

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1817

By: Dahm

AS INTRODUCED

An Act relating to hospitals; defining terms; requiring facilities to make public certain file and list; stating requirements for list of standard charges; requiring certain digital publication of specified information; requiring certain online display of list; stipulating requirements related to accessibility and formatting of list; requiring development of certain formatting template; requiring annual update of list; stating requirements for list of standard charges and selection of shoppable services; requiring list to include certain information; directing certain display and availability of list; requiring facility to submit certain updates to the State Department of Health; requiring certain compliance monitoring by the Department; directing certain actions for noncompliance; requiring the Department to create and update certain list of violations; making certain information subject to public disclosure; stipulating certain licensing consideration; defining material violation; requiring issuance of certain notice upon certain determination; specifying certain requirements for corrective action plans; directing imposition of certain administrative penalties; establishing minimum penalties; requiring certain considerations by the Department; repealing 63 O.S. 2021, Sections 1-725.1, 1-725.2, 1-725.3, 1-725.4, and 1-725.5, which relate to the Transparency in Health Care Prices Act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1-725.11 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Ancillary service" means a facility item or service that a
6 facility customarily provides as part of a shoppable service;

7 2. "Chargemaster" means the list of all facility items or
8 services maintained by a facility for which the facility has
9 established a charge;

10 3. "De-identified maximum negotiated charge" means the highest
11 charge that a facility has negotiated with all third-party payors
12 for a facility item or service;

13 4. "De-identified minimum negotiated charge" means the lowest
14 charge that a facility has negotiated with all third-party payors
15 for a facility item or service;

16 5. "Department" means the State Department of Health;

17 6. "Discounted cash price" means the charge that applies to an
18 individual who pays cash, or a cash equivalent, for a facility item
19 or service;

20 7. "Facility" means a hospital licensed under Section 1-702 of
21 Title 63 of the Oklahoma Statutes;

22 8. "Facility items or services" means all items and services,
23 including individual items and services and service packages, that
24 may be provided by a facility to a patient in connection with an

1 inpatient admission or an outpatient department visit, as
2 applicable, for which the facility has established a standard
3 charge, including:

- 4 a. supplies and procedures,
- 5 b. room and board,
- 6 c. use of the facility and other areas, the charges for
7 which are generally referred to as facility fees,
- 8 d. services of physicians and non-physician
9 practitioners, employed by the facility, the charges
10 for which are generally referred to as professional
11 charges, and
- 12 e. any other item or service for which a facility has
13 established a standard charge;

14 9. "Gross charge" means the charge for a facility item or
15 service that is reflected on a facility's chargemaster, absent any
16 discounts;

17 10. "Machine-readable format" means a digital representation of
18 information in a file that can be imported or read into a computer
19 system for further processing. The term includes Extensible Markup
20 Language (.XML), JavaScript Object Notation (.JSON), and Comma-
21 Separated Values (.CSV) formats;

22 11. "Payor-specific negotiated charge" means the charge that a
23 facility has negotiated with a third-party payor for a facility item
24 or service;

1 12. "Service package" means an aggregation of individual
2 facility items or services into a single service with a single
3 charge;

4 13. "Shoppable service" means a service that may be scheduled
5 by a health care consumer in advance;

6 14. "Standard charge" means the regular rate established by the
7 facility for a facility item or service provided to a specific group
8 of paying patients. The term includes all of the following, as
9 defined under this section:

- 10 a. the gross charge,
- 11 b. the payor-specific negotiated charge,
- 12 c. the de-identified minimum negotiated charge,
- 13 d. the de-identified maximum negotiated charge, and
- 14 e. the discounted cash price; and

15 15. "Third-party payor" means an entity that is, by statute,
16 contract, or agreement, legally responsible for payment of a claim
17 for a facility item or service.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-725.12 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 Notwithstanding any other law, a facility shall make public:

- 22 1. A digital file in a machine-readable format that contains a
23 list of all standard charges for all facility items or services as
24 described by Section 3 of this act; and

1 2. A consumer-friendly list of standard charges for a limited
2 set of shoppable services as provided in Section 4 of this act.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-725.13 of Title 63, unless
5 there is created a duplication in numbering, reads as follows:

6 A. A facility shall:

7 1. Maintain a list of all standard charges for all facility
8 items or services in accordance with this section; and

9 2. Ensure the list required under paragraph 1 of this
10 subsection is available at all times to the public, including by
11 posting the list electronically in the manner provided by this
12 section.

13 B. The standard charges contained in the list required to be
14 maintained by a facility under subsection A of this section shall
15 reflect the standard charges applicable to that location of the
16 facility, regardless of whether the facility operates in more than
17 one location or operates under the same license as another facility.

18 C. The list required under subsection A of this section shall
19 include the following items, as applicable:

20 1. A description of each facility item or service provided by
21 the facility;

22 2. The following charges for each individual facility item or
23 service when provided in either an inpatient setting or an
24 outpatient department setting, as applicable:

- a. the gross charge,
- b. the de-identified minimum negotiated charge,
- c. the de-identified maximum negotiated charge,
- d. the discounted cash price, and
- e. the payor-specific negotiated charge, listed by the name of the third-party payor and plan associated with the charge and displayed in a manner that clearly associates the charge with each third-party payor and plan; and

3. Any code used by the facility for purposes of accounting or billing for the facility item or service, including the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG) code, the National Drug Code (NDC), or other common identifier.

D. The information contained in the list required under subsection A of this section shall be published in a single digital file that is in a machine-readable format.

E. The list required under subsection A of this section shall be displayed in a prominent location on the home page of the facility's publicly accessible Internet website or accessible by selecting a dedicated link that is prominently displayed on the home page of the facility's publicly accessible Internet website. If the facility operates multiple locations and maintains a single Internet website, the list required under subsection A of this section shall

1 be posted for each location the facility operates in a manner that
2 clearly associates the list with the applicable location of the
3 facility.

4 F. The list required under subsection A of this section shall:

5 1. Be available:

6 a. free of charge,

7 b. without having to establish a user account or
8 password,

9 c. without having to submit personal identifying
10 information, and

11 d. without having to overcome any other impediment,
12 including entering a code to access the list;

13 2. Be accessible to a common commercial operator of an Internet
14 search engine to the extent necessary for the search engine to index
15 the list and display the list as a result in response to a search
16 query of a user of the search engine;

17 3. Be formatted in a manner prescribed by the State Department
18 of Health;

19 4. Be digitally searchable; and

20 5. Use the following naming convention specified by the Centers
21 for Medicare and Medicaid Services:

22 "<ein>_<facility-name>_standardcharges.[jsonxmlcsv]".

23 G. In prescribing the format of the list under paragraph 3 of
24 subsection F of this section, the Department shall:

1 1. Develop a template that each facility shall use in
2 formatting the list; and

3 2. In developing the template under paragraph 1 of this
4 subsection:

5 a. consider any applicable federal guidelines for
6 formatting similar lists required by federal law or
7 rule and ensure that the design of the template
8 enables health care researchers to compare the charges
9 contained in the lists maintained by each facility,
10 and

11 b. design the template to be substantially similar to the
12 template used by the Centers for Medicare and Medicaid
13 Services for purposes similar to those of this act, if
14 the Department determines that designing the template
15 in that manner serves the purposes of subparagraph a
16 of this paragraph and that the Department benefits
17 from developing and requiring that substantially
18 similar design.

19 H. The facility shall update the list required under subsection
20 A of this section at least once each year. The facility shall
21 clearly indicate the date on which the list was most recently
22 updated, either on the list or in a manner that is clearly
23 associated with the list.

1 SECTION 4. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 1-725.14 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Except as provided by subsection C of this section, a
5 facility shall maintain and make publicly available a list of the
6 standard charges described by subparagraphs b through e of paragraph
7 2 of subsection C of Section 3 of this act for each of at least
8 three hundred shoppable services provided by the facility. The
9 facility may select the shoppable services to be included in the
10 list, except that the list shall include:

11 1. The seventy services specified as shoppable services by the
12 Centers for Medicare and Medicaid Services; or

13 2. If the facility does not provide all of the shoppable
14 services described by paragraph 1 of this subsection, as many of
15 those shoppable services the facility does provide.

16 B. In selecting a shoppable service for purposes of inclusion
17 in the list required under subsection A of this section, a facility
18 shall:

19 1. Consider how frequently the facility provides the service
20 and the facility's billing rate for that service; and

21 2. Prioritize the selection of services that are among the
22 services most frequently provided by the facility.

23 C. If a facility does not provide three hundred shoppable
24 services, the facility shall maintain a list of the total number of
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1 shoppable services that the facility provides in a manner that
2 otherwise complies with the requirements of subsection A of this
3 section.

4 D. The list required under subsection A or C of this section,
5 as applicable, shall:

6 1. Include:

- 7 a. a plain-language description of each shoppable service
8 included on the list,
- 9 b. the payor-specific negotiated charge that applies to
10 each shoppable service included on the list and any
11 ancillary service, listed by the name of the third-
12 party payor and plan associated with the charge and
13 displayed in a manner that clearly associates the
14 charge with the third-party payor and plan,
- 15 c. the discounted cash price that applies to each
16 shoppable service included on the list and any
17 ancillary service or, if the facility does not offer a
18 discounted cash price for one or more of the shoppable
19 or ancillary services on the list, the gross charge
20 for the shoppable service or ancillary service, as
21 applicable,
- 22 d. the de-identified minimum negotiated charge that
23 applies to each shoppable service included on the list
24 and any ancillary service,

- 1 e. the de-identified maximum negotiated charge that
2 applies to each shoppable service included on the list
3 and any ancillary service, and
4 f. any code used by the facility for purposes of
5 accounting or billing for each shoppable service
6 included on the list and any ancillary service,
7 including the Current Procedural Terminology (CPT)
8 code, the Healthcare Common Procedure Coding System
9 (HCPCS) code, the Diagnosis Related Group (DRG) code,
10 the National Drug Code (NDC), or other common
11 identifier; and

12 2. If applicable:

- 13 a. state each location at which the facility provides the
14 shoppable service and whether the standard charges
15 included in the list apply at that location to the
16 provision of that shoppable service in an inpatient
17 setting, an outpatient department setting, or in both
18 of those settings, as applicable, and
19 b. indicate if one or more of the shoppable services
20 specified by the Centers for Medicare and Medicaid
21 Services is not provided by the facility.

22 E. The list required under subsection A or C of this section,
23 as applicable, shall be:
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1 1. Displayed in the manner prescribed by subsection E of
2 Section 3 of this act for the list required under that section;

3 2. Available:

4 a. free of charge,

5 b. without having to register or establish a user account
6 or password,

7 c. without having to submit personal identifying
8 information, and

9 d. without having to overcome any other impediment,
10 including entering a code to access the list;

11 3. Searchable by service description, billing code, and payor;

12 4. Updated in the manner prescribed by subsection H of Section
13 3 of this act for the list required under that section;

14 5. Accessible to a common commercial operator of an Internet
15 search engine to the extent necessary for the search engine to index
16 the list and display the list as a result in response to a search
17 query of a user of the search engine; and

18 6. Formatted in a manner that is consistent with the format
19 prescribed by the State Department of Health under paragraph 3 of
20 subsection F of Section 3 of this act.

21 SECTION 5. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1-725.15 of Title 63, unless
23 there is created a duplication in numbering, reads as follows:
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1 Each time a facility updates a list as required under subsection
2 H of Section 3 of this act and paragraph 4 of subsection E of
3 Section 4 of this act, the facility shall submit the updated list to
4 the State Department of Health. The Department shall prescribe the
5 form in which the updated list shall be submitted to the Department.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1-725.16 of Title 63, unless
8 there is created a duplication in numbering, reads as follows:

9 A. The State Department of Health shall monitor each facility's
10 compliance with the requirements of this act using any of the
11 following methods:

12 1. Evaluating complaints made by persons to the Department
13 regarding noncompliance with this act;

14 2. Reviewing any analysis prepared regarding noncompliance with
15 this act;

16 3. Auditing the Internet websites of facilities for compliance
17 with this act; and

18 4. Confirming that each facility submitted the lists required
19 under Section 5 of this act.

20 B. If the Department determines that a facility is not in
21 compliance with a provision of this act, the Department shall take
22 the following actions:

1 1. Provide a written notice to the facility that clearly
2 explains the manner in which the facility is not in compliance with
3 this act;

4 2. Request a corrective action plan from the facility if the
5 facility has materially violated a provision of this act, as
6 determined under Section 7 of this act; and

7 3. Impose an administrative penalty as determined in Section 8
8 of this act on the facility and publicize the penalty on the
9 Department's Internet website if the facility fails to:

10 a. respond to the Department's request to submit a
11 corrective action plan, or

12 b. comply with the requirements of a corrective action
13 plan submitted to the Department.

14 C. Beginning not later than ninety (90) days after the date of
15 the enactment of this act, the Department shall create and maintain
16 a publicly available list on its website of hospitals that have been
17 found to have violated the hospital price transparency rule, that
18 have been issued an administrative penalty or sent a warning notice,
19 a request for a corrective action plan, or any other written
20 communication from the Department. Such penalties, notices, and
21 communications shall be subject to public disclosure under 5 U.S.C.,
22 Section 552, notwithstanding any exemptions or exclusions to the
23 contrary, in full without redaction. Such list shall be updated at
24 least every thirty (30) days thereafter.

1 D. Notwithstanding any provision of law to the contrary, in
2 considering an application for renewal of a hospital's license or
3 certification, the Department shall consider whether the hospital is
4 or has been in compliance with hospital price transparency laws.

5 SECTION 7. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1-725.17 of Title 63, unless
7 there is created a duplication in numbering, reads as follows:

8 A. A facility materially violates this act if the facility
9 fails to:

- 10 1. Comply with the requirements of Section 2 of this act; or
11 2. Publicize the facility's standard charges in the form and
12 manner required by Sections 3 and 4 of this act.

13 B. If the State Department of Health determines that a facility
14 has materially violated this act, the Department shall issue a
15 notice of material violation to the facility and request that the
16 facility submit a corrective action plan. The notice shall indicate
17 the form and manner in which the corrective action plan shall be
18 submitted to the Department, and clearly state the date by which the
19 facility shall submit the plan.

20 C. A facility that receives a notice under subsection B of this
21 section shall:

- 22 1. Submit a corrective action plan in the form and manner, and
23 by the specified date, prescribed by the notice of violation; and
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1 2. As soon as practicable after submission of a corrective
2 action plan to the Department, act to comply with the plan.

3 D. A corrective action plan submitted to the Department shall:

4 1. Describe in detail the corrective action the facility will
5 take to address any violation identified by the Department in the
6 notice provided under subsection B of this section; and

7 2. Provide a date by which the facility will complete the
8 corrective action described by paragraph 1 of this subsection.

9 E. A corrective action plan is subject to review and approval
10 by the Department. After the Department reviews and approves a
11 facility's corrective action plan, the Department shall monitor and
12 evaluate the facility's compliance with the plan.

13 F. A facility is considered to have failed to respond to the
14 Department's request to submit a corrective action plan if the
15 facility fails to submit a corrective action plan:

16 1. In the form and manner specified in the notice provided
17 under subsection B of this section; or

18 2. By the date specified in the notice provided under
19 subsection B of this section.

20 G. A facility is considered to have failed to comply with a
21 corrective action plan if the facility fails to address a violation
22 within the specified period of time contained in the plan.

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1 SECTION 8. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 1-725.18 of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 A. The State Department of Health shall impose an
5 administrative penalty on a facility in accordance with applicable
6 law and rules promulgated by the State Commissioner of Health if the
7 facility fails to:

8 1. Respond to the Department's request to submit a corrective
9 action plan; or

10 2. Comply with the requirements of a corrective action plan
11 submitted to the Department.

12 B. The Department shall impose an administrative penalty on a
13 facility for a violation of each requirement of this act. The
14 Department shall set the penalty in an amount sufficient to ensure
15 compliance by facilities with the provisions of this act subject to
16 the limitations prescribed by subsection C of this section.

17 C. For a facility with one of the following total gross
18 revenues as reported to the Centers for Medicare and Medicaid
19 Services or to another entity designated by the Commissioner through
20 rule in the year preceding the year in which a penalty is imposed,
21 the penalty imposed by the Department shall not be lower than:

22 1. In the case of thirty or fewer, Six Hundred Dollars
23 (\$600.00) for each day in which the hospital fails to comply with
24 such requirements;

1 2. In the case of a hospital with a bed count that is greater
2 than thirty and equal to or fewer than five hundred fifty, Twenty
3 Dollars (\$20.00) per bed for each day in which the hospital fails to
4 comply with such requirements; or

5 3. In the case of a hospital with a bed count that is greater
6 than five hundred fifty, Eleven Thousand Dollars (\$11,000.00) for
7 each day in which the hospital fails to comply with such
8 requirements.

9 D. Each day a violation continues is considered a separate
10 violation.

11 E. In determining the amount of the penalty, the Department
12 shall consider:

- 13 1. Previous violations by the facility's operator;
- 14 2. The seriousness of the violation;
- 15 3. The demonstrated good faith of the facility's operator; and
- 16 4. Any other matters as justice may require.

17 SECTION 9. REPEALER 63 O.S. 2021, Sections 1-725.1, 1-
18 725.2, 1-725.3, 1-725.4, and 1-725.5, are hereby repealed.

19 SECTION 10. This act shall become effective November 1, 2024.

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