



General Assembly

January Session, 2021

Raised Bill No. 6488

LCO No. 3368



Referred to Committee on PUBLIC HEALTH

Introduced by:
(PH)

***AN ACT CONCERNING THE OFFICE OF HEALTH STRATEGY'S
RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO
HOSPITAL OR HEALTH SYSTEM FACILITY FEES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-508c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section:

4 (1) "Affiliated provider" means a provider that is: (A) Employed by a
5 hospital or health system, (B) under a professional services agreement
6 with a hospital or health system that permits such hospital or health
7 system to bill on behalf of such provider, or (C) a clinical faculty member
8 of a medical school, as defined in section 33-182aa, that is affiliated with
9 a hospital or health system in a manner that permits such hospital or
10 health system to bill on behalf of such clinical faculty member;

11 (2) "Campus" means: (A) The physical area immediately adjacent to a
12 hospital's main buildings and other areas and structures that are not
13 strictly contiguous to the main buildings but are located within two

14 hundred fifty yards of the main buildings, or (B) any other area that has
15 been determined on an individual case basis by the Centers for Medicare
16 and Medicaid Services to be part of a hospital's campus;

17 (3) "Facility fee" means any fee charged or billed by a hospital or
18 health system for outpatient services provided in a hospital-based
19 facility that is: (A) Intended to compensate the hospital or health system
20 for the operational expenses of the hospital or health system, and (B)
21 separate and distinct from a professional fee;

22 (4) "Health system" means: (A) A parent corporation of one or more
23 hospitals and any entity affiliated with such parent corporation through
24 ownership, governance, membership or other means, or (B) a hospital
25 and any entity affiliated with such hospital through ownership,
26 governance, membership or other means;

27 (5) "Hospital" has the same meaning as provided in section 19a-490;

28 (6) "Hospital-based facility" means a facility that is owned or
29 operated, in whole or in part, by a hospital or health system where
30 hospital or professional medical services are provided;

31 (7) "Payer mix" means the proportion of different sources of payment
32 received by a hospital or health system, including, but not limited to,
33 Medicare, Medicaid, other government-provided insurance, private
34 insurance and self-pay patients;

35 ~~[(7)]~~ (8) "Professional fee" means any fee charged or billed by a
36 provider for professional medical services provided in a hospital-based
37 facility; and

38 ~~[(8)]~~ (9) "Provider" means an individual, entity, corporation or health
39 care provider, whether for profit or nonprofit, whose primary purpose
40 is to provide professional medical services.

41 (b) If a hospital or health system charges a facility fee utilizing a
42 current procedural terminology evaluation and management (CPT
43 E/M) code for outpatient services provided at a hospital-based facility

44 where a professional fee is also expected to be charged, the hospital or
45 health system shall provide the patient with a written notice that
46 includes the following information:

47 (1) That the hospital-based facility is part of a hospital or health
48 system and that the hospital or health system charges a facility fee that
49 is in addition to and separate from the professional fee charged by the
50 provider;

51 (2) (A) The amount of the patient's potential financial liability,
52 including any facility fee likely to be charged, and, where professional
53 medical services are provided by an affiliated provider, any professional
54 fee likely to be charged, or, if the exact type and extent of the
55 professional medical services needed are not known or the terms of a
56 patient's health insurance coverage are not known with reasonable
57 certainty, an estimate of the patient's financial liability based on typical
58 or average charges for visits to the hospital-based facility, including the
59 facility fee, (B) a statement that the patient's actual financial liability will
60 depend on the professional medical services actually provided to the
61 patient, (C) an explanation that the patient may incur financial liability
62 that is greater than the patient would incur if the professional medical
63 services were not provided by a hospital-based facility, and (D) a
64 telephone number the patient may call for additional information
65 regarding such patient's potential financial liability, including an
66 estimate of the facility fee likely to be charged based on the scheduled
67 professional medical services; and

68 (3) That a patient covered by a health insurance policy should contact
69 the health insurer for additional information regarding the hospital's or
70 health system's charges and fees, including the patient's potential
71 financial liability, if any, for such charges and fees.

72 (c) If a hospital or health system charges a facility fee without
73 utilizing a current procedural terminology evaluation and management
74 (CPT E/M) code for outpatient services provided at a hospital-based
75 facility, located outside the hospital campus, the hospital or health

76 system shall provide the patient with a written notice that includes the
77 following information:

78 (1) That the hospital-based facility is part of a hospital or health
79 system and that the hospital or health system charges a facility fee that
80 may be in addition to and separate from the professional fee charged by
81 a provider;

82 (2) (A) A statement that the patient's actual financial liability will
83 depend on the professional medical services actually provided to the
84 patient, (B) an explanation that the patient may incur financial liability
85 that is greater than the patient would incur if the hospital-based facility
86 was not hospital-based, and (C) a telephone number the patient may call
87 for additional information regarding such patient's potential financial
88 liability, including an estimate of the facility fee likely to be charged
89 based on the scheduled professional medical services; and

90 (3) That a patient covered by a health insurance policy should contact
91 the health insurer for additional information regarding the hospital's or
92 health system's charges and fees, including the patient's potential
93 financial liability, if any, for such charges and fees.

94 (d) [On and after January 1, 2016, each] Each initial billing statement
95 that includes a facility fee shall: (1) Clearly identify the fee as a facility
96 fee that is billed in addition to, or separately from, any professional fee
97 billed by the provider; (2) provide the corresponding Medicare facility
98 fee reimbursement rate for the same service as a comparison or, if there
99 is no corresponding Medicare facility fee for such service, (A) the
100 approximate amount Medicare would have paid the hospital for the
101 facility fee on the billing statement, or (B) the percentage of the hospital's
102 charges that Medicare would have paid the hospital for the facility fee;
103 (3) include a statement that the facility fee is intended to cover the
104 hospital's or health system's operational expenses; (4) inform the patient
105 that the patient's financial liability may have been less if the services had
106 been provided at a facility not owned or operated by the hospital or
107 health system; and (5) include written notice of the patient's right to

108 request a reduction in the facility fee or any other portion of the bill and
109 a telephone number that the patient may use to request such a reduction
110 without regard to whether such patient qualifies for, or is likely to be
111 granted, any reduction. Not later than October 1, 2021, and annually
112 thereafter, each hospital, health system and hospital-based facility shall
113 submit to the Health Planning Unit of the Office of Health Strategy a
114 sample of a billing statement issued by such hospital, health system or
115 hospital-based facility that complies with the provisions of this
116 subsection and which represents the format of billing statements
117 received by patients. Such billing statement shall not contain patient
118 identifying information.

119 (e) The written notice described in subsections (b) to (d), inclusive,
120 and (h) to (j), inclusive, of this section shall be in plain language and in
121 a form that may be reasonably understood by a patient who does not
122 possess special knowledge regarding hospital or health system facility
123 fee charges. On and after October 1, 2021, such notices shall be printed
124 in at least the top fifteen languages spoken in the state, as determined
125 by statistics prepared by the United States Census Bureau, based on the
126 most recent decennial census.

127 (f) (1) For nonemergency care, if a patient's appointment is scheduled
128 to occur ten or more days after the appointment is made, such written
129 notice shall be sent to the patient by first class mail, encrypted electronic
130 mail or a secure patient Internet portal not less than three days after the
131 appointment is made. If an appointment is scheduled to occur less than
132 ten days after the appointment is made or if the patient arrives without
133 an appointment, such notice shall be hand-delivered to the patient when
134 the patient arrives at the hospital-based facility.

135 (2) For emergency care, such written notice shall be provided to the
136 patient as soon as practicable after the patient is stabilized in accordance
137 with the federal Emergency Medical Treatment and Active Labor Act,
138 42 USC 1395dd, as amended from time to time, or is determined not to
139 have an emergency medical condition and before the patient leaves the
140 hospital-based facility. If the patient is unconscious, under great duress

141 or for any other reason unable to read the notice and understand and
142 act on his or her rights, the notice shall be provided to the patient's
143 representative as soon as practicable.

144 (g) Subsections (b) to (f), inclusive, and (l) of this section shall not
145 apply if a patient is insured by Medicare or Medicaid or is receiving
146 services under a workers' compensation plan established to provide
147 medical services pursuant to chapter 568.

148 (h) A hospital-based facility shall prominently display written notice
149 in locations that are readily accessible to and visible by patients,
150 including patient waiting or appointment check-in areas, stating: (1)
151 That the hospital-based facility is part of a hospital or health system, (2)
152 the name of the hospital or health system, and (3) that if the hospital-
153 based facility charges a facility fee, the patient may incur a financial
154 liability greater than the patient would incur if the hospital-based
155 facility was not hospital-based. On and after October 1, 2021, each such
156 written notice shall be printed in at least the top fifteen languages
157 spoken in the state, as determined by statistics prepared by the United
158 States Census Bureau, based on the most recent decennial census. Not
159 later than October 1, 2021, and annually thereafter, each hospital-based
160 facility shall submit a copy of the written notice required by this
161 subsection to the Health Systems Planning Unit of the Office of Health
162 Strategy.

163 (i) A hospital-based facility shall clearly hold itself out to the public
164 and payers as being hospital-based, including, at a minimum, by stating
165 the name of the hospital or health system in its signage, marketing
166 materials, Internet web sites and stationery.

167 (j) A hospital-based facility shall, when scheduling services for which
168 a facility fee may be charged, inform the patient (1) that the hospital-
169 based facility is part of a hospital or health system, (2) of the name of the
170 hospital or health system, (3) that the hospital or health system may
171 charge a facility fee in addition to and separate from the professional fee
172 charged by the provider, and (4) of the telephone number the patient

173 may call for additional information regarding such patient's potential
174 financial liability.

175 (k) (1) [On and after January 1, 2016, if any transaction, as] If any
176 transaction described in subsection (c) of section 19a-486i, results in the
177 establishment of a hospital-based facility at which facility fees [will
178 likely] may be billed, the hospital or health system, that is the purchaser
179 in such transaction shall, not later than thirty days after such transaction,
180 provide written notice, by first class mail, of the transaction to each
181 patient served within the [previous] three years preceding the date of
182 the transaction by the health care facility that has been purchased as part
183 of such transaction. On and after January 1, 2022, such hospital or health
184 system shall, not later than thirty days after such transaction, provide
185 written notice by first class mail, or any other method that provides
186 individual notice, to each patient served within the three years
187 preceding the date of the transaction by the health care facility that has
188 been purchased as part of such transaction.

189 (2) Such notice shall include the following information:

190 (A) A statement that the health care facility is now a hospital-based
191 facility and is part of a hospital or health system, the health care facility's
192 full legal and business name and the date of such facility's acquisition
193 by a hospital or health system;

194 (B) The name, business address and phone number of the hospital or
195 health system that is the purchaser of the health care facility;

196 (C) A statement that the hospital-based facility bills, or is likely to bill,
197 patients a facility fee that may be in addition to, and separate from, any
198 professional fee billed by a health care provider at the hospital-based
199 facility;

200 (D) (i) A statement that the patient's actual financial liability will
201 depend on the professional medical services actually provided to the
202 patient, and (ii) an explanation that the patient may incur financial
203 liability that is greater than the patient would incur if the hospital-based

204 facility were not a hospital-based facility;

205 (E) The estimated amount or range of amounts the hospital-based
206 facility may bill for a facility fee or an example of the average facility fee
207 billed at such hospital-based facility for the most common services
208 provided at such hospital-based facility; and

209 (F) A statement that, prior to seeking services at such hospital-based
210 facility, a patient covered by a health insurance policy should contact
211 the patient's health insurer for additional information regarding the
212 hospital-based facility fees, including the patient's potential financial
213 liability, if any, for such fees.

214 (3) A copy of the written notice provided to patients in accordance
215 with this subsection shall be filed with the Health Systems Planning
216 Unit of the Office of Health Strategy, established under section 19a-612.
217 Said unit shall post a link to such notice on its Internet web site.

218 (4) A hospital, health system or hospital-based facility shall not collect
219 a facility fee for services provided at a hospital-based facility that is
220 subject to the provisions of this subsection from the date of the
221 transaction until at least thirty days after the written notice required
222 pursuant to this subsection is mailed to the patient or a copy of such
223 notice is filed with the Health Systems Planning Unit, whichever is later.
224 A violation of this subsection shall be considered an unfair trade
225 practice pursuant to section 42-110b.

226 (5) Not later than July 1, 2022, and annually thereafter, each hospital-
227 based facility that was the subject of a transaction, as described in
228 subsection (c) of section 19a-486i, during the preceding calendar year
229 shall report to the Health Systems Planning Unit the number of patients
230 served by such hospital-based facility in the preceding three years, the
231 number of patients notified in accordance with the provisions of this
232 subsection and the types of delivery methods used to notify such
233 patients, the number of patients that were notified by each delivery
234 method and the date or dates such notifications were sent.

235 (l) Notwithstanding the provisions of this section, no hospital, health
236 system or hospital-based facility shall collect a facility fee for (1)
237 outpatient health care services that use a current procedural
238 terminology evaluation and management (CPT E/M) or assessment and
239 management (CPT A/M) code and are provided at a hospital-based
240 facility located off-site from a hospital campus, or (2) outpatient health
241 care services provided at a hospital-based facility located off-site from a
242 hospital campus, received by a patient who is uninsured of more than
243 the Medicare rate. Notwithstanding the provisions of this subsection, in
244 circumstances when an insurance contract that is in effect on July 1,
245 2016, provides reimbursement for facility fees prohibited under the
246 provisions of this section, a hospital or health system may continue to
247 collect reimbursement from the health insurer for such facility fees until
248 the date of expiration of such contract, except that on and after July 1,
249 2021, any amendment extending the expiration date of such contract
250 shall not extend the time a hospital or health system may continue to
251 collect such reimbursement. A violation of this subsection shall be
252 considered an unfair trade practice pursuant to chapter 735a. The
253 provisions of this subsection shall not apply to a freestanding
254 emergency department. As used in this subsection, "freestanding
255 emergency department" means a freestanding facility that (A) is
256 structurally separate and distinct from a hospital, (B) provides
257 emergency care, (C) is a department of a hospital licensed under chapter
258 368v, and (D) has been issued a certificate of need to operate as a
259 freestanding emergency department pursuant to chapter 368z.

260 (m) (1) Each hospital and health system shall report not later than July
261 1, 2016, and annually thereafter to the executive director of the Office of
262 Health Strategy, on a form prescribed by the executive director,
263 concerning facility fees charged or billed during the preceding calendar
264 year. Such report shall include (A) the name and [location] address of
265 each facility owned or operated by the hospital or health system that
266 provides services for which a facility fee is charged or billed, (B) the
267 number of patient visits at each such facility for which a facility fee was
268 charged or billed, (C) the number, total amount and range of allowable

269 facility fees paid at each such facility [by Medicare, Medicaid or under
 270 private insurance policies] disaggregated by payer mix, (D) for each
 271 facility, the total amount of facility fees charged and the total amount of
 272 revenue received by the hospital or health system derived from facility
 273 fees, (E) the total amount of facility fees charged and the total amount of
 274 revenue received by the hospital or health system from all facilities
 275 derived from facility fees, (F) a description of the ten procedures or
 276 services that generated the greatest amount of facility fee gross revenue,
 277 disaggregated by current procedural terminology category (CPT) code
 278 for each such procedure or service and, for each such procedure or
 279 service, patient volume and the total amount of gross and net revenue
 280 received by the hospital or health system derived from facility fees, and
 281 (G) the top ten procedures or services for which facility fees are charged
 282 based on patient volume and the gross and net revenue received by the
 283 hospital or health system for each such procedure or service. For
 284 purposes of this subsection, "facility" means a hospital-based facility
 285 that is located outside a hospital campus.

286 (2) On and after July 1, 2023, and annually thereafter, each hospital
 287 and health system shall include in the report required under subdivision
 288 (1) of this subsection (A) the number of patients who contacted the
 289 hospital or health system to request a reduction of a facility fee for the
 290 preceding calendar year, disaggregated by payer mix, (B) the number of
 291 such patients who received a reduction of a facility fee, disaggregated
 292 by payer mix, (C) the total amount of facility fees charged to patients
 293 who requested reductions of facility fees, disaggregated by payer mix,
 294 and (D) the total amount of reduced facility fees charged to such
 295 patients, disaggregated by payer mix.

296 ~~[(2)]~~ (3) The executive director shall publish the information reported
 297 pursuant to subdivision (1) of this subsection, or post a link to such
 298 information, on the Internet web site of the Office of Health Strategy.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-508c

Statement of Purpose:

To make various revisions to hospital or health system facility fees.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]