

2017 Regular Session

HOUSE BILL NO. 435

BY REPRESENTATIVE TALBOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/HEALTH: Requires disclosure to patient of out-of-network providers prior to surgery

1 AN ACT

2 To enact R.S. 22:1880(E), relative to balance billing disclosure; to require that a healthcare  
3 facility disclose to a patient out-of-network providers prior to nonemergency  
4 surgery; to provide for opportunities for a patient to obtain in-network providers; to  
5 provide for penalties for failure to disclose; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:1880(E) is hereby enacted to read as follows:

8 §1880. Balance billing disclosure

9 \* \* \*

10 E.(1) Facility disclosure requirements prior to nonemergency surgery. Each  
11 healthcare facility providing surgical services shall:

12 (a) Provide a written notice to an enrollee or insured no later than seventy-  
13 two hours prior to the scheduled date of a nonemergency surgical procedure  
14 disclosing all of the following items:

15 (i) Confirmation as to whether the facility is a participating provider  
16 contracted with the enrollee's or insured's health insurance issuer on the date services  
17 are to be rendered, based on the information received from the enrollee or insured  
18 at the time the confirmation is provided.

1           (ii) The following balance billing disclosure notice:

2                                   "NOTICE

3           HEALTH CARE SERVICES MAY BE PROVIDED TO YOU BY  
4           FACILITY-BASED PHYSICIANS WHO ARE NOT IN YOUR HEALTH PLAN.  
5           YOU MAY BE RESPONSIBLE FOR PAYMENT OF ALL OR PART OF THE  
6           FEES FOR THOSE OUT-OF-NETWORK SERVICES, IN ADDITION TO  
7           APPLICABLE AMOUNTS DUE FOR CO-PAYMENTS, COINSURANCE,  
8           DEDUCTIBLES, AND NON-COVERED SERVICES. SPECIFIC INFORMATION  
9           ABOUT IN-NETWORK AND OUT-OF-NETWORK FACILITY-BASED  
10          PHYSICIANS CAN BE FOUND AT THE WEBSITE ADDRESS OF YOUR  
11          HEALTH PLAN OR BY CALLING THE CUSTOMER SERVICE TELEPHONE  
12          NUMBER OF YOUR HEALTH PLAN. YOU HAVE THE RIGHT TO  
13          SUBSTITUTE IN-NETWORK PROVIDERS TO PERFORM THE SAME  
14          SERVICES AS OUT-OF-NETWORK PROVIDERS DURING YOUR SURGICAL  
15          PROCEDURE."

16          (iii) A list of all facility-based providers who will be providing services  
17          during the surgical procedure whose services are not included in the fee charged by  
18          the healthcare facility and who will bill the enrollee or insured separately, and  
19          whether each such provider is a participating provider contracted with the enrollee's  
20          or insured's health insurance provider.

21          (b) Provide a list upon request from an enrollee or insured that contains the  
22          name and contact information for each individual or group of hospital-contracted  
23          anesthesiologists, pathologists, radiologists, hospitalists, intensivists, and  
24          neonatologists who provide services at that facility and inform the enrollee or  
25          insured that the enrollee or insured may request information from his health  
26          insurance issuer as to whether those providers are contracted with the health  
27          insurance issuer and under what circumstances the enrollee or insured may be  
28          responsible for payment of any amounts not paid by the health insurance issuer.

1           (c) If the facility operates a website that includes a listing of providers who  
2           have been granted medical staff privileges to provide medical services at the facility,  
3           post on the facility's website a list that contains the name and contact information for  
4           each facility-based provider or facility-based provider group that has been granted  
5           medical staff privileges to provide medical services at the facility, and an update of  
6           the list within thirty days of any changes.

7           (2) Failure by the healthcare facility to provide the notice required by this  
8           Subsection shall require the healthcare facility to be responsible for the portion of the  
9           out-of-network provider's fee not covered by the enrollee's or insured's health  
10          insurance plan, including but not limited to the enrollee's or insured's contractual  
11          deductible, coinsurance, or co-payment amount.

12          (3)(a) Violations of this Subsection shall be deemed an unfair trade practice  
13          pursuant to Part IV of Chapter 7 of the Louisiana Revised Statutes of 1950,  
14          R.S. 22:1961 et seq.

15          (b) The commissioner shall have the power to enforce the provisions of this  
16          Subsection pursuant to the powers granted to the commissioner by that Part.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 435 Original

2017 Regular Session

Talbot

**Abstract:** Requires that a healthcare facility advise a patient at least 72 hours prior to the scheduled date of a nonemergency surgery of the use of out-of-network medical providers.

Present law requires that a healthcare facility provide a written notice to a patient regarding the possible provision of services to a patient by facility-based providers who are out-of-network providers. Present law further requires that the patient be informed in the written notice that the patient may be responsible for all or part of the fees for out-of-network services.

Proposed law retains present law and further requires that at least 72 hours prior to a scheduled nonemergency surgery the healthcare facility provide a written notice to the patient of all providers who will be providing services during the surgical procedure whose fees are not included in the fees charged by the facility. Further provides that the healthcare facility include whether these additional providers are in the patient's network or are out-of-network providers.

Proposed law provides a patient an opportunity to replace out-of-network healthcare providers with in-network healthcare providers.

Proposed law provides that a healthcare facility that fails to provide a patient with the required notice will be responsible for the patient's fees not covered by the patient's health insurance provider.

Proposed law provides that violations are an unfair trade practice and may be investigated and penalized by the commissioner pursuant to the unfair trade practices provision in the Insurance Code, R.S. 22:1961 et seq.

(Adds R.S. 22:1880(E))