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HOUSE BILL 22-1285

BY REPRESENTATIVE(S) Neville and Esgar, Daugherty, Amabile, Bernett, Bird, Boesenecker, Carver, Duran, Herod, Jodeh, Kennedy, Kipp, Lindsay, Lontine, McCluskie, McCormick, Michaelson Jenet, Ortiz, Pico, Roberts, Sirota, Snyder, Titone, Valdez A., Van Winkle, Weissman, Garnett, Baisley, Exum, Geitner, Luck, Pelton, Sandridge, Valdez D., Van Beber, Williams, Young;

also SENATOR(S) Moreno and Cooke, Bridges, Buckner, Coram, Danielson, Donovan, Fields, Ginal, Gonzales, Hinrichsen, Holbert, Jaquez Lewis, Kolker, Lee, Pettersen, Priola, Rankin, Rodriguez, Scott, Sonnenberg, Story, Winter, Woodward, Zenzinger, Fenberg.

CONCERNING A PROHIBITION AGAINST A HOSPITAL TAKING CERTAIN DEBT COLLECTION ACTIONS AGAINST A PATIENT IF THE HOSPITAL IS NOT IN COMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 8 to article 3 of title 25 as follows:

PART 8
CONSUMER PROTECTION RELATING TO

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

HOSPITAL PRICE TRANSPARENCY

25-3-801. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) SECTION 1001 OF THE "PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010", PUB.L. 111-148, AS AMENDED BY SECTION 10101 OF THE "HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010", PUB.L. 111-152, AMENDED TITLE XXVII OF THE "PUBLIC HEALTH SERVICE ACT", PUB.L. 78-410, IN PART, BY ADDING A NEW SECTION 2718(e), REQUIRING, IN PART, THAT EACH HOSPITAL OPERATING WITHIN THE UNITED STATES ESTABLISH, UPDATE, AND MAKE PUBLIC A LIST OF THE HOSPITAL'S STANDARD CHARGES FOR THE ITEMS AND SERVICES THAT THE HOSPITAL PROVIDES;

(b) EFFECTIVE JANUARY 1, 2021, THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES PUBLISHED THE FINAL RULE TO IMPLEMENT THE LAW, CODIFIED AT 45 CFR 180;

(c) IN ITS SUMMARY OF THE FINAL RULE, CMS STATES THAT INFORMATION ON HOSPITAL STANDARD CHARGES IS NECESSARY FOR THE PUBLIC TO "MAKE MORE INFORMED DECISIONS ABOUT THEIR CARE" AND THAT THE "IMPACT OF THESE FINAL POLICIES WILL HELP TO INCREASE MARKET COMPETITION, AND ULTIMATELY DRIVE DOWN THE COST OF HEALTH CARE SERVICES, MAKING THEM MORE AFFORDABLE FOR ALL PATIENTS";

(d) ON JULY 9, 2021, PRESIDENT BIDEN, BUILDING UPON EFFORTS OF PAST PRESIDENTS, ISSUED THE "EXECUTIVE ORDER ON PROMOTING COMPETITION IN THE AMERICAN ECONOMY", DIRECTING THE SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SUPPORT NEW AND EXISTING PRICE TRANSPARENCY INITIATIVES FOR HOSPITALS;

(e) HEALTH-CARE PRICE TRANSPARENCY IS IN THE BEST INTEREST OF ALL COLORADANS, INCLUDING:

(I) THE STATE GOVERNMENT, WHICH PURCHASES HEALTH-CARE SERVICES FOR ALMOST A QUARTER OF ALL COLORADANS;

(II) COLORADO BUSINESSES, WHICH FUND EMPLOYEE MEDICAL

EXPENSES; AND

(III) COLORADO RESIDENTS, WHO ULTIMATELY BEAR THE BRUNT OF HIGH HEALTH-CARE COSTS IN THE FORM OF HIGHER TAXES, LOWER WAGES, AND RESIDENTS' OWN OUT-OF-POCKET SPENDING;

(f) MOREOVER, HEALTH-CARE PRICES IN COLORADO ARE AMONG THE HIGHEST IN THE NATION;

(g) HOWEVER, NOT ALL COLORADO HOSPITALS ARE IN COMPLIANCE WITH ALL OF THE DISCLOSURE REQUIREMENTS UNDER FEDERAL LAW AND OTHER STATE LAWS GOVERNING HEALTH-CARE PRICE TRANSPARENCY; AND

(h) THIS LACK OF COMPLIANCE WITH HEALTH-CARE PRICE TRANSPARENCY LAWS BY COLORADO HOSPITALS DECREASES THE LIKELIHOOD THAT COLORADO CONSUMERS WILL BE FULLY AWARE OF AFFORDABLE HEALTH-CARE OPTIONS BEFORE PURCHASING ITEMS AND SERVICES FROM HOSPITALS, PLACING HEALTH-CARE CONSUMERS AT GREATER RISK OF COLLECTION ACTIONS AND OTHER ADVERSE ACTIONS RELATING TO UNPAID MEDICAL BILLS.

(2) THEREFORE, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS IMPERATIVE TO PROTECT COLORADO HEALTH-CARE CONSUMERS FROM COLLECTION ACTIONS AND OTHER ADVERSE ACTIONS TAKEN BY COLORADO HOSPITALS DURING THE TIME WHEN THE HOSPITAL WAS NOT IN MATERIAL COMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS INTENDED TO PROTECT HEALTH-CARE CONSUMERS.

25-3-802. Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COLLECTION ACTION" MEANS 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.

(2) (a) "COLLECTION AGENCY" MEANS ANY:

(I) PERSON WHO ENGAGES IN A BUSINESS THE PRINCIPAL PURPOSE OF WHICH IS THE COLLECTION OF DEBTS; OR

(II) PERSON WHO:

(A) REGULARLY COLLECTS OR ATTEMPTS TO COLLECT, DIRECTLY OR INDIRECTLY, DEBTS OWED OR DUE OR ASSERTED TO BE OWED OR DUE TO ANOTHER;

(B) TAKES ASSIGNMENT OF DEBTS FOR COLLECTION PURPOSES;

(C) DIRECTLY OR INDIRECTLY SOLICITS FOR COLLECTION DEBTS OWED OR DUE OR ASSERTED TO BE OWED OR DUE TO ANOTHER; OR

(D) COLLECTS DEBT FOR THE DEPARTMENT OF PERSONNEL.

(b) "COLLECTION AGENCY" DOES NOT INCLUDE:

(I) ANY OFFICER OR EMPLOYEE OF A CREDITOR WHILE, IN THE NAME OF THE CREDITOR, COLLECTING DEBTS FOR SUCH CREDITOR;

(II) ANY PERSON WHILE ACTING AS A COLLECTION AGENCY FOR ANOTHER PERSON, BOTH OF WHOM ARE RELATED BY COMMON OWNERSHIP OR AFFILIATED BY CORPORATE CONTROL, IF THE PERSON ACTING AS A COLLECTION AGENCY DOES SO ONLY FOR CREDITORS TO WHOM IT IS SO RELATED OR AFFILIATED AND IF THE PRINCIPAL BUSINESS OF THE PERSON IS NOT THE COLLECTION OF DEBTS;

(III) ANY OFFICER OR EMPLOYEE OF THE UNITED STATES OR ANY

STATE TO THE EXTENT THAT COLLECTING OR ATTEMPTING TO COLLECT ANY DEBT IS IN THE PERFORMANCE OF THE OFFICER'S OR EMPLOYEE'S OFFICIAL DUTIES;

(IV) ANY PERSON WHILE SERVING OR ATTEMPTING TO SERVE LEGAL PROCESS ON ANY OTHER PERSON IN CONNECTION WITH THE JUDICIAL ENFORCEMENT OF ANY DEBT;

(V) ANY DEBT-MANAGEMENT SERVICES PROVIDER OPERATING IN COMPLIANCE WITH OR EXEMPT FROM THE "UNIFORM DEBT-MANAGEMENT SERVICES ACT", PART 2 OF ARTICLE 19 OF TITLE 5;

(VI) ANY PERSON COLLECTING OR ATTEMPTING TO COLLECT ANY DEBT OWED OR DUE OR ASSERTED TO BE OWED OR DUE ANOTHER TO THE EXTENT THAT:

(A) THE ACTIVITY IS INCIDENTAL TO A BONA FIDE FIDUCIARY OBLIGATION OR A BONA FIDE ESCROW ARRANGEMENT;

(B) THE ACTIVITY CONCERNS A DEBT THAT WAS EXTENDED BY THE PERSON;

(C) THE ACTIVITY CONCERNS A DEBT THAT WAS NOT IN DEFAULT AT THE TIME IT WAS OBTAINED BY THE PERSON; OR

(D) THE ACTIVITY CONCERNS A DEBT OBTAINED BY THE PERSON AS A SECURED PARTY IN A COMMERCIAL CREDIT TRANSACTION INVOLVING THE CREDITOR;

(VII) ANY PERSON WHOSE PRINCIPAL BUSINESS IS THE MAKING OF LOANS OR THE SERVICING OF DEBT NOT IN DEFAULT AND WHO ACTS AS A LOAN CORRESPONDENT, SELLER AND SERVICER FOR THE OWNER, OR HOLDER OF A DEBT THAT IS SECURED BY A DEED OF TRUST ON REAL PROPERTY WHETHER OR NOT THE DEBT IS ALSO SECURED BY AN INTEREST IN PERSONAL PROPERTY;

(VIII) A LIMITED GAMING OR RACING LICENSEE ACTING PURSUANT TO ARTICLE 33 OF TITLE 44.

(c) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2)(b) OF

THIS SECTION, "COLLECTION AGENCY" INCLUDES ANY PERSON WHO, IN THE PROCESS OF COLLECTING THE PERSON'S OWN DEBTS, USES ANOTHER NAME THAT WOULD INDICATE THAT A THIRD PERSON IS COLLECTING OR ATTEMPTING TO COLLECT SUCH DEBTS.

(3)(a) "CONSUMER REPORTING AGENCY" MEANS ANY PERSON THAT, FOR MONETARY FEES, DUES, OR ON A COOPERATIVE NONPROFIT BASIS, REGULARLY ENGAGES, IN WHOLE OR IN PART, IN THE PRACTICE OF ASSEMBLING OR EVALUATING CONSUMER CREDIT INFORMATION OR OTHER INFORMATION ON CONSUMERS FOR THE PURPOSE OF FURNISHING CONSUMER REPORTS TO THIRD PARTIES. "CONSUMER REPORTING AGENCY" INCLUDES ANY PERSON DEFINED IN 15 U.S.C. SEC. 1681a (f) OR SECTION 5-18-103 (4).

(b) "CONSUMER REPORTING AGENCY" DOES NOT INCLUDE ANY BUSINESS ENTITY THAT PROVIDES CHECK VERIFICATION OR CHECK GUARANTEE SERVICES ONLY.

(4)(a) "DEBT" MEANS ANY OBLIGATION OR ALLEGED OBLIGATION OF A CONSUMER TO PAY MONEY ARISING OUT OF A TRANSACTION, WHETHER OR NOT THE OBLIGATION HAS BEEN REDUCED TO JUDGMENT.

(b) "DEBT" DOES NOT INCLUDE A DEBT FOR BUSINESS, INVESTMENT, COMMERCIAL, OR AGRICULTURAL PURPOSES OR A DEBT INCURRED BY A BUSINESS.

(5) "DEBT COLLECTOR" MEANS ANY PERSON EMPLOYED OR ENGAGED BY A COLLECTION AGENCY TO PERFORM THE COLLECTION OF DEBTS OWED OR DUE OR ASSERTED TO BE OWED OR DUE TO ANOTHER.

(6) "FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES" OR "CMS" MEANS THE CENTER FOR MEDICARE AND MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(7) "HOSPITAL" MEANS, CONSISTENT WITH 45 CFR 180.20, A HOSPITAL:

(a) LICENSED OR CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION 25-1.5-103 (1)(a); OR

(b) APPROVED BY THE DEPARTMENT AS MEETING THE STANDARDS

ESTABLISHED FOR LICENSING A HOSPITAL.

(8) "HOSPITAL PRICE TRANSPARENCY LAWS" MEANS SECTION 2718(e) OF THE "PUBLIC HEALTH SERVICE (PHS) ACT", PUB.L. 78-410, AS AMENDED, AND RULES ADOPTED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES IMPLEMENTING SECTION 2718(e).

(9) "ITEMS AND SERVICES" OR "ITEMS OR SERVICES" MEANS "ITEMS AND SERVICES" AS DEFINED IN 45 CFR 180.20.

25-3-803. Failure to comply with hospital price transparency laws - prohibiting collection of debt - penalty. (1) (a) EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, A HOSPITAL THAT IS NOT IN MATERIAL COMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS ON THE DATE THAT ITEMS OR SERVICES ARE PURCHASED FROM OR PROVIDED TO A PATIENT BY THE HOSPITAL SHALL NOT INITIATE OR PURSUE A COLLECTION ACTION AGAINST THE PATIENT OR PATIENT GUARANTOR FOR A DEBT OWED FOR THE ITEMS OR SERVICES.

(b) THIS PART 8 APPLIES, ON AND AFTER FEBRUARY 15, 2023, TO CRITICAL ACCESS HOSPITALS LICENSED AND CERTIFIED BY THE DEPARTMENT PURSUANT TO 42 CFR 485 SUBPART F.

(2) IF A PATIENT BELIEVES THAT A HOSPITAL WAS NOT IN MATERIAL COMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS ON A DATE ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION THAT ITEMS OR SERVICES WERE PURCHASED BY OR PROVIDED TO THE PATIENT, AND THE HOSPITAL TAKES A COLLECTION ACTION AGAINST THE PATIENT OR PATIENT GUARANTOR, THE PATIENT OR PATIENT GUARANTOR MAY FILE SUIT TO DETERMINE IF THE HOSPITAL WAS MATERIALLY OUT OF COMPLIANCE WITH THE HOSPITAL PRICE TRANSPARENCY LAWS AND RULES AND REGULATIONS ON THE DATE OF SERVICE, AND THE NONCOMPLIANCE IS RELATED TO THE ITEMS OR SERVICES. THE HOSPITAL SHALL NOT TAKE A COLLECTION ACTION AGAINST THE PATIENT OR PATIENT GUARANTOR WHILE THE LAWSUIT IS PENDING.

(3) A HOSPITAL THAT HAS BEEN FOUND BY A JUDGE OR JURY, CONSIDERING COMPLIANCE STANDARDS ISSUED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, TO BE MATERIALLY OUT OF COMPLIANCE WITH HOSPITAL PRICE TRANSPARENCY LAWS AND RULES AND

REGULATIONS:

(a) SHALL REFUND THE PAYER ANY AMOUNT OF THE DEBT THE PAYER HAS PAID AND SHALL PAY A PENALTY TO THE PATIENT OR PATIENT GUARANTOR IN AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF THE DEBT;

(b) SHALL DISMISS OR CAUSE TO BE DISMISSED ANY COURT ACTION WITH PREJUDICE AND PAY ANY ATTORNEY FEES AND COSTS INCURRED BY THE PATIENT OR PATIENT GUARANTOR RELATING TO THE ACTION; AND

(c) REMOVE OR CAUSE TO BE REMOVED FROM THE PATIENT'S OR PATIENT GUARANTOR'S CREDIT REPORT ANY REPORT MADE TO A CONSUMER REPORTING AGENCY RELATING TO THE DEBT.

(4) NOTHING IN THIS PART 8:

(a) PROHIBITS A HOSPITAL FROM BILLING A PATIENT, PATIENT GUARANTOR, OR THIRD-PARTY PAYER, INCLUDING HEALTH INSURER, FOR ITEMS OR SERVICES PROVIDED TO THE PATIENT; OR

(b) REQUIRES A HOSPITAL TO REFUND ANY PAYMENT MADE TO THE HOSPITAL FOR ITEMS OR SERVICES PROVIDED TO THE PATIENT, SO LONG AS NO COLLECTION ACTION IS TAKEN IN VIOLATION OF THIS PART 8.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO