrast by typography, layout or color with other printing
38 on the first page of the correspondence; and

39 (C) any solicitor under clause (A) or (B) shall be in compliance with
40 the provisions of the Kansas mortgage business act, unless otherwise
41 exempted from such act, and any other law or regulation; ~~and~~

42 (14) failing to release funds representing an insurance settlement
43 payment for damage to real property subject to a mortgage by the

1 mortgage holder to the mortgagor within 30 days after receiving written
2 proof that the damaged property is replaced or otherwise repaired to the
3 satisfaction of the mortgagor and the mortgage holder. Any person who
4 submits false information regarding the condition of the property shall be
5 liable in damages to the mortgage holder or the mortgage holder's assignee
6 for the amount of the funds together with interest thereon, attorney fees,
7 and any additional damages that the mortgage holder or the mortgage
8 holder's assignee has incurred; *and*
9 *(15) noncompliance with the provisions of the consumer protection*
10 *related to hospital price transparency act.*
11 Sec. 6. K.S.A. 2023 Supp. 50-626 is hereby repealed.
12 Sec. 7. This act shall take effect and be in force from and after its
13 publication in the statute book.