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WRITTEN TESTIMONY | Center for a Healthy America

HOSPITAL PRICE TRANSPARENCY ACT (HB 49) IN THE OHIO STATE LEGISLATURE

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Chair Lampton, Vice Chair Barhorst, Ranking Member Miranda, and members of the House Insurance Committee: thank you for the opportunity to provide testimony in the form of research and education on the policies in House Bill 49, the Hospital Price Transparency Act.

Hospital price transparency requires hospitals to make standard charges for medical items and services available and accessible to the public. The goal is to reduce opacity in the healthcare system and empower consumers with information to choose the care that is best for them.

The high cost of healthcare is a top financial worry for many Americans, but patients generally do not know the cost of their care until they receive a bill.¹ This greatly disadvantages consumers, who can suffer financial hardship that may have been preventable if they were able to make an informed choice when seeking care.² Efforts to improve transparency are bipartisan and aim to increase consumer knowledge, increase competition, and put downward pressure on the prices of medical devices and services. Importantly, 88% of Americans believe the government should make hospitals disclose prices.³

Prices for the same medical service can vary significantly by hospital, and cash prices can be lower than commercial prices negotiated between hospitals and insurers.^{4,5} According to data from Turquoise Health, the cash price for a routine colonoscopy is \$1,674.40 at Cleveland Clinic Hospital in Cleveland, while Akron General Medical Center, 40 miles away, charges a cash price of \$409.50.⁶ The cash price for the same procedure at Grant Medical Center in Columbus is \$3,192.80, while the cash price at Ohio Valley Medical Center in Springfield, less than 50 miles away, is \$751.75.⁷ This means **a patient could potentially save more than \$1,000** by driving to a different location for a procedure.⁸

Some consumers may perceive that lower-cost care may not be quality care. However, the price of care does not always directly correlate to quality, so consumers should use available price and quality tools to inform decisions about where to receive care.⁹ Price transparency allows consumers to see prices, compare them from provider to provider, and shop for the best rates. In doing so, it gives patients more control over their health and finances.

Federal Policy Background and Evidence of Limited Compliance

In November of 2019, the Department of Health and Human Services (HHS) finalized a rule requiring hospitals to publish prices, fulfilling a directive in an executive order signed by President Trump.^{10,11} The final rule required hospitals to publish a machine-readable file of five types of standard charges for all items and services, and create a consumer-friendly, shoppable list of 300 items and services, including 70 identified by the Centers for Medicare and Medicaid Services (CMS).



Under the Biden Administration, HHS showed support for these policies by increasing the penalties for hospitals that do not comply with regulations—from a minimum of \$109,500 to upwards of \$2 million for a full year of noncompliance.¹² The higher penalties went into effect on January 1, 2022.

However, hospital compliance with this rule has been subpar since the federal rule took effect. Only an estimated 24.5% of U.S. hospitals are in full compliance based on a sampling of 2,000 U.S. hospitals that was completed by Patient Rights Advocate (PRA) in February 2023.¹³ Notably for Ohio, only 18% of hospitals surveyed in the state were in full compliance. A recent CMS assessment had different results, as 70% of 600 surveyed hospitals were found to be compliant with both the machine-readable file and the consumer-friendly display requirements.¹⁴ This result is likely due to differences in how noncompliance was defined. PRA appeared to be more specific in assessing whether full requirements were met, and CMS evaluated only requirements it believed could be “unambiguously determined” from website review without requiring hospital validation.^{15,16} The CMS report also highlighted that, by January 2023, the agency had sent approximately 500 letters of warning to noncompliant hospitals, issued more than 230 corrective action plans requests, and fined only two hospitals, both in Georgia.^{17,18} This demonstrates that the federal enforcement of the increased penalties has been minimal, and the CMS report acknowledges “how much work many hospitals must still do.”¹⁹

Policies in HB 49 Align with Laws in Other States

State policies can encourage greater compliance with federal requirements, giving patients more control over their care and wallets.^{20,21} The policies in HB 49 are similar to policies promulgated by Texas SB 1137 in the 2021 Texas legislative session and Colorado HB 1285 in the 2022 Colorado legislative session.^{22,23,24} The state-level hospital price transparency policies codify the Trump Administration’s 2019 hospital price transparency rule and strengthen the specific terms by which the rules must be created, published, and maintained. The Texas law creates stacking penalties on top of federal fines for noncompliance with the rule and creates a condition of licensure. The Colorado law further encourages compliance by hospitals by preventing collection of non-payment from patients if the hospital is not in compliance with transparency requirements. Colorado’s law passed unanimously in the Senate and nearly unanimously in the House of Representatives, and Texas’s law passed unanimously in both chambers.

The policies in HB 49, sponsored by Representatives Ron Ferguson and Tim Barhorst, codify and strengthen federal price transparency list requirements and empower the Ohio Director of Health to monitor hospital compliance, request corrective action, and assess penalties. They also add consumer protection terms that prohibit non-compliant hospitals from pursuing debt collection against patients. If a hospital is found to be non-compliant with price transparency requirements by the Director of Health after a patient submits a complaint, the hospital must: 1) stop debt collection activities, 2) ensure the debt is removed from the patient’s credit report, and 3) pay the patient a penalty twice the amount of the debt.

Conclusion

Policies that remove uncertainty about the cost of medical care and increase competition enhance the ability of families to plan and pay for future healthcare expenses as they make comparisons across providers. By aligning state policies with existing federal requirements and encouraging compliance, Ohio lawmakers can give patients more control as they plan for and consume medical care and services.



Author Biography:

Heidi Overton, M.D., Ph.D. serves as Chief Policy Officer and Director of the Center for a Healthy America at the America First Policy Institute. Overton served as a White House Fellow in 2019-2020 in both the Office of American Innovation and the Domestic Policy Council and is board certified in Public Health and General Preventive Medicine. Previously, Overton was a general surgery resident at the Johns Hopkins University School of Medicine and a physician advocate for price and quality transparency in healthcare through Restoring Medicine. Overton earned her medical degree from the University of New Mexico School of Medicine and obtained her Ph.D. in Clinical Investigation from the Johns Hopkins University Bloomberg School of Public Health.

Endnotes:

- ¹ <https://www.kff.org/health-costs/issue-brief/americans-challenges-with-health-care-costs/>
- ² <https://americafirstpolicy.com/latest/hospital-price-transparency-from-washington-d.c-to-austin-texas-and-beyond>
- ³ https://harvardharrispoll.com/wpcontent/uploads/2019/06/HHP_May19_vF.pdf
- ⁴ <https://thehill.com/opinion/healthcare/588007-a-year-of-hospital-price-transparency-offers-hope-for-affordable-care/>
- ⁵ <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2787285>
- ⁶ https://turquoise.health/service_offerings?q=Colonoscopy%2C+diagnostic&service_name=&location=44195&provider_name=
- ⁷ https://turquoise.health/service_offerings?location=43215&q=Colonoscopy%2C+diagnostic&service_name=colonoscopy-diagnostic&provider_name=
- ⁸ <https://americafirstpolicy.com/latest/fact-sheet-improving-hospital-price-transparency-in-ohio>
- ⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4863949/>
- ¹⁰ Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals To Make Standard Charges Public, **84 FR 65524**, November 27, 2019.
- ¹¹ Improving Price and Quality Transparency in American Health Care to Put Patients First, **Executive Order 13877**, June 27, 2019.
- ¹² Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Radiation Oncology Model, **86 FR 63458**, November 16, 2021
- ¹³ <https://www.patientrightsadvocate.org/february-semi-annual-compliance-report-2023>
- ¹⁴ <https://www.healthaffairs.org/content/forefront/hospital-price-transparency-progress-and-commitment-achieving-its-potential>
- ¹⁵ PRA Report Assessment Criteria (p. 3-4): “We identified a hospital as noncompliant if it omitted any of the five standard charge criteria required by the rule, if it posted a majority of blanks or zeros in the data fields, if it did not provide descriptions of each item or service, if it did not post all negotiated payer rates associated with specific plans, or if (in the absence of a compliant shoppable services display) the hospital's price estimator tool did not show both the negotiated rates and discounted cash prices to provide pricing for all healthcare consumers, including the uninsured and those desiring to pay cash directly.” <https://www.patientrightsadvocate.org/february-semi-annual-compliance-report-2023>
- ¹⁶ CMS Report Assessment Description: “We limited our review to the regulatory requirements that can be unambiguously determined by anyone reviewing the data posted on the hospital website. We did not review aspects of the regulatory requirements that may require validation or clarification from the hospital, such as when a hospital specifies “not applicable” for a certain procedure.” <https://www.healthaffairs.org/content/forefront/hospital-price-transparency-progress-and-commitment-achieving-its-potential>
- ¹⁷ <https://www.healthaffairs.org/content/forefront/hospital-price-transparency-progress-and-commitment-achieving-its-potential>
- ¹⁸ <https://www.cms.gov/hospital-price-transparency/enforcement-actions>
- ¹⁹ <https://www.healthaffairs.org/content/forefront/hospital-price-transparency-progress-and-commitment-achieving-its-potential>
- ²⁰ <https://americafirstpolicy.com/latest/20220315-state-health-policy-issue-brief-increasing-hospital-price-transparency-compliance-in-states>
- ²¹ <https://americafirstpolicy.com/latest/20230130-update-on-hospital-price-transparency-in-2023-state-legislative-sessions>
- ²² **OH HB 49**, Ohio 135th General Assembly, 2023
- ²³ **TX SB 1137**, Texas 87th Legislature, 2021.
- ²⁴ **CO HB 1285**, 73rd General Assembly, 2022.



IMPROVING HOSPITAL PRICE TRANSPARENCY IN OHIO

March 2, 2023



**BOTTOM
LINE**

FEWER THAN 1 IN 5 OHIO HOSPITALS ARE COMPLIANT WITH FEDERAL HOSPITAL PRICE TRANSPARENCY REQUIREMENTS. STATE ACTION CAN HELP PATIENTS SAVE MONEY.

NEXT STEPS TO IMPROVE COMPLIANCE IN OHIO

- State policies can encourage greater compliance with federal requirements, giving patients more control over their care and wallets.
- The Department of Health and Human Services finalized a rule in November 2019 that requires hospitals to publish prices. As of January 2021, hospitals are required to publish a machine-readable file of five types of standard charges for all items and services. They are also required to create a consumer-friendly, shoppable list of 300 items and services, including 70 identified by the Centers for Medicare and Medicaid Services (CMS).
- Full compliance with the federal rule, as defined by CMS, remains low nationwide and in Ohio. A Patient Rights Advocate report from February 2023 estimates that about one quarter of hospitals nationwide are fully compliant.
- Codifying the federal rule and coupling it with additional monetary penalties are strategies that will help increase compliance. Preventing non-compliant hospitals from pursuing debt collection against patients is another way to safeguard patients and incentivize compliance. Examples of these policies can be found in Texas's SB 1137 (2021) and Colorado's HB 1285 (2022).

COMPLIANT HOSPITALS IN OHIO



Source: Fourth Semi-Annual Hospital Price Transparency Report, February 2023, Patient Rights Advocate.

WHY THIS MATTERS

Prices for healthcare services can vary greatly by location. According to data from Turquoise Health, the cash price for a routine colonoscopy is \$1,674.40 at Cleveland Clinic Hospital in Cleveland, while Akron General Medical Center, 40 miles away, charges a cash price of \$409.50.

The cash price for the same procedure at Grant Medical Center in Columbus is \$3,192.80, while the cash price at Ohio Valley Medical Center in Springfield, less than 50 miles away, is \$751.75.

This means **a patient could potentially save themselves more than one thousand dollars** by driving to a different location for a procedure.

THE POLICIES IN HB 49 WOULD PUT OHIOANS IN CHARGE OF THEIR CARE

- The policies in HB 49, sponsored by Representatives Ron Ferguson and Tim Barhorst, codify and strengthen federal price transparency list requirements and empower the Director of Health to monitor hospital compliance, request corrective action, and assess penalties. They also add consumer protection terms that prohibit non-compliant hospitals from pursuing debt collection against patients. If a hospital is found to be non-compliant with price transparency requirements by the Director of Health after a patient submits a complaint, the hospital must: 1) stop debt collection activities, 2) ensure the debt is removed from the patient's credit report, and 3) pay the patient a penalty twice the amount of the debt.
- Hospital price transparency is popular. **Texas's SB 1137 law passed in both chambers unanimously in 2021, and Colorado's HB 1285 passed the Senate unanimously in 2022.**

SEE THE FULL TEXT OF THE HOSPITAL PRICE TRANSPARENCY ACT AT: bit.ly/ALECpricetransparency

SEE THE SUMMARY AT: bit.ly/AFPIpricetransparency