

FIRST REGULAR SESSION

# HOUSE BILL NO. 1161

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCMULLEN.

2387H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 197, RSMo, by adding thereto two new sections relating to hospital price transparency laws, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 197, RSMo, is amended by adding thereto two new sections, to be known as sections 197.1040 and 197.1045, to read as follows:

**197.1040. For purposes of this section, unless the context otherwise requires, the following terms mean:**

(1) "Centers for Medicare and Medicaid Services", the Centers for Medicare and Medicaid Services in the United States Department of Health and Human Services;

(2) "Collection action", any of the following actions taken with respect to a debt for items and services that were purchased from or provided to a patient by a hospital on a date during which the hospital was not in material compliance with hospital price transparency laws:

(a) Attempting to collect a debt from a patient or patient guarantor by referring the debt, directly or indirectly, to a debt collector, a collection agency, or other third party retained by or on behalf of the hospital;

(b) Suing the patient or patient guarantor or enforcing an arbitration or mediation clause in any hospital documents, including contracts, agreements, statements, or bills; or

(c) Directly or indirectly causing a report to be made to a consumer reporting agency;

(3) "Collection agency":

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 18           **(a) Any:**
- 19           **a. Person who engages in a business, the principal purpose of which is the**
- 20 **collection of debts; or**
- 21           **b. Person who:**
- 22           **(i) Regularly collects or attempts to collect, directly or indirectly, debts owed or**
- 23 **due or asserted to be owed or due to another;**
- 24           **(ii) Takes assignment of debts for collection purposes;**
- 25           **(iii) Directly or indirectly solicits for collection debts owed or due or asserted to**
- 26 **be owed or due to another; or**
- 27           **(iv) Collects debts for the office of administration;**
- 28           **(b) Does not include:**
- 29           **a. Any officer or employee of a creditor while, in the name of the creditor,**
- 30 **collecting debts for such creditor;**
- 31           **b. Any person while acting as a collection agency for another person, both of**
- 32 **whom are related by common ownership or affiliated by corporate control, if the person**
- 33 **acting as a collection agency does so only for creditors to whom it is so related or**
- 34 **affiliated and if the principal business of the person is not the collection of debts;**
- 35           **c. Any officer or employee of the United States or any state to the extent that**
- 36 **collecting or attempting to collect any debt is in the performance of the officer's or**
- 37 **employee's official duties;**
- 38           **d. Any person while serving or attempting to serve legal process on any other**
- 39 **person in connection with the judicial enforcement of any debt;**
- 40           **e. Any person collecting or attempting to collect any debt owed or due or**
- 41 **asserted to be owed or due another to the extent that:**
- 42           **(i) The activity is incidental to a bona fide fiduciary obligation or a bona fide**
- 43 **escrow arrangement;**
- 44           **(ii) The activity concerns a debt that was extended by the person;**
- 45           **(iii) The activity concerns a debt that was not in default at the time it was**
- 46 **obtained by the person; or**
- 47           **(iv) The activity concerns a debt obtained by the person as a secured party in a**
- 48 **commercial credit transaction involving the creditor; or**
- 49           **f. Any person whose principal business is the making of loans or the servicing of**
- 50 **debt not in default and who acts as a loan correspondent, seller, and servicer for the**
- 51 **owner, or holder of a debt that is secured by a deed of trust on real property, regardless**
- 52 **of whether the debt is also secured by an interest in personal property;**
- 53           **(c) Notwithstanding the provisions of paragraph (b) of this subdivision, the term**
- 54 **"collection agency" includes any person who, in the process of collecting the person's**

55 own debts, uses another name that would indicate that a third person is collecting or  
56 attempting to collect such debts;

57 (4) "Consumer reporting agency", any person who, for monetary fees or dues or  
58 on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice  
59 of assembling or evaluating consumer credit information or other information on  
60 consumers for the purpose of furnishing consumer reports to third parties. The term  
61 "consumer reporting agency" includes any person defined in 15 U.S.C. Section 1681a(f)  
62 and any consumer credit reporting agency defined in section 407.1380. The term  
63 "consumer reporting agency" does not include any business entity that provides only  
64 check verification or check guarantee services;

65 (5) "Debt", any obligation or alleged obligation of a consumer to pay moneys  
66 arising out of a transaction, regardless of whether the obligation has been reduced to  
67 judgment. The term "debt" does not include a debt for business, investment,  
68 commercial, or agricultural purposes or a debt incurred by a business;

69 (6) "Debt collector", any person employed or engaged by a collection agency to  
70 perform the collection of debts owed or due or asserted to be owed or due to another;

71 (7) "Hospital", a hospital:

72 (a) Licensed under this chapter; or

73 (b) Approved by the department of health and senior services as meeting the  
74 standards established for licensing a hospital in this state;

75 (8) "Hospital price transparency laws", Section 2718(e) of the Public Health  
76 Service Act, as amended, and rules adopted by the United States Department of Health  
77 and Human Services implementing Section 2718(e);

78 (9) "Items and services" or "items or services", items and services as defined in  
79 45 CFR 180.20.

197.1045. 1. On and after August 28, 2023, a hospital that is not in material  
2 compliance with hospital price transparency laws on the date that items or services are  
3 purchased from or provided to a patient by the hospital shall not initiate or pursue a  
4 collection action against the patient or patient guarantor for a debt owed for the items  
5 or services.

6 2. If a patient believes that a hospital was not in material compliance with  
7 hospital price transparency laws on a date on or after August 28, 2023, that items or  
8 services were purchased by or provided to the patient, and the hospital takes a collection  
9 action against the patient or patient guarantor, the patient or patient guarantor may file  
10 suit to determine if the hospital was materially out of compliance with the hospital price  
11 transparency laws and rules and regulations on the date of service and if the

12 **noncompliance is related to the items or services. The hospital shall not take a collection**  
13 **action against the patient or patient guarantor while the lawsuit is pending.**

14 **3. A hospital that has been found by a judge or jury, considering compliance**  
15 **standards issued by the Centers for Medicare and Medicaid Services, to be materially**  
16 **out of compliance with hospital price transparency laws and rules and regulations:**

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

20 **(2) Shall dismiss or cause to be dismissed any court action with prejudice and**  
21 **pay any attorney's fees and costs incurred by the patient or patient guarantor relating to**  
22 **the action; and**

23 **(3) Remove or cause to be removed from the patient's or patient guarantor's**  
24 **credit report any report made to a consumer reporting agency relating to the debt.**

25 **4. Nothing in this section:**

26 **(1) Prohibits a hospital from billing a patient, patient guarantor, or third-party**  
27 **payer, including a health insurer, for items or services provided to the patient; or**

28 **(2) Requires a hospital to refund any payment made to the hospital for items or**  
29 **services provided to the patient, so long as no collection action is taken in violation of**  
30 **this section.**

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