

# SENATE BILL 1103

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CF HB 1149

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By: **The President (By Request – Office of the Attorney General)**

Introduced and read first time: February 2, 2024

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Hospitals and Related Institutions – Outpatient Facility Fees**

3 FOR the purpose of altering the definition of “hospital” to require a hospital located outside  
4 the State that provides outpatient services to patients in the State to provide a  
5 certain written notice regarding outpatient facility fees under certain circumstances;  
6 altering the required contents of the written notice regarding outpatient facility fees;  
7 requiring the Maryland Health Services Cost Review Commission, in consultation  
8 with certain entities, to study and make recommendations regarding hospital  
9 outpatient facility fees; and generally relating to hospital outpatient facility fees.

10 BY repealing and reenacting, with amendments,

11 Article – Health – General  
12 Section 19–349.2  
13 Annotated Code of Maryland  
14 (2023 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
16 That the Laws of Maryland read as follows:

17 **Article – Health – General**

18 19–349.2.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Electronically” means a secure digital or electronic transmission in  
21 compliance with federal and State law, including by:

22 (i) Patient Internet portal;

23 (ii) Encrypted e–mail; or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) Text message with a link to an encrypted notice.

2 **(3) "HOSPITAL" MEANS AN INSTITUTION THAT:**

3 **(I) HAS A GROUP OF AT LEAST FIVE PHYSICIANS WHO ARE**  
4 **ORGANIZED AS A MEDICAL STAFF FOR THE INSTITUTION;**

5 **(II) MAINTAINS FACILITIES TO PROVIDE, UNDER THE**  
6 **SUPERVISION OF THE MEDICAL STAFF, DIAGNOSTIC AND TREATMENT SERVICES FOR**  
7 **TWO OR MORE UNRELATED INDIVIDUALS;**

8 **(III) ADMITS OR RETAINS THE INDIVIDUALS FOR OVERNIGHT**  
9 **CARE; AND**

10 **(IV) IF LOCATED OUTSIDE THE STATE, PROVIDES OUTPATIENT**  
11 **SERVICES TO PATIENTS IN FACILITIES LOCATED IN THE STATE.**

12 **[(3)] (4) (i) "Outpatient facility fee" means a [hospital outpatient**  
13 **charge approved by the Commission for an] FEE CHARGED BY A HOSPITAL FOR**  
14 **outpatient [clinic service] SERVICES PROVIDED IN THE STATE IN COMPENSATION FOR**  
15 **THE USE OF A HOSPITAL'S FACILITY, CLINIC, supply, or equipment, including the service**  
16 **of a PHYSICIAN OR nonphysician clinician.**

17 (ii) "Outpatient facility fee" does not include:

18 1. A charge billed for services delivered in an emergency  
19 department; or

20 2. A [physician] fee [billed] **CHARGED SEPARATELY BY A**  
21 **PHYSICIAN OR NONPHYSICIAN CLINICIAN** for professional services provided at the  
22 hospital.

23 **[(4)] (5) (i) "Patient" means an individual who receives health care.**

24 (ii) "Patient" includes:

25 1. A person authorized to consent to health care for an  
26 individual consistent with the authority granted, including a guardian, surrogate, or person  
27 with a medical power of attorney;

28 2. An individual who is a minor, if the minor seeks treatment  
29 to which the minor has the right to consent and has consented under Title 20, Subtitle 1 of  
30 this article;

1 3. A parent, guardian, custodian, or representative of an  
2 individual who is a minor; and

3 4. A person authorized to consent to health care for an  
4 individual who is a minor consistent with the authority granted.

5 (b) Subject to subsections (c), (d), [and] (e), **AND (F)** of this section, if a hospital  
6 charges an outpatient facility fee, the hospital shall provide the patient with a written  
7 notice, separate from any other forms or notices, in the following form or a substantially  
8 similar form:

9 **IMPORTANT FINANCIAL INFORMATION**

10 (Patient Name)\_\_\_\_\_ Appointment Date:\_\_\_\_\_

11 **Notice Of Hospital Outpatient Facility Fee And Billing Disclosure**

12 a. Your appointment with (provider, practice, or [clinic] **OUTPATIENT FACILITY**  
13 name) will take place in an outpatient department of (hospital name).

14 b. (Hospital name) will charge an outpatient facility fee that is separate from  
15 and in addition to the bill you will receive from (provider).

16 c. You will receive two charges for your visit:

17 1. a provider services bill from (provider); and

18 2. a hospital facility bill from (hospital name).

19 **Expected Fee**

20 (if known) The amount of the facility fee that will be charged by (hospital name) for  
21 your appointment is \$ \_\_\_\_\_. or

22 (if unknown) (Hospital name’s) facility fee is likely to range from \$\_\_\_\_\_ to  
23 \$\_\_\_\_\_. [or] **AND**

24 (if unknown) Based on appointments like the one you are scheduled for, we estimate  
25 the facility fee to be \$\_\_\_\_\_. **AND**

26 (if unknown) We are providing you with a range of fees and an estimate because the  
27 actual amount of the facility fee will depend on the hospital services that are actually  
28 provided. The fee could be higher if you require services during your appointment that we  
29 cannot reasonably predict today.

1 Financial help for your portion of the outpatient facility fee bill may be available. If  
2 you need financial help with the outpatient facility bill, please contact (hospital financial  
3 assistance office, with telephone number and direct website address).

4 Receiving services here may result in greater financial liability than receiving  
5 services at a location where a facility fee may not be charged.

6 (if applicable) No Facility Fee Location

7 You can see (provider) at another location that does not charge a facility fee.

8 (address and contact information)

9 Contact your insurance carrier to see if (provider) is a participating provider and  
10 in-network at the (address of alternative location) location.

11 Insurance Information

12 (1) The amount of the facility fee that you will be responsible for paying  
13 will depend on your insurance coverage.

14 (2) Insurance companies could impose deductibles or higher copayment or  
15 coinsurance amounts for services provided in hospital outpatient departments.

16 (3) If you have insurance, you should contact your carrier to determine  
17 your insurance coverage and your estimated financial responsibility for the facility fee,  
18 including copayments, coinsurance, and deductible amounts for the outpatient facility fee.

19 Facility Fee Complaints

20 If you have a complaint about an outpatient facility fee charge, please first contact  
21 the hospital, (hospital billing office contact information).

22 If the complaint is unresolved, you may then file the complaint with the Health  
23 Services Cost Review Commission, (contact information).

24 If you need additional information regarding your facility fee charges or if you need  
25 assistance mediating a facility fee complaint against a hospital, contact the Health  
26 Education and Advocacy Unit of the Office of the Attorney General, 1-877-261-8807 |  
27 Heau@oag.state.md.us | www.MarylandCares.org.

28 Acknowledgment

29 (1) I understand that I will be billed a hospital facility fee and a provider  
30 fee.

1 (2) (Hospital name) provided me with information on the facility fees that  
2 will be billed for my appointment.

3 (3) I understand that the fee could vary based on conditions and services  
4 provided to me that the hospital cannot reasonably predict today.

5 (4) I understand that my out-of-pocket costs will depend on my insurance  
6 coverage.

7 \_\_\_\_\_(initial here) – by initialing here, I confirm that I received the facility fee  
8 information at the time I made my appointment with (provider).

9 By signing this form, I acknowledge that I have received this information before  
10 receiving services today.

11 \_\_\_\_\_  
12 Signature

\_\_\_\_\_  
Date

13 To request this notice in an alternative format, please call (contact information) or e-mail  
14 (contact information).

15 (Same sentence in Spanish).

16 (c) If a patient does not speak English or requires the notice required under  
17 subsection (b) of this section to be in an alternative format, the hospital shall, to the extent  
18 practicable, provide the notice in a language or format that is understood by the patient.

19 (d) (1) A hospital shall determine the range of hospital outpatient facility fees  
20 and fee estimates, based on typical or average facility fees for the same or similar  
21 appointments, to be provided in the notice required under this section, consistent with the  
22 hospital’s most recent rate order as approved by the Commission.

23 (2) Each hospital that charges an outpatient facility fee shall use the range  
24 of hospital outpatient facility fees and fee estimates determined under paragraph (1) of this  
25 subsection.

26 (e) (1) For an appointment made in person or by telephone:

27 (i) Oral notice of all the information that would be provided in the  
28 form required under subsection (b) of this section shall be given at the time the appointment  
29 is made; and

30 (ii) Except as provided in paragraph (3) of this subsection, the  
31 written notice required under subsection (b) of this section shall be sent to the patient  
32 electronically at the time the appointment is made.

1 (2) For an appointment made electronically or using a website, the written  
2 notice required under subsection (b) of this section shall be:

3 (i) Provided at the time the appointment is made; and

4 (ii) Sent to the patient electronically at the time the appointment is  
5 made.

6 (3) If the patient refuses electronic communication under paragraph (1)(ii)  
7 of this subsection, the written notice shall be sent to the patient by first-class mail at the  
8 time the appointment is made.

9 (f) Before professional medical services are provided on the date of the  
10 appointment, the patient shall acknowledge in writing that the notice required under this  
11 section was provided at the time the appointment was made.

12 (g) A hospital may not charge, bill, or attempt to collect an outpatient facility fee  
13 unless the patient was given notice in accordance with this section.

14 (h) (1) On or before January 31 each year, beginning in 2022, each hospital  
15 shall report to the Health Services Cost Review Commission a list of the hospital-based,  
16 rate-regulated outpatient services provided by the hospital.

17 (2) On or before February 28 each year, beginning in 2022, the Health  
18 Services Cost Review Commission annually shall:

19 (i) Post on its website the list of the hospital-based, rate-regulated  
20 outpatient services reported by each hospital under paragraph (1) of this subsection; and

21 (ii) Provide the list of the hospital-based, rate-regulated outpatient  
22 services reported by each hospital to the Maryland Insurance Administration and the  
23 Health Education and Advocacy Unit in the Office of the Attorney General.

24 (3) When lack of notice in accordance with this section is alleged in a  
25 consumer complaint, the Commission shall give consideration in its investigatory and audit  
26 procedures as to whether notice was not feasible due to circumstances beyond the hospital's  
27 control.

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

29 (a) The Maryland Health Services Cost Review Commission, in consultation with  
30 the Maryland Department of Health, the Maryland Insurance Administration, the Health  
31 Education and Advocacy Unit within the Office of the Attorney General, representatives of  
32 hospitals, representatives of physician practices that provide services in hospital outpatient  
33 settings, health care payers, consumer advocacy groups, and representatives of employer  
34 groups, shall study and make recommendations, including legislative recommendations,  
35 regarding:

1 (1) the impact of hospital outpatient facility fees on the cost of health care  
2 services, access to care, health equity, and other topics as determined necessary by the  
3 Maryland Health Services Cost Review Commission, including the impact on:

4 (i) consumers, including Medicaid recipients;

5 (ii) employers;

6 (iii) physicians and clinicians;

7 (iv) hospitals; and

8 (v) payers;

9 (2) the impact of eliminating or reducing hospital outpatient facility fees  
10 on the cost of health care, access to care, health equity, and other topics as determined  
11 necessary by the Maryland Health Services Cost Review Commission, including the impact  
12 on:

13 (i) consumers, including Medicaid recipients;

14 (ii) employers;

15 (iii) physicians and clinicians;

16 (iv) hospitals; and

17 (v) payers;

18 (3) industry practices for seeking authority for an outpatient location to be  
19 approved as “at the hospital” and thereby subject to rate regulation;

20 (4) how hospitals use outpatient facility fees;

21 (5) how hospitals charge facility fees in addition to physician fees for  
22 professional services provided in hospital outpatient departments;

23 (6) the interaction of outpatient facility fees with Maryland’s Total Cost of  
24 Care model obligations to the federal government, including any impact on Medicare total  
25 cost of care savings if outpatient facility fees are eliminated or reduced;

26 (7) efforts in other states, by federal Medicare and Medicaid regulatory  
27 agencies, and by national advocacy organizations related to the regulation or minimization  
28 of facility fees, and the potential effects that similar efforts may have on health care costs  
29 in the State, including consumers’ out-of-pocket costs;

1 (8) the licensing and regulation of fees charged by out-of-state hospital  
2 outpatient facilities located in the State; and

3 (9) the effectiveness of the notice of hospital outpatient facility fees that is  
4 currently provided to consumers, including any impact of the notice on the consumers'  
5 choice of location for health care services and any impact on utilization and access.

6 (b) (1) On or before December 1, 2024, the Maryland Health Services Cost  
7 Review Commission shall submit a preliminary report to the Senate Finance Committee  
8 and the House Health and Government Operations Committee, in accordance with §  
9 2-1257 of the State Government Article, on the findings and recommendations under  
10 subsection (a) of this section.

11 (2) On or before December 1, 2025, the Maryland Health Services Cost  
12 Review Commission shall submit a final report to the Senate Finance Committee and the  
13 House Health and Government Operations Committee, in accordance with § 2-1257 of the  
14 State Government Article, on the findings and recommendations under subsection (a) of  
15 this section.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2024.