

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) The attorney general shall have the authority to
4 enforce the provisions of this act.

5 (b) If the attorney general finds that a hospital is noncompliant with
6 45 C.F.R. § 180, as in effect on July 1, 2024, then such hospital shall be
7 fined \$250 per day that such hospital is noncompliant.

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

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

15 (b) (1) (A) If a patient believes that a hospital was not in material
16 compliance with this act on the date that items or services were purchased
17 by or provided to the patient and the hospital undertakes a collection
18 action against such patient or patient guarantor, then such patient or patient
19 guarantor may file a civil action against the hospital to determine if:

20 (i) The hospital was materially out of compliance with this act or
21 rules and regulations promulgated thereunder, on the date that the items or
22 services were purchased or provided; and

23 (ii) such noncompliance with this act is related to the items or
24 services purchased by or provided to the patient.

25 (B) A hospital shall not undertake a collection against a patient or
26 patient guarantor while a civil action as described in this section is
27 pending.

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

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

36 (ii) move to dismiss, with prejudice, any collection action relating to
37 the debt and pay any attorney fees and costs incurred by the patient or the
38 patient guarantor relating to such action; and

39 (iii) cause to be removed from the patient or the patient guarantor's
40 credit report any report made to a consumer reporting agency relating to
41 the debt and take necessary actions to cause any report made to a
42 consumer credit agency relating to the debt to be removed from the
43 patient's or patient guarantor's credit report.

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

4 (c) Nothing in this act shall be construed to:

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

8 (2) require a hospital to refund any payment made to such hospital by
9 a patient, patient guarantor or third-party payor for items purchased by or
10 provided to the patient so long as such hospital has not undertaken a
11 collection action against such patient, patient guarantor or third-party
12 payor in violation of subparagraph (b)(1)(B).

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

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

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

20 (A) Property or services have sponsorship, approval, accessories,
21 characteristics, ingredients, uses, benefits or quantities that they do not
22 have;

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

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

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

31 (E) the consumer will receive a rebate, discount or other benefit as an
32 inducement for entering into a consumer transaction in return for giving
33 the supplier the names of prospective consumers or otherwise helping the
34 supplier to enter into other consumer transactions, if receipt of benefit is
35 contingent on an event occurring after the consumer enters into the
36 transaction;

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

40 (G) use, benefit or characteristic of property or services has been
41 proven or otherwise substantiated unless the supplier relied upon and
42 possesses the type and amount of proof or substantiation represented to
43 exist;

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

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

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

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

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

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

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

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

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

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

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

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

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

35 " _____ IS NOT

36 (name of telephone directory service)

37 AFFILIATED WITH ANY LOCAL TELEPHONE COMPANY";

38 (12) using, in any printed advertisement, an assumed or fictitious
39 name for the conduct of such person's business that includes the name of
40 any municipality, community or region or other description of the
41 municipality, community or region in this state in such a manner as to
42 suggest that such person's business is located in such municipality,
43 community or region unless: (A) Such person's business is, in fact, located

1 in such municipality, community or region; or (B) such person includes in
2 any such printed advertisement the complete street and city address of the
3 location from which such person's business is actually conducted. If
4 located outside of Kansas, the state in which such person's business is
5 located also shall be included. The provisions of this subsection shall not
6 apply to the use of any trademark or service mark registered under the
7 laws of this state or under federal law; any such name that, when applied
8 to the goods or services of such person's business, is merely descriptive of
9 them; or any such name that is merely a surname. Nothing in this
10 subsection shall be construed to impose any liability on any publisher
11 when such publisher had no knowledge the business was not, in fact,
12 located in such municipality, community or region;

13 (13) (A) making an oral solicitation for products or services based on
14 a mortgage trigger lead unless the solicitation clearly and conspicuously
15 states in the initial phase of the solicitation that the solicitor is not
16 affiliated with the lender or broker with which the consumer initially
17 applied and that the solicitation is based on personal information about the
18 consumer that was purchased, directly or indirectly, from a consumer
19 reporting agency without the knowledge or permission of the lender or
20 broker with which the consumer initially applied;

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

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

34 (14) failing to release funds representing an insurance settlement
35 payment for damage to real property subject to a mortgage by the
36 mortgage holder to the mortgagor within 30 days after receiving written
37 proof that the damaged property is replaced or otherwise repaired to the
38 satisfaction of the mortgagor and the mortgage holder. Any person who
39 submits false information regarding the condition of the property shall be
40 liable in damages to the mortgage holder or the mortgage holder's assignee
41 for the amount of the funds together with interest thereon, attorney fees,
42 and any additional damages that the mortgage holder or the mortgage
43 holder's assignee has incurred; *and*

1 *(15) noncompliance with the provisions of the consumer protection*
2 *related to hospital price transparency act.*

3 Sec. 6. K.S.A. 2023 Supp. 50-626 is hereby repealed.

4 Sec. 7. This act shall take effect and be in force from and after its
5 publication in the statute book.