

1 **SENATE FLOOR VERSION**

2 February 27, 2023

3 **AS AMENDED**

4 SENATE BILL NO. 732

By: Dahm and Jett of the Senate

and

Sneed of the House

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7
8 **[hospitals - collection actions - exception -**
9 **lawsuit - price transparency laws - compliance**
10 **standards - codification - effective date]**

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-725.11 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 As used in this act, unless the context otherwise requires:

17 1. "Collection action" means any of the following actions taken
18 with respect to a debt for items and services that were purchased
19 from or provided to a patient by a hospital on a date during which
20 the hospital was not in material compliance with hospital price
21 transparency laws:

- 22 a. attempting to collect a debt from a patient or patient
23 guarantor by referring the debt, directly or
24 indirectly, to a debt collector, a collection agency,

1 or other third party retained by or on behalf of the
2 hospital,

3 b. suing the patient or patient guarantor or enforcing an
4 arbitration or mediation clause in any hospital
5 documents, including contracts, agreements,
6 statements, or bills, or

7 c. directly or indirectly causing a report to be made to
8 a consumer reporting agency;

9 2. a. "Collection agency" means any:

10 (1) person who engages in a business, the principal
11 purpose of which is the collection of debts, or

12 (2) person who:

13 (a) regularly collects or attempts to collect,
14 directly or indirectly, debts owed or due or
15 asserted to be owed or due to another,

16 (b) takes assignment of debts for collection
17 purposes, or

18 (c) directly or indirectly solicits for
19 collection debts owed or due or asserted to
20 be owed or due to another.

21 b. Collection agency does not include:

22 (1) any officer or employee of a creditor while, in
23 the name of the creditor, collecting debts for
24 such creditor,

1 (2) any person while acting as a collection agency
2 for another person, both of whom are related by
3 common ownership or affiliated by corporate
4 control, if the person acting as a collection
5 agency does so only for creditors to whom it is
6 so related or affiliated and if the principal
7 business of the person is not the collection of
8 debts,

9 (3) any officer or employee of the United States or
10 any state to the extent that collecting or
11 attempting to collect any debt is in the
12 performance of the officer's or employee's
13 official duties,

14 (4) any person while serving or attempting to serve
15 legal process on any other person in connection
16 with the judicial enforcement of any debt,

17 (5) any person collecting or attempting to collect
18 any debt owed or due or asserted to be owed or
19 due to another to the extent that:

20 (a) the activity is incidental to a bona fide
21 fiduciary obligation or a bona fide escrow
22 arrangement,

23 (b) the activity concerns a debt that was
24 extended by the person,

1 (c) the activity concerns a debt that was not in
2 default at the time it was obtained by the
3 person, or

4 (d) the activity concerns a debt obtained by the
5 person as a secured party in a commercial
6 credit transaction involving the creditor,
7 or

8 (6) any person whose principal business is the making
9 of loans or the servicing of debt not in default
10 and who acts as a loan correspondent, seller and
11 servicer for the owner, or holder of a debt that
12 is secured by a deed of trust on real property,
13 whether or not the debt is also secured by an
14 interest in personal property.

15 c. Notwithstanding the provisions of subparagraph b of
16 this paragraph, collection agency includes any person
17 who, in the process of collecting the person's own
18 debts, uses another name that would indicate that a
19 third person is collecting or attempting to collect
20 such debts;

21 3. a. "Consumer reporting agency" means any person that, for
22 monetary fees or dues or on a cooperative nonprofit
23 basis, regularly engages, in whole or in part, in the
24 practice of assembling or evaluating consumer credit

1 information or other information on consumers for the
2 purpose of furnishing consumer reports to third
3 parties. Consumer reporting agency includes any
4 person defined in 15 U.S.C, Section 1681a(f) or a
5 credit services organization as defined in Section 132
6 of Title 24 of the Oklahoma Statutes.

7 b. Consumer reporting agency does not include any
8 business entity that provides check verification or
9 check guarantee services only;

10 4. a. "Debt" means any obligation or alleged obligation of a
11 consumer to pay money arising out of a transaction,
12 whether or not the obligation has been reduced to
13 judgment.

14 b. Debt does not include a debt for business, investment,
15 commercial, or agricultural purposes or a debt
16 incurred by a business;

17 5. "Debt collector" means any person employed or engaged by a
18 collection agency to perform the collection of debts owed or due or
19 asserted to be owed or due to another;

20 6. "Federal Centers for Medicare and Medicaid Services" or
21 "CMS" means the Centers for Medicare and Medicaid Services in the
22 United States Department of Health and Human Services;
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1 7. "Hospital" means, consistent with 45 CFR 180.20, a hospital
2 licensed by the State Department of Health under Section 1-702 of
3 Title 63 of the Oklahoma Statutes;

4 8. "Hospital price transparency laws" means:

5 a. Section 2718(e) of the "Public Health Service (PHS)
6 Act", P.L. 78-410, as amended, and rules adopted by
7 the United States Department of Health and Human
8 Services implementing Section 2718(e), and

9 b. The Transparency in Health Care Prices Act, Section 1-
10 725.1 of Title 63 of the Oklahoma Statutes; and

11 9. "Items and services" or "items or services" means items and
12 services as defined in 45 CFR 180.20.

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-725.12 of Title 63, unless
15 there is created a duplication in numbering, reads as follows:

16 A. 1. Except as provided in paragraph 2 of this subsection, on
17 and after the effective date of this act, a hospital that is not in
18 material compliance with hospital price transparency laws on the
19 date that items or services are purchased from or provided to a
20 patient by the hospital shall not initiate or pursue a collection
21 action against the patient or patient guarantor for a debt owed for
22 the items or services.

1 2. This act applies, on and after June 1, 2024, to critical
2 access hospitals licensed by the State Department of Health pursuant
3 to 42 CFR 485 Subpart F.

4 B. If a patient believes that a hospital was not in material
5 compliance with hospital price transparency laws on a date on or
6 after the effective date of this act, that items or services were
7 purchased by or provided to the patient, and the hospital takes a
8 collection action against the patient or patient guarantor, the
9 patient or patient guarantor may file suit to determine if the
10 hospital was materially out of compliance with the hospital price
11 transparency laws and rules and regulations on the date of service
12 and if the noncompliance is related to the items or services. The
13 hospital shall not take a collection action against the patient or
14 patient guarantor while the lawsuit is pending.

15 C. A hospital that has been found by a judge or jury to be
16 materially out of compliance with hospital price transparency laws
17 and rules and regulations:

18 1. Shall refund the payer any amount of the debt the payer has
19 paid and shall pay a penalty to the patient or patient guarantor in
20 an amount equal to the total amount of the debt;

21 2. Shall dismiss or cause to be dismissed any court action with
22 prejudice and pay any reasonable attorney fees and costs incurred by
23 the patient or patient guarantor relating to the action; and
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1 3. Shall remove or cause to be removed from the patient's or
2 patient guarantor's credit report any report made to a consumer
3 reporting agency relating to the debt.

4 D. In finding a hospital to be materially out of compliance
5 with hospital price transparency laws and rules and regulations as
6 described in subsection C of this section, specifically with respect
7 to the federal component of hospital price transparency laws and
8 rules and regulations, Section 2718(e) of the "Public Health Service
9 (PHS) Act", P.L. 78-410, as amended, and rules adopted by the United
10 States Department of Health and Human Services implementing Section
11 2718(e), the judge or jury shall consider compliance standards
12 issued by the federal Centers for Medicare and Medicaid Services.

13 E. Nothing in this act:

14 1. Prohibits a hospital from billing a patient, patient
15 guarantor, or third-party payer, including a health insurer, for
16 items or services provided to the patient; or

17 2. Requires a hospital to refund any payment made to the
18 hospital for items or services provided to the patient, so long as
19 no collection action is taken in violation of this act.

20 SECTION 3. This act shall become effective November 1, 2023.

21 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
22 February 27, 2023 - DO PASS AS AMENDED

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