SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 1020 (Friedman)
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Hearing Date: July 13, 2021
Fiscal: Yes
Urgency: No
CK

SUBJECT

Health care debt and fair billing

DIGEST

This bill fortifies the protections and benefits afforded by the Hospital Fair Pricing Act. It strengthens and builds upon the existing requirements concerning the fair collection of hospital debts.

EXECUTIVE SUMMARY

The Hospital Fair Pricing Act (HFPA) requires general acute care hospitals, as part of their licensure, to maintain understandable written policies on discounted payments and charity care for qualified patients. Hospitals in California must provide charity care, full or partial discounts of medical bills, to patients that are uninsured or underinsured. The HFPA sets the minimum guidelines that hospitals, as well as debt collectors, must follow in offering charity care to patients and collecting unpaid accounts.

The evidence is clear that not all patients eligible for benefits under the HFPA are receiving them. There are concerns that hospitals are withholding a large amount of charity care from patients and that state enforcement of the HFPA is lacking.

This bill responds by implementing a number of measures to ensure compliance with the HFPA, increasing eligibility for patients, and enacting additional protections in connection with hospital debt.

This bill is sponsored by the Western Center on Law and Poverty, Public Law Center, and Bet Tzedek. It is supported by a variety of groups, including SEIU California and the National Association of Social Workers, California Chapter. It is opposed by the California Association of Collectors and the Receivables Management Association International. This bill passed out of the Senate Health Committee on a 10 to 0 vote.

PROPOSED CHANGES TO THE LAW

Existing law:

1) Establishes the HFPA. (Health & Safety Code § 127400 et seq.) Each licensed general acute care hospital is required to comply with the HFPA as a condition of licensure. The State Department of Health Services is responsible for enforcement of the HFPA. (Health & Safety Code § 127401.)

2) Requires each hospital to maintain an understandable written policy regarding discount payments for financially qualified patients as well as an understandable written charity care policy. Uninsured patients or patients with high medical costs who are at or below 350 percent of the federal poverty level (FPL) shall be eligible to apply for participation under a hospital's charity care policy or discount payment policy. Both the charity care policy and the discount payment policy shall state the process used by the hospital to determine whether a patient is eligible for charity care or discounted payment. In the event of a dispute, a patient may seek review from the business manager, chief financial officer, or other appropriate manager as designated in the charity care policy and the discount payment policy. (Health & Safety Code § 127405(a)(1)(A).)

3) Requires a hospital's discount payment policy to clearly state eligibility criteria based upon income. The discount payment policy must include an extended payment plan to allow payment of the discounted price over time. The policy shall provide that the hospital and the patient shall negotiate the terms of the payment plan, and take into consideration the patient's family income and essential living expenses. If the hospital and the patient cannot agree on the payment plan, the hospital shall use a specified formula to create a reasonable payment plan. (Health & Safety Code § 127405(b).)

4) Establishes the Rosenthal Fair Debt Collections Practices Act (the Rosenthal Act) with the purpose to prohibit debt collectors from engaging in unfair or deceptive acts or practices in the collection of consumer debts and to require debtors to act fairly in entering into and honoring such debts. (Civ. Code § 1788 et seq.)

5) Prohibits a debt collector from collecting or attempting to collect a consumer debt by means of certain practices, including:

   a) collecting or attempting to collect from the debtor the whole or any part of the debt collector's fee or charge for services rendered, or other expense incurred by the debt collector in the collection of the consumer debt, except as permitted by law;
   b) initiating communications, other than statements of account, with the debtor with regard to the consumer debt, when the debt collector has been

previously notified in writing by the debtor's attorney that the debtor is represented by such attorney with respect to the consumer debt, as provided; or

c) sending a written communication to a debtor in an attempt to collect a time-barred debt without providing the debtor with a written notice, as specified. (Civ. Code § 1788.14.)

6) Defines "debt," under the Rosenthal Act, to mean money, property, or their equivalent that is due or owing or alleged to be due or owing from a natural person to another person. (Civ. Code § 1788.2(d).)

7) Defines "debt collection," under the Rosenthal Act, to mean any act or practice in connection with the collection of consumer debts. (Civ. Code § 1788.2(b).)

8) Defines "consumer debt," under the Rosenthal Act, to mean money or property owed by a natural person due to that person's acquisition, on credit, of property, services, or money used primarily for personal, family, or household purposes. (Civ. Code § 1788.2(e), (f).)

9) Defines "debt collector," under the Rosenthal Act, to mean any person who regularly, in the ordinary course of business, engages in debt collection on behalf of themselves or others. (Civ. Code § 1788.2(c).)

10) Establishes the FDBPA, which defines "debt buyer" as a person or entity that is regularly engaged in the business of purchasing charged-off consumer debt for collection purposes, whether it collects the debt itself, hires a third party for collection, or hires an attorney-at-law for collection litigation. (Civ. Code § 1788.50 et seq.) "Charged-off consumer debt" means a consumer debt that has been removed from a creditor's books as an asset and treated as a loss or expense. (Civ. Code § 1788.50.)

11) Prohibits, under the FDBPA, a debt buyer from making any written statement to a debtor in an attempt to collect a consumer debt unless the debt buyer possesses specified information. (Civ. Code § 1788.52(a).)

12) Prohibits a debt buyer from making any written statement to a debtor in an attempt to collect a consumer debt unless the debt buyer has access to a copy of a contract or other document evidencing the debtor's agreement to the debt, as provided. (Civ. Code § 1788.52(b).)

13) Requires a complaint, in an action brought by a debt buyer on a consumer debt, to allege all of the following:
    a) that the plaintiff is a debt buyer;

   b) the nature of the underlying debt and the consumer transaction or transactions from which it is derived, in a short and plain statement;
   c) that the debt buyer is the sole owner of the debt at issue, or has authority to assert the rights of all owners of the debt;
   d) the debt balance at charge off and an explanation of the amount, nature, and reason for all post-charge-off interest and fees, if any, imposed by the charge-off creditor or any subsequent purchasers of the debt;
   e) the date of default or the date of the last payment;
   f) the name and an address of the charge-off creditor at the time of charge off and the charge-off creditor's account number associated with the debt;
   g) the name and last known address of the debtor as they appeared in the charge-off creditor's records prior to the sale of the debt;
   h) the names and addresses of all persons or entities that purchased the debt after charge off, including the plaintiff debt buyer; and
   i) that the debt buyer has complied with Section 1788.52. (Civ. Code § 1788.58(a).)

14) Requires a copy of the contract, or other document, as provided, to be attached to the above complaint. It clarifies that nothing therein requires the disclosure in public records of personal, financial, or medical information, the confidentiality of which is protected by any state or federal law. (Civ. Code § 1788.58(b), (c).)

This bill:

1) Prohibits a debt collector from collecting or attempt to collect consumer debt that originated with a hospital, governed by the HFPA, without including in the first written communication to the debtor a copy of the notice required pursuant to subdivision (e) of Section 127425 of the Health and Safety Code and a statement that the debt collector will wait at least 180 days from the date the debtor was initially billed for the hospital services that are the basis of the debt before reporting adverse information to a credit reporting agency or filing a lawsuit against the debtor.

2) Requires a complaint in an action brought by a debt collector for debt that originated with a general acute care hospital governed by the HFPA to allege all of the following:
   a) that the plaintiff is a debt collector;
   b) that the underlying debt originated with a general acute care hospital;
   c) the date or dates the debtor was sent a notice about applying for financial assistance, the date the debtor was sent a financial assistance application, and, if applicable, the date a decision on the application was made. The complaint shall also identify the language in which this information was sent to the debtor;

d) the balance of the debt upon assignment to the debt collector and an explanation of the amount, nature, and reason for any interest and fees that are added to the debt balance by the debt collector after assignment;
e) the date of default or the date of the last payment, and the date the debt was assigned;
f) the name and address of the hospital at the time of assignment; and
g) the hospital's account number associated with the debt.

3) Requires copies of the application for financial assistance that was provided to the debtor and the notice that was provided to the debtor about applying for financial assistance to be attached to the complaint. If the notice was provided as part of the hospital bill that cannot be separated, the bill shall be redacted to remove confidential information or a sample hospital bill with the substance of the notice regarding financial assistance in the format in use at the time the patient was billed may be provided.

4) Clarifies that it does not require the disclosure in public records of personal, financial, or medical information, the confidentiality of which is protected by state or federal law. It requires the plaintiff to redact protected information filed with the complaint.

5) Prohibits a default or other judgment from being entered against a debtor for debt pursuant to this section unless business records, authenticated through a sworn declaration, are submitted by the debt collector to the court to establish the facts required to be alleged. If a debt collector plaintiff seeks a default judgment and has not complied with these provisions, the court shall not enter a default judgment for the plaintiff and may, in its discretion, dismiss the action.

6) Provides that it does not modify or otherwise amend the procedures established in Section 585 of the Code of Civil Procedure.

7) Raises the income threshold for Section 127405 and in the definitions of "financially qualified patient" and "a patient with high medical costs" to 400 percent of the federal poverty level. It also amends the definition of "high medical costs" to mean annual out-of-pocket costs incurred by the individual at the hospital that exceed the lesser of 10 percent of the patient's current family income or family income in the prior 12 months.

8) Moves enforcement of the HFPA to the Office of State Health Planning and Development (OSHPD) as of January 1, 2022.

9) Provides that patients eligible under the HFPA are not required to undergo an independent dispute resolution process.

10) Requires hospitals to prominently display their policy for financially qualified and self-pay patients on the hospital's internet website, with a link to the policy itself.

11) Restricts hospitals from selling patient debt to debt buyers.

12) Requires a hospital, before assigning a bill to collections, to send a patient a notice with all of the following information:
    a) the date or dates of service of the bill that is being assigned to collections;
    b) the name of the assignee the bill is being assigned to;
    c) a statement informing the patient how to obtain an itemized hospital bill from the hospital;
    d) the name and plan type of the health coverage for the patient on record with the hospital at the time of services or a statement that the hospital does not have that information; and
    e) an application for the hospital's charity care and financial assistance.

13) Extends the period before which no adverse information concerning a patient debt can be reported to a consumer credit reporting agency to 180 days after initial billing.

14) Requires hospitals to provide OSHPD with a copy of its debt collection policy. OSHPD shall review such policy for compliance, as provided.

15) Provides that a patient shall not be denied financial assistance that would be available pursuant to the policy published on the office's website at the time of service.

16)) Provides that the Director of OSHPD shall impose an administrative penalty of up to $40,000 for each violation against a hospital that fails to comply with the HFPA in the billing of a patient, except as provided. The director must promulgate regulations establishing criteria to determine the amount of any administrative penalty to include, at a minimum, all of the following:
    a) the actual financial harm to patients, if any;
    b) the nature, scope, and severity of the violation, including whether the hospital's policies, postings, and screening practices are in compliance, or whether the violation was a mistake that resulted in a violation of those policies and practices;
    c) the facility's history of compliance with related state and federal statutes and regulations;
    d) factors beyond the facility's control that restrict the facility's ability to comply with this chapter or the rules and regulations promulgated thereunder;
    e) the demonstrated willfulness of the violation;

f) the extent to which the facility detected the violation and took steps to immediately correct the violation and prevent the violation from recurring; and
g) the special circumstances of small and rural hospitals, as defined in Section 124840, if that consideration is needed to protect access to quality care in those hospitals.

17) Requires the director, upon receiving a complaint, to review the patient's eligibility for charity care or financial assistance and the hospital's compliance with the HFPA. If the director believes a violation has occurred, the director must issue notice to the hospital describing the alleged violation. The notice shall state all of the facts supporting the alleged violation. The hospital shall have 30 days after issuance of the notice to file a response with the director. OSHPD is required to establish an appeals process for hospitals.

18) Clarifies that the HFPA does not prohibit a hospital from selling or otherwise transferring patient debt to an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the explicit purpose of the tax-exempt organization abolishing the patient debt by cancellation of the indebtedness, or otherwise prohibit payment of the patient's debt by a third party.

19) Prohibits a health care service plan, insurer, or any other person from reducing the amount it would otherwise reimburse a claim for hospital services because a hospital has waived, or will waive, collection of all or a portion of a patient's bill for hospital services in accordance with the hospital's charity care or discount payment policy, notwithstanding any contractual provision.

COMMENTS

1. Failure to effectuate the intent of the Hospital Fair Pricing Act

The HFPA establishes a minimum income threshold for which charity must be offered, but provides flexibility to offer it to higher income patients. OSHPD is responsible for regularly reviewing each hospital's charity care policy and making each available to the public. Overall enforcement of the act is charged to the State Department of Health Services. According to OSHPD:

> [E]ach hospital is required to maintain understandable written policies for charity care (free care) and discount payments (partial charity care), clearly stated eligibility criteria and procedures for those policies, a description of the review process, and written policies for debt collection practices and procedures. The law includes specific criteria that each

> hospital must adopt regarding eligibility determination, hospital billing practices, and debt collection procedures.

As indicated, the HFPA also extends protections to patient debtors during the collections process. For instance, the law establishes a 150-day time period before a hospital or debt collector can report adverse information concerning an outstanding hospital debt to a consumer credit reporting agency or commence civil action against the patient. Throughout the process, patients are eligible to apply for charity care at any time.

However, evidence shows that patients are not receiving the benefits afforded by the HFPA. According to data from OSHPD, the numbers show a dramatic slide in the provision of charity care from 2013 to 2017; California's "general acute-care hospitals spent less than half on these patients in 2017 than they did in 2013." [1] A Kaiser Health News report found that hospitals were routinely billing patients that qualified for charity care but did not receive it:

> Under the Affordable Care Act, nonprofit hospitals like St. Joseph are required to provide free or discounted care to patients of meager incomes — or risk losing their tax-exempt status. These price breaks can help people avoid financial catastrophe.
>
> And yet nearly half — 45% — of nonprofit hospital organizations are routinely sending medical bills to patients whose incomes are low enough to qualify for charity care, according to a Kaiser Health News analysis of reports the nonprofits submit annually to the Internal Revenue Service. Those 1,134 organizations operate 1,651 hospitals.[2]

The author lays out the problem:

> Despite qualifying for charity care or Medi-Cal, patients are still getting hit with large medical bills. This means hospitals are not screening for other coverage or providing charity care at the frequency they are supposed to. Patients report being discharged and receiving medical bills without knowing they could apply for charity care. Worse, hospitals often sell patient accounts to collection agencies which further neglect to inform patients they could apply for charity care. Consequently, patients face negative credit reporting and, finally, collections lawsuits.

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[1] Harriet B. Rowan, *Charity Care Spending By Hospitals Plunges* (August 13, 2019) Kaiser Health News, https://khn.org/news/charity-care-spending-by-hospitals-plunges/. All internet citations are current as of July 7, 2021.

[2] Jordan Rau, *Patients Eligible For Charity Care Instead Get Big Bills* (October 14, 2019) Kaiser Health News, https://khn.org/news/patients-eligible-for-charity-care-instead-get-big-bills/.

Bet Tzedek, Public Law Center, and Western Center on Law & Poverty, the sponsors of the bill, elaborate:

> Medical debt is a significant driver of bankruptcy, poverty, and racial inequality in California. Nationally, medical expenses are the largest contributor to increasing the number of individuals in poverty. In California, about 16% of nonelderly adults report having unpaid medical debt.2 More Black Americans—one in three—have past-due medical bills, while fewer white Americans—one in four—owe this kind of debt. Such disparity only perpetuates the racial socioeconomic divide.
>
> The COVID-19 pandemic has starkly reminded us about the importance of treating medical conditions as they arise and the unjust reality that many Californians face when they do have catastrophic medical events. Even during the pandemic, hospitals and their debt collectors have continued to attempt to collect past due amounts from low-income individuals. Just last summer, in the greater Los Angeles area, a pregnant woman received a surgical procedure and was billed several hundred dollars for emergency care plus over $25,000 for the procedure. The hospital never offered the woman financial assistance and rescinded her charges only upon intervention of her attorney.

2. <u>Strengthening the HFPA to realize its intent</u>

According to the author:

> The COVID-19 pandemic has highlighted the importance of treating medical conditions as they arise and preventing financial devastation simply for seeking medical care. To avoid further economic fallout from the pandemic, this bill seeks to ensure that patients who qualify for charity care and/or Medi-Cal are properly evaluated and have access to financial assistance at multiple points during the collection process. Further, when a hospital does not evaluate a patient for charity care, there are no consequences - meaning there is no incentive for hospitals to ensure that patients have access to charity care.
>
> This bill will strengthen state enforcement and oversight of the Hospital Fair Pricing Act by penalizing hospitals that do not comply and will provide patients with more detailed information about their bills and how to apply for charity care at the time of discharge and when a bill is sent to collections. The bill will prohibit hospitals from selling patient debt, extend adverse credit reporting and commencement of civil action from 150 to 180 days after initial billing, and require debt collectors to certify that the patient has been screened for public programs and financial

> assistance before filing a lawsuit. Finally, this bill will raise the income level for financial assistance from 350% of the poverty level to 400%.
>
> Taken together, these measures will reduce the number of lawsuits based on medical debt filed by debt collectors, ensure individuals will seek medical care when they need to (as opposed to being scared to go to the hospital because of the bill they may get afterwards) and better protect those most vulnerable in our society, including the uninsured and under-insured.

This bill builds upon the existing provisions of the HFPA to better ensure that patients are being provided the benefits they are due, are being more thoroughly protected during the collection process, and to hold those in violation accountable. The bill requires hospitals to provide patients with more detailed information about their hospital bills and how to apply for charity care at various points of the process. It also raises the income eligibility from 350 percent to 400 percent of the federal poverty level. Once billed, patients are given an extra 30 days before adverse information connected to the debt can be reported to credit reporting agencies and before the hospital or debt collector can file suit against the patient.

To ensure more meaningful enforcement, the bill transfers enforcement authority to OSHPD. It also lays out an enforcement scheme by which OSHPD is authorized to assess administrative penalties of up to $40,000. OSHPD is tasked with promulgating regulations that establish criteria for determining the appropriate penalty, including specified factors such as the actual financial harm to patients and the facility's history of compliance with the law.

After reviewing a complaint and determining that a hospital is in violation, OSHPD must provide notice to the hospital and an opportunity to respond. OSHPD must also promulgate regulations that establish an appeals process for hospitals that have been assessed such penalties. This process must afford hospitals 30 days from issuance to file such an appeal and an opportunity to present relevant evidence. Patients must also be notified of the appeal and given the chance to respond, as provided. After considering the evidence before it, OSHPD may reduce or waive an assessment where appropriate.

3. <u>Building in protections for the collection of hospital debt</u>

Existing law regulates the collection of consumer debt under the Rosenthal Fair Debt Collections Practices Act. The purpose of the act is to prohibit debt collectors from engaging in unfair or deceptive acts or practices in the collection of consumer debts and to require debtors to act fairly in entering into and honoring such debts. (Civ. Code § 1788 et seq.) The act generally prohibits deceptive, dishonest, unfair, and unreasonable debt collection practices by debt collectors and regulates the form and content of communications by debt collectors to debtors and others.

Debt buyers are companies that purchase delinquent or charged-off debts from a creditor for a fraction of the face value of the debt. After these companies became subject to increased scrutiny due to numerous complaints on behalf of consumers, SB 233 (Leno and Correa, Ch. 64, Stats. 2013), sponsored by Attorney General Kamala Harris, established the FDBPA. The law made numerous changes relating to debt *buyers*, including requiring a complaint in an action to collect on a consumer debt to include specific allegations, and prohibiting a debt buyer from bringing suit if the applicable statute of limitations has expired.

This bill fortifies protections for patients with hospital debt by implementing FDBPA documentation, pleading, and evidentiary requirements for patient debt and incorporating them into the Rosenthal Act.

When collections enter the judicial system, the bill establishes procedural safeguards for borrowers modeled off of the FDBPA. When a debt collector, defined broadly in the Rosenthal Act to include the original creditor and those collecting the debt on their behalf, files suit to collect a hospital debt, the bill requires the underlying complaint to allege all of the following:

- that the plaintiff is a debt collector;
- that the underlying debt originated with a general acute care hospital;
- the date or dates the debtor was sent a notice about applying for financial assistance, the date the debtor was sent a financial assistance application, and, if applicable, the date a decision on the application was made. The complaint shall also identify the language in which this information was sent to the debtor;
- the balance of the debt upon assignment to the debt collector and an explanation of the amount, nature, and reason for any interest and fees that are added to the debt balance by the debt collector after assignment;
- the date of default or the date of the last payment, and the date the debt was assigned;
- the name and address of the hospital at the time of assignment; and
- the hospital's account number associated with the debt.

These requirements strengthen the protections for vulnerable patients and ensure that they are made aware of the financial assistance that they might still be eligible for pursuant to the HFPA.

To ensure that hospitals remain part of the process and to prevent further exacerbating the current issues with underutilization of charity care and other discounted programs, the bill prohibits hospitals from selling patient debt to debt buyers. The author explains:

> Debt buyers are different than debt collectors. If a hospital uses a debt collector to collect patient debt, the debt is still owned by the hospital. If a patient should have been eligible for charity care under the hospital's

> policy and their bill was mistakenly reported as debt and assigned to collection, the hospital's ownership of the debt makes it easier to correct, whether by offering financial assistance or billing the relevant insurance company or government program. In contrast, when a hospital sells the debt to a debt buyer, they are no longer responsible for the debt, even if it was mistakenly classified as debt.

The Receivables Management Association International, an association representing debt buying companies in the United States, argues against the prohibition:

> [T]he debt buying industry is highly regulated, highly compliant, and supportive of laws that set very clear standards so both debt buyers and consumers understand their roles and responsibilities under the law.
>
> In the case of AB 1020, the bill attempts to set standards for collection of hospital debt, a goal that we support. However, under the bill debt buyers would be prohibited from even attempting to meet ANY standard because debt buyers would be statutorily banned from participating in the highly regulated marketplace. There is no policy reason for this proposed prohibition.
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> To the contrary, all available evidence shows that debt buyers are exceedingly responsible when collecting hospital debt under current law. The sponsors of the bill could not provide a single example of consumer harm associated with the sale of accounts to debt buying companies despite multiple requests.

The sponsors of the bill, Bet Tzedek, Public Law Center, and Western Center on Law & Poverty, assert the justification for the proposed prohibition:

> AB 1020 further advances patient-consumer protection by prohibiting hospitals from selling their debt to buyers. The selling of hospital debt turns patient debt collection from an already complex process to an even more untenable one for people. To start, the pricing of hospital services varies depending on a hospital's own rate setting and is often concealed from the public or hard to decipher. The prices charged to uninsured patients who have no negotiating power far exceed the price that health plans or government payers pay. Selling debt obfuscates bills by removing hospitals from the process, consolidating patient accounts, and making it unclear whether third-party payers such as health plans or Medi-Cal may still be available to cover the costs of certain services. All this puts patients at a disadvantage when trying to negotiate with debt buyers.

> Unlike hospitals, debt buyers are incentivized to collect debt on a volume-driven model after purchasing the debt for pennies on the dollar. Debt buyers are not incentivized to screen patients for charity care; rather, debt buyers prioritize settling as many accounts or collecting as many judgments as possible to exceed the cost of purchasing their debt. Patients end up facing aggressive debt collectors, unrepresented in court, and left with adverse judgments that last 10 to 20 years when they would have otherwise qualified for charity care. While our legal services partners are successful in defending collection lawsuits stemming from hospital debt, patients who do not have representation would not even know that they did not actually owe the debt if the protections of the Hospital Fair Pricing Act had been applied.
>
> Restricting the selling of hospital debt is the right thing to do for Californians. Underlying each patient account that is sold is the fact that many hospitals receive federal funds to provide services and have access to uncompensated care pools. Hospitals do not need to sell debt to remain financially solvent, and if the patient is actually Medi-Cal eligible, selling the debt makes little sense. Furthermore, since the implementation of the Affordable Care Act, the number of uninsured Californians has plummeted, which has reduced financial pressure on hospitals. In addition, hospital debt arises out of completely involuntary life events and involves non-negotiable procedures to maintain health and well-being.

However, the author, working with those representing the debt-buying industry and this Committee, has agreed to amend the bill to provide authorization for the sale of patient debt to debt buyers with reasonable consumer protections in place, including, but not limited to:

- the hospital has found the patient ineligible for financial assistance or the patient has not responded to any attempts to bill or offer financial assistance for 180 days;
- the hospital includes contractual language in the sales agreement where the debt buyer agrees to return, and the hospital agrees to accept, any account when the balance has been determined to be incorrect due to the availability of a third-party payer including a health plan or government health coverage program, or the patient is eligible for charity care, or financial assistance;
- the debt buyer agrees to not resell or otherwise transfer the patient debt;
- the debt buyer agrees to not charge interest or fees on the patient debt;
- the debt buyer is licensed as a debt collector by the Department of Financial Protection and Innovation;
- the debt buyer is obligated to comply with Section 127425 of the Health & Safety Code;

- the debt buyer sends the patient information about the hospital bill and financial assistance in its first written communication with the patient debtor; and
- the debt buyer is required to include the date or dates the debtor was sent a notice about applying for financial assistance, the date the debtor was sent a financial assistance application, and, if applicable, the date a decision on the application was made, the language in the information was provided in, and a copy of the financial assistance application and notice when filing a lawsuit.

Given the timing, the author has committed to taking these amendments before the bill is heard in the next committee.

4. Additional stakeholder positions

The California School Employees Association writes in support:

> AB 1020 updates this important law to ensure that the uninsured and underinsured are not plunged into medical debt and hounded by debt collectors just for seeking health care.
>
> Even after the passage of the Affordable Care Act, many Californians remain underinsured and vulnerable to unaffordable medical bills when they seek care.
>
> Low-income individuals may delay or forgo medical care in fear of medical debt and because they don't know the options available to help pay for care. This bill is an important part of ensuring all Californians get the health care they need without fear of medical bankruptcy even if they are uninsured, underinsured, or low-income.

Writing in support, the National Health Law Program asserts:

> Charity care programs are a critical source of financial assistance for uninsured and underinsured Californians. Residents who cannot afford health coverage or who cannot qualify for Medi-Cal due to immigration status or for other reasons are stuck with crushing medical debt due to emergency care or care for serious health conditions. Unfortunately, many consumers in need of, and who qualify for, charity care are not properly screened for the program. Hospitals fail to reach out to assist patients or follow up with financial assistance applications. Many consumers are stuck with high medical debt, especially communities of color, because of these barriers. Charity care programs would benefit from stronger oversight over hospitals. . . .

> AB 1020 would ensure low-income Californians are not burdened by expensive and unnecessary medical bills through strengthened oversight and enforcement of charity care

SUPPORT

Bet Tzedek Legal Services (co-sponsor)
Public Law Center (co-sponsor)
Western Center on Law & Poverty (co-sponsor)
California Low-Income Consumer Coalition
California Rural Legal Assistance Foundation, INC.
California School Employees Association
Central California Legal Services
Coalition of California Welfare Rights Organizations
Community Legal Aid SoCal
Elder Law & Advocacy
Health Access California
Legal Aid Society of San Mateo County
National Association of Social Workers, California Chapter
National Health Law Program
Public Counsel
SEIU California

OPPOSITION

Receivables Management Association International

RELATED LEGISLATION

Pending Legislation:

SB 531 (Wieckowski, 2021) requires certain notices to be provided to debtors in connection with the sale or assignment of delinquent consumer debt. It also establishes certain documentation requirements for debt collectors and a right to request certain information from those collecting on sold or assigned delinquent debt. This bill is on the Assembly Floor.

AB 424 (Stone, 2021) establishes protections for borrowers with private student loan debt, including requirements for creditors to have certain documentation before collection and before initiating civil actions to collect on such debt. This bill is currently on the Senate Floor.

AB 532 (Wood, 2021) creates additional disclosure requirements on hospitals related to written notices about the availability of discounted payment and charity care policies

for uninsured patients and patients with high medical costs, such as, including the internet address of an organization that will help patients understand billing and payment processes, specifying the timing of disclosures, and posting of notices in observation units. This bill is currently in the Senate Appropriations Committee.

AB 1405 (Wicks, 2021) establishes the Fair Debt Settlement Practices Act, regulating debt settlement providers and payment processors, as defined. AB 1405 is currently in this Committee and being heard on the same day as this bill.

Prior Legislation:

SB 1276 (Hernandez, Ch. 758, Stats. 2014) revised the hospital charity care programs by making individuals who meet the income requirements eligible, even if they have received a discounted rate from the hospital as a result of third-party coverage. Defines "reasonable payment formula," for purposes of charity care programs, as monthly payments that do not exceed 10 percent of a patient's family income.

SB 233 (Leno and Correa, Ch. 64, Stats. 2013) *See* Comment 3.

AB 774 (Chan, Ch. 755, Stats. 2006) established the HFPA.

PRIOR VOTES:

Senate Health Committee (Ayes 10, Noes 0)
Assembly Floor (Ayes 65, Noes 3)
Assembly Appropriations Committee (Ayes 12, Noes 0)
Assembly Health Committee (Ayes 13, Noes 0)
Assembly Judiciary Committee (Ayes 9, Noes 2)

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