

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health and Human Services Appropriations Committee

BILL: CS/CS/SB 1488

INTRODUCER: Banking and Insurance Committee, Health Regulation Committee and Senator Dean

SUBJECT: Consumer information concerning health care

DATE: April 14, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Wilson	HR	Fav/CS
2.	Mays	Deffenbaugh	BI	Fav/CS
3.	Dull	Peters	HA	Favorable
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill creates the “Health Care Consumer’s Right to Information Act” to provide health care consumers with reliable and understandable information about health care charges.

The bill requires a health care provider or health care facility (as defined in the Florida Patient’s Bill of Rights and Responsibilities) to:

- Automatically furnish a reasonable estimate of charges to any scheduled nonemergency medical service to an uninsured patient.
- Automatically furnish information on a facility’s discount or charity policies to uninsured patients that may be eligible.

The bill requires health care facilities not operated by the state to give reasonable good faith estimates to uninsured persons seeking planned nonemergency elective admission for treatment. This must be done within 7 days of when the person notifies the facility and the facility confirms that the person is uninsured. The estimate may be the average DRG or charge for that procedure. The facility must also notify the person upon a revision of the good faith estimate.

The bill requires a copy of the facility discount or charity care discount policy to anyone who may be eligible, with a \$500 fine for each time a facility fails to do so.

The Agency for Health Care Administration (Agency) must publish on its website undiscounted charges for no fewer than 150 of the most commonly performed adult and pediatric procedures, including outpatient, inpatient, diagnostic, or preventative procedures.

This bill substantially amends the following sections of the Florida Statutes: 381.026, 395.301, and 408.05.

The bill creates two unnumbered sections of law.

II. Present Situation:

The Florida Patient's Bill of Rights and Responsibilities

The Florida Patient's Bill of Rights and Responsibilities¹ is intended to promote better communication and eliminate misunderstandings between the patient and health care provider or health care facility.² The rights of patients include standards related to individual dignity; information about the provider, facility, diagnosis, treatments, risks, etc.; financial information and disclosure; access to health care; experimental research; and patient's knowledge of rights and responsibilities. Patient responsibilities include giving the provider accurate and complete information regarding the patient's health, comprehending the course of treatment and following the treatment plan, keeping appointments, fulfilling financial obligations, and following the facility's rules and regulations affecting patient care and conduct.

Currently under the financial information and disclosure provisions:

- A request is necessary before a health care provider or health care facility must disclose to a Medicare-eligible patient whether the provider or facility accepts Medicare payment as full payment for medical services and treatment rendered in the provider's office or health care facility.
- A request is necessary before a health care provider or health care facility is required to furnish a person an estimate of charges for medical services before providing the services. The Florida Patient's Bill of Rights and Responsibilities does not require that the components making up the estimate be itemized or that the estimate be presented in a manner that is easily understood by an ordinary layperson.
- A licensed facility must place a notice in its reception area that financial information related to that facility is available on the Agency's website.
- The facility may indicate that the pricing information is based on a compilation of charges for the average patient and that an individual patient's charges may vary.
- A patient has the right to receive an itemized bill upon request.

¹ Section 381.026, Florida Statutes.

² A health care facility is a facility licensed under ch. 395, F.S., and a health care provider means a physician, osteopathic physician, or a podiatric physician licensed under chapters 458, 459, or 461, respectively.

Health care providers and health care facilities are required to make available to patients a summary of their rights. The applicable regulatory board or Agency may impose an administrative fine when a provider or facility fails to make available to patients a summary of their rights.³

Health Care Facility Disclosures Related to Patient Bills

Hospitals, ambulatory surgical centers, and mobile surgical facilities are health care facilities licensed under and regulated by ch. 395, F.S.⁴

Under s. 395.301, F.S., a health care facility is required to provide, within 7 days of a written request, a good faith estimate of reasonably anticipated charges for the facility to treat the patient's condition. Upon request, the facility must also provide revisions to the estimate. The estimate may represent the average charges for that diagnosis related group or the average charges for that procedure. The facility is required to place a notice in the reception area that this information is available. A facility that fails to provide the estimate as required may be fined \$500 for each instance of the facility's failure to provide the requested information.

Also pursuant to s. 395.301, F.S., a licensed facility is required to notify each patient during admission and at discharge of his or her right to receive an itemized bill upon request. If requested, within 7 days of discharge or release, the licensed facility must provide an itemized statement, in language comprehensible to an ordinary layperson, detailing the specific nature of charges or expenses incurred by the patient. This initial bill must contain a statement of specific services received and expenses incurred for the items of service, enumerating in detail the constituent components of the services received within each department of the licensed facility and including unit price data on rates charged by the licensed facility. The patient or patient's representative may elect to receive this level of detail in subsequent billings for services.

Facility Charges

Hospitals generally have a variety of charges for a procedure depending upon whether the procedure will be paid for by public funds, such as Medicaid or Medicare; private insurance, in which case the charge could vary depending upon contractual or negotiated rates; or private funds. Some hospitals also offer discounted rates for patients who are uninsured or underinsured and meet the particular hospital's eligibility criteria.

Ambulatory surgical facilities do not typically bill for detailed items associated with medical supplies and pharmaceuticals. Many hospitals no longer bill for supplies.⁵

Agency Published Comparative Data

Both the Florida Patient's Bill of Rights and Responsibilities and the health care facilities' regulatory provisions in s. 395.301, F.S., require each licensed facility to make available on its website a link to performance outcome and financial data that is published by the Agency and to

³ Section 381.0261, F.S.

⁴ Section 395.002(16), F.S.

⁵ AHCA 2008 Bill Analysis & Economic Impact Statement for SB 1488.

post a notice in the reception area that this information is available along with the website address.

The Florida Center for Health Information and Policy Analysis (Florida Center) within the Agency is responsible for collecting, compiling, analyzing, and disseminating health-related data and statistics. The information is published on the FloridaHealthFinder website at <http://www.floridahealthfinder.gov>. Health care providers and health care facilities are subject to administrative sanctions for the failure to comply with data and record submission requirements of ch. 408, F.S.,⁶ in particular, the submission requirements of the Florida Center.

One component of the Florida Center's responsibilities involves making available health care quality measures and financial data to allow consumers to compare health care services. Specific patient charge data that the Florida Center is required to disclose include the average charge, average net revenue per adjusted patient day, average cost per adjusted patient day, and average cost per admission.⁷

The Agency currently displays charges (undiscounted prices) on the FloridaHealthFinder website for 71 selected high volume inpatient and outpatient procedures, as recommended by the Consumer Health Information Policy Advisory Committee. The procedures are determined by analysis of the procedure codes in the patient discharge data submitted by licensed facilities.

III. Effect of Proposed Changes:

Section 1. Names the bill the "Health Care Consumer's Right to Information Act."

Section 2. Provides that the act's purpose is to provide health care consumers with reliable and understandable information about facility charges to assist consumers in making informed decisions about health care.

Section 3. Amends s. 381.026, F.S., to set forth, under the Florida Patient's Bill of Rights and Responsibilities that a health care provider or health care facility must:

- Automatically furnish an estimate of charges for any scheduled nonemergency medical service to an uninsured patient. The estimate must be presented in language that is comprehensible to an ordinary layperson (currently there is no requirement that the estimate must be comprehensible to the ordinary layperson); and
- Automatically furnish information on a facility's discount or charity policies to uninsured patients that may be eligible.

Section 4. creates a new section in s. 395.301, F.S., to require health care facilities not operated by the state to give reasonable good faith estimates to uninsured persons seeking planned nonemergency elective admission for treatment. This must be done within 7 days of when the person notifies the facility and the facility confirms that the person is uninsured. The estimate may be the average DRG or charge for that procedure. The facility must also notify the person

⁶ Section 408.08, F.S.

⁷ Section 408.05(3)(k), F.S.

upon a revision of the good faith estimate. The bill requires a copy of the facility discount or charity care discount policy to anyone who may be eligible, with a \$500 fine for each time a facility fails to do so.

Section 5. Amends s. 408.05, F.S., to require the Agency to disclose [on its FloridaHealthFinder website] additional patient charge data related to the undiscounted charges for no fewer than 150 of the most commonly performed adult and pediatric procedures, including outpatient, inpatient, diagnostic, or preventative procedures and the range of procedure charges from highest to lowest.

Section 6. Provides that the act is to take effect on January 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill could impact municipalities and counties under the requirements of Article VII, Section 18 of the Florida Constitution for health care facilities that are owned or operated by local governmental entities.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Licensed health care facilities will have to provide uninsured individuals a written good faith estimate of anticipated charges for non-emergency elective admissions within seven business days after the facility has confirmed that the individual is uninsured. The facility may experience an indeterminate fiscal impact due to having to provide the estimates to all uninsured individuals. The process of confirming whether an individual is uninsured may have an indeterminate fiscal impact to a health care facility. However, the bill does not explain the extent a facility must check to confirm that an individual is uninsured.

C. **Government Sector Impact:**

The Agency will need to update the summary of the Florida Patient's Bill of Rights and Responsibilities made available to health care facilities and providers as required by s. 381.0261, F.S. The Agency will need to publish additional data on its website. Health care facilities are already submitting the data to the Agency and the Agency has indicated that there will be no fiscal impact on it.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on April 8, 2008:

The CS requires health care providers and health care facilities to provide an uninsured person, prior to planned nonemergency medical service, to provide an estimate of charges and any discount or charity policies for which the uninsured person may be eligible.

The CS deletes the requirements for health care providers to disclose whether they accept Medicare assignment, and retains the current law that requires this only upon request.

The CS deletes the requirement for an itemized estimate of charges based on the contractual price with the patient's insurance company and retains current law.

The CS requires health care facilities not operated by the state to give reasonable good faith estimates to uninsured persons seeking planned nonemergency elective admission for treatment. This must be done within 7 days of when the person notifies the facility and the facility confirms that the person is uninsured. The estimate may be the average DRG or charge for that procedure. The facility must also notify person upon a revision of the good faith estimate.

The CS requires a copy of the facility discount or charity care discount policy to anyone who may be eligible, with a \$500 fine for each time a facility fails to do so.

The CS changes the effective date from July 1, 2008 to January 1, 2009.

CS by Health Regulation on March 26, 2008:

Requires the estimate of medical services for an insured person to be based on the contractual prices, if one exists, between the health care provider or health care facility and the person's health insurance company;

- Eliminates reference to an underinsured patient;
- Requires the estimate of medical services for an uninsured person to reflect the undiscounted price which the health care provider or health care facility normally charges uninsured patients;
- Requires a licensed facility to publish its charity care discount policy if the facility has one;
- Provides an option for the patient to receive the estimate electronically or in writing, as preferred by the patient;
- Eliminates the requirement related to a licensed facility publishing and submitting to the Agency for publication of its website the undiscounted prices for the 100 most commonly performed procedures, the 100 most commonly prescribed pharmaceuticals, and the 100 most commonly provided medical supplies, as well as the Agency's determination of the codes that will be used to identify which procedures, pharmaceuticals, and supplies to report; and
- Eliminates the requirement for the Agency to report on its website the Medicare reimbursement payment for medical treatment.

B. Amendments:

None.