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135th General Assembly  
Regular Session  
2023-2024

Sub. H. B. No. 49

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**A BILL**

To amend section 3727.44; to amend, for the purpose  
of adopting a new section number as indicated in  
parentheses, section 3727.44 (3727.37); to enact  
new section 3727.42 and sections 3727.31,  
3727.32, 3727.33, 3727.34, 3727.35, 3727.351,  
3727.36, and 3727.41; and to repeal sections  
3727.42, 3727.43, and 3727.45 of the Revised  
Code regarding facility fees and the  
availability of hospital price information.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3727.44 be amended; section  
3727.44 (3727.37) be amended for the purpose of adopting a new  
section number as indicated in parentheses; and new section  
3727.42 and sections 3727.31, 3727.32, 3727.33, 3727.34,  
3727.35, 3727.351, 3727.36, and 3727.41 of the Revised Code be  
enacted to read as follows:

**Sec. 3727.31.** Except as otherwise expressly provided or  
clearly appearing from the context, any term used in sections  
3727.31 to 3727.37 of the Revised Code that is not otherwise



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defined in this section has the same meaning as when used in a 19  
comparable context in the federal price transparency law. 20

As used in sections 3727.31 to 3727.37 of the Revised 21  
Code: 22

(A) "Hospital" has the same meaning as in section 3722.01 23  
of the Revised Code, notwithstanding the meaning of that term in 24  
section 3727.01 of the Revised Code. 25

(B) "Personal data" means any information that is linked 26  
or reasonably linkable to an identified or identifiable person 27  
in this state. "Personal data" does not include either of the 28  
following: 29

(1) Publicly available information; 30

(2) Personal data that has been deidentified or aggregated 31  
using commercially reasonable methods such that neither the 32  
associated person, nor a device linked to that person, can be 33  
reasonably identified. 34

(C) "Process" or "processing" means any operation or set 35  
of operations that are performed on personal data, whether or 36  
not by automated means, including the collection, use, storage, 37  
disclosure, analysis, deletion, transfer, or modification of 38  
personal data. 39

(D) "Publicly available information" means information 40  
that is lawfully made available from federal, state, or local 41  
government records or widely available media. 42

(E) "Shoppable service" means a service that may be 43  
scheduled by a health care consumer in advance. 44

(F) "Targeted advertising" means displaying an 45  
advertisement that is selected based on personal data obtained 46

from the use of a hospital's internet-based price estimator tool 47  
by a person in this state. "Targeted advertising" does not 48  
include any of the following: 49

(1) Advertising in response to the user's request for 50  
information or feedback; 51

(2) Advertisements based on activities within a hospital's 52  
own web sites or online applications; 53

(3) Advertisements based on the context of a user's 54  
current search query, visit to a web site, or online 55  
application; 56

(4) Processing personal data solely for measuring or 57  
reporting advertising performance, reach, or frequency. 58

(G) "Federal price transparency law" means section 2718(e) 59  
of the "Public Health Service Act," 42 U.S.C. 300gg-18, and 60  
hospital price transparency rules adopted by the United States 61  
department of health and human services and the United States 62  
centers for medicare and medicaid services implementing that 63  
section, including the rules and requirements under 45 C.F.R. 64  
180. 65

**Sec. 3727.32.** (A) Each hospital located in the state shall 66  
comply with the federal price transparency law. 67

(B) Subject to divisions (C) and (D) of this section, a 68  
hospital located in this state shall maintain and make publicly 69  
available a list of the standard charges for the hospital's 70  
shoppable services, as required by the federal price 71  
transparency law. With respect to the shoppable services that 72  
are included on the list, both of the following apply: 73

(1) During the period beginning two years after the 74

effective date of this section and ending four years after the 75  
effective date of this section, the hospital shall include at 76  
least four hundred shoppable services on the list, unless the 77  
hospital provides fewer than four hundred shoppable services, in 78  
which case the list shall include the number of shoppable 79  
services that the hospital provides. 80

(2) During the period beginning four years after the 81  
effective date of this section, the hospital shall include at 82  
least five hundred shoppable services on the list, unless the 83  
hospital provides fewer than five hundred shoppable services, in 84  
which case the list shall include the number of shoppable 85  
services that the hospital provides. 86

(C) A hospital that maintains an internet-based price 87  
estimator tool deemed by the United States centers for medicare 88  
and medicaid services to meet the requirements of the federal 89  
price transparency law regarding the list of standard charges 90  
for shoppable services also meets the requirements of this 91  
section if the hospital takes reasonable steps to do both of the 92  
following: 93

(1) Improve the accuracy and performance of the internet- 94  
based price estimator tool; 95

(2) Regularly update the underlying data used by the 96  
internet-based price estimator tool and audit price estimates 97  
generated by the tool for quality assurance purposes. 98

(D) (1) A hospital shall not sell personal data acquired 99  
from the use of the hospital's internet-based price estimator 100  
tool by a person in this state. 101

(2) A hospital shall not use, sell, or process personal 102  
data acquired from the use of the hospital's internet-based 103

price estimator tool by a person in this state for the purposes 104  
of targeted advertising. 105

**Sec. 3727.33.** (A) A hospital shall not do any of the 106  
following: 107

(1) Fail to comply with the requirement to make public 108  
either or both of the lists described in section 3727.32 of the 109  
Revised Code and the federal price transparency law; 110

(2) Fail to maintain either or both of the lists in 111  
accordance with each of the requirements of section 3727.32 of 112  
the Revised Code and the federal price transparency law; 113

(3) Fail in any other manner to comply with the 114  
requirements that apply to the lists under sections 3727.31 to 115  
3727.37 of the Revised Code. 116

(B) The director of health shall monitor each hospital's 117  
compliance with division (A) of this section. The monitoring may 118  
occur by any of the following methods: 119

(1) Evaluating complaints made by individuals to the 120  
director; 121

(2) Reviewing any credible analysis prepared regarding 122  
compliance or noncompliance by hospitals; 123

(3) Auditing the internet web sites of hospitals for 124  
compliance. 125

(C) In reviewing an application for renewal of a 126  
hospital's license under Chapter 3722. of the Revised Code, the 127  
director of health shall consider whether the hospital is 128  
violating or has violated division (A) of this section. 129

(D) (1) The director of health shall create and make 130

publicly available a list that identifies each hospital that is 131  
not in compliance with division (A) of this section. The list of 132  
noncompliant hospitals shall include any hospital that has been 133  
sent a notice of violation under section 3727.34 of the Revised 134  
Code, is subject to an order imposing an administrative penalty 135  
under section 3727.35 of the Revised Code, has been sent any 136  
other written communication from the director regarding a 137  
violation of division (A) of this section, or otherwise has been 138  
determined by the director to be not in compliance with division 139  
(A) of this section. 140

(2) The list of noncompliant hospitals is a public record, 141  
as defined in section 149.43 of the Revised Code. 142

(3) After the director of health has determined that a 143  
hospital is not in compliance with division (A) of this section, 144  
the materials that consist of notices, orders, communications, 145  
and determinations under sections 3727.31 to 3727.37 of the 146  
Revised Code are public records, as defined in section 149.43 of 147  
the Revised Code. 148

(E) Not later than ninety days after the effective date of 149  
this section, the director of health shall create the initial 150  
list of noncompliant hospitals and include the list on the 151  
internet web site maintained by the department of health. The 152  
director shall update the list and web site at least every 153  
thirty days thereafter. 154

**Sec. 3727.34.** (A) If the director of health determines 155  
that a hospital has violated division (A) of section 3727.33 of 156  
the Revised Code, the director shall issue a notice of violation 157  
to the hospital. The director shall clearly explain in the 158  
notice the manner in which the hospital is not in compliance. 159

When a notice of violation is issued, the director shall 160  
require the hospital to submit a corrective action plan to the 161  
director. In the notice, the director shall indicate the form 162  
and manner in which the corrective action plan is to be 163  
submitted and clearly specify the date by which the hospital is 164  
required to submit the plan. The date that is specified shall 165  
not be less than fifteen days after the notice is sent. 166

(B) A hospital that receives a notice of violation shall 167  
submit to the director of health a corrective action plan in the 168  
form and manner indicated, and by the date specified, in the 169  
notice. In the plan, the hospital shall provide a detailed 170  
description of the corrective action the hospital will take to 171  
address each violation identified by the director. The hospital 172  
shall specify the date by which it will complete the corrective 173  
action. The date that is specified shall not be more than ninety 174  
days after the plan is submitted. 175

(C) A corrective action plan is subject to review and 176  
approval by the director of health. After the director reviews 177  
and approves the plan, the director shall monitor and evaluate 178  
the hospital's compliance with the plan. 179

(D) A hospital shall not do any of the following: 180

(1) Fail to respond to the director's requirement to 181  
submit a corrective action plan; 182

(2) Fail to submit a corrective action plan in the form 183  
and manner indicated in the notice of violation or by the date 184  
specified in that notice; 185

(3) Fail to complete the corrective action specified in a 186  
corrective action plan by the date specified in the plan. 187

Sec. 3727.35. (A) (1) Notwithstanding any conflicting 188

provision of the Revised Code, the director of health may impose 189  
an administrative penalty on a hospital if the hospital does 190  
both of the following: 191

(a) Violates division (A) of section 3727.33 of the 192  
Revised Code; 193

(b) Violates division (D) of section 3727.34 of the 194  
Revised Code. 195

(2) Each day a hospital violates both division (A) of 196  
section 3727.33 of the Revised Code and division (D) of section 197  
3727.34 of the Revised Code is considered a separate violation. 198

(B) In imposing an administrative penalty under this 199  
section, the director of health shall act in accordance with 200  
Chapter 119. of the Revised Code. The amount of the penalty to 201  
be imposed on a hospital shall be selected by the director, 202  
subject to the maximum amounts and considerations specified in 203  
division (C) of this section. For all penalties that are 204  
imposed, the director shall select amounts that are sufficient 205  
to ensure that hospitals comply with the requirements of 206  
sections 3727.31 to 3727.37 of the Revised Code. 207

(C) (1) An administrative penalty imposed under this 208  
section shall not be higher than the following: 209

(a) In the case of a hospital with a bed count of thirty 210  
or fewer, three hundred dollars; 211

(b) In the case of a hospital with a bed count that is 212  
greater than thirty and equal to or fewer than five hundred 213  
fifty, ten dollars per bed; 214

(c) In the case of a hospital with a bed count that is 215  
greater than five hundred fifty, five thousand five hundred 216



<u>dollars.</u>	217
<u>(2) In setting the amount of the penalty to be imposed on</u>	218
<u>a hospital, the director of health shall consider all of the</u>	219
<u>following:</u>	220
<u>(a) Previous violations by the hospital's operator;</u>	221
<u>(b) The seriousness of the violation;</u>	222
<u>(c) The demonstrated good faith of the hospital's</u>	223
<u>operator;</u>	224
<u>(d) Any other matters as justice may require.</u>	225
<u>(D) An administrative penalty collected under this section</u>	226
<u>shall be deposited into the state treasury to the credit of the</u>	227
<u>hospital price transparency fund created by section 3727.351 of</u>	228
<u>the Revised Code.</u>	229
<b><u>Sec. 3727.351.</u></b> <u>There is hereby created in the state</u>	230
<u>treasury the hospital price transparency fund, consisting of</u>	231
<u>administrative penalties collected under section 3727.35 of the</u>	232
<u>Revised Code. The director of health shall administer the fund.</u>	233
<u>The amounts deposited shall be used for purposes of</u>	234
<u>administering and enforcing sections 3727.31 to 3727.37 of the</u>	235
<u>Revised Code, except that the director may use a portion for</u>	236
<u>purposes of informing the public about the availability of</u>	237
<u>hospital price information and other consumer rights under those</u>	238
<u>sections.</u>	239
<b><u>Sec. 3727.36.</u></b> <u>The director of health shall prepare reports</u>	240
<u>and submit them in accordance with both of the following:</u>	241
<u>(A) On an annual basis, the director shall prepare a</u>	242
<u>report on hospitals that are in violation of division (A) of</u>	243
<u>section 3727.33 or division (D) of section 3727.34 of the</u>	244

Revised Code. 245

(B) The director shall submit the report to the general 246  
assembly in accordance with section 101.68 of the Revised Code, 247  
the chairperson of the standing committee of the house of 248  
representatives with primary responsibility for health 249  
legislation, the chairperson of the standing committee of the 250  
senate with primary responsibility for health legislation, and 251  
the governor. 252

**Sec. ~~3727.44~~ 3727.37.** The director of health may adopt 253  
rules to carry out the purposes of sections ~~3727.42 and 3727.43~~ 254  
3727.31 to 3727.37 of the Revised Code. All rules adopted 255  
pursuant to this section shall be adopted in accordance with 256  
Chapter 119. of the Revised Code. 257

**Sec. 3727.41.** As used in sections 3727.41 and 3727.42 of 258  
the Revised Code: 259

(A) "Campus" means the physical area immediately adjacent 260  
to a hospital's main buildings, other areas and structures that 261  
are not strictly contiguous to the main buildings but are 262  
located within seven hundred fifty feet of the main buildings, 263  
and any other areas determined on an individual case basis, by 264  
the department of health, to be part of the hospital's campus. 265

(B) "Chargemaster" means the list maintained by a health 266  
care facility of each health care service or item for which the 267  
health care facility has established a charge. 268

(C) "De-identified maximum negotiated charge" means the 269  
highest charge that a health care facility has negotiated with 270  
all third-party payors for a health care service or item. 271

(D) "De-identified minimum negotiated charge" means the 272  
lowest charge that a health care facility has negotiated with 273

all third-party payors for a health care service or item. 274

(E) "Discounted cash price" means the charge that applies 275  
to an individual who pays cash, or a cash equivalent, for a 276  
health care service or item. 277

(F) "Governmental health plan" means a plan established or 278  
maintained for its beneficiaries by the government of the United 279  
States, the government of any state or political subdivision 280  
thereof, or by any agency or instrumentality of the government 281  
of the United States or the government of any state or political 282  
subdivision thereof, including medicare and medicaid health 283  
plans. 284

(G) "Gross charge" means the charge for a health care 285  
service or item that is reflected on a health care facility's 286  
chargemaster, absent any discounts. 287

(H) "Health care facility" means any hospital, outpatient 288  
department, satellite unit, or any other inpatient or outpatient 289  
facility owned by a hospital or multi-hospital system. 290

(I) "Health care service or item" means any service or 291  
item, including service packages, that may be provided by a 292  
health care facility to a patient in connection with an 293  
outpatient department, satellite unit, or other outpatient 294  
facility visit for which the health care facility has 295  
established a standard charge, including all of the following: 296

(1) Supplies and procedures; 297

(2) Room and board; 298

(3) Use of the facility and other areas, the charges for 299  
which are generally referred to as facility fees; 300

(4) Services of physicians and non-physician 301

practitioners, employed by the health care facility, the charges 302  
for which are generally referred to as professional fees; 303

(5) Any other service or item for which a health care 304  
facility has established a standard charge. 305

(J) "Hospital" has the same meaning as in section 3727.01 306  
of the Revised Code. 307

(K) "Multi-hospital system" means two or more hospitals 308  
that are subject to the control and direction of one common 309  
owner responsible for the operational decisions of the entire 310  
system or that have integrated administrative functions and 311  
medical staff that report to one governing body as the result of 312  
a formal legal or contractual obligation. 313

(L) "Outpatient" means a patient who is not admitted as an 314  
inpatient and whose length of stay is less than twenty-four 315  
hours. 316

(M) (1) "Outpatient facility" means a health care facility 317  
that meets all of the following requirements: 318

(a) Is an off-campus facility located apart from a 319  
hospital; 320

(b) Provides diagnosis or diagnosis and treatment for 321  
ambulatory patients; 322

(c) Conducts patient care under the professional 323  
supervision of persons licensed to practice medicine or surgery 324  
in the state, or in the case of dental diagnosis or treatment, 325  
under the professional supervision of persons licensed to 326  
practice dentistry in the state; 327

(d) Offers to patients not requiring hospitalization the 328  
services of licensed physicians in various medical specialties, 329

and which provides to its patients a reasonably full range of 330  
diagnostic and treatment services. 331

(2) "Outpatient facility" includes any outpatient 332  
physician facility, satellite unit, or other off-campus health 333  
care facility that fulfills the requirements of division (M)(1) 334  
of this section. 335

(N)(1) "Outpatient physician facility" means an outpatient 336  
facility independently owned and operated by one or more private 337  
licensed physicians, whether organized for individual or group 338  
practice. 339

(2) "Outpatient physician facility" does not include any 340  
health care facility owned, operated by, or subject to the 341  
control and direction of any hospital or multi-hospital system. 342

(O) "Payor-specific negotiated charge" means the charge 343  
that a health care facility has negotiated with a third-party 344  
payor for a health care service or item. 345

(P) "Satellite unit" means a unit owned and operated by a 346  
hospital that is providing diagnostic, therapeutic, or 347  
rehabilitative services on an outpatient basis at a 348  
geographically separate off-campus location from the hospital 349  
that owns and operates the unit. 350

(Q) "Self-pay individual" means an individual who does not 351  
have benefits for a health care service or item under a health 352  
plan offered by a third-party payor or who does not seek to have 353  
a claim for that item or service submitted to the third-party 354  
payor. 355

(R) "Service package" means an aggregation of individual 356  
health care services or items into a single service with a 357  
single charge. 358

(S) "Standard charge" means the regular rate established 359  
by a health care facility for a health care service or item 360  
provided to a specific group of paying patients. "Standard 361  
charge" includes all of the following: 362

(1) The gross charge; 363

(2) The payor-specific negotiated charge; 364

(3) The de-identified minimum negotiated charge; 365

(4) The de-identified maximum negotiated charge; 366

(5) The discounted cash price. 367

(T) "Third-party payor" means an entity, excluding 368  
governmental health plans, that is, by statute, contract, or 369  
agreement, legally responsible for payment of a claim for a 370  
health care service or item. 371

**Sec. 3727.42.** (A) Beginning July 1, 2027, and subject to 372  
division (B) of this section, a hospital or multi-hospital 373  
system that acquires, or acquired in the past, an existing, 374  
independent outpatient physician facility and operates that 375  
facility as an outpatient facility subject to the control and 376  
direction of the hospital or multi-hospital system shall not 377  
require a third-party payor or self-pay individual to pay 378  
facility fees in connection with any health care services or 379  
items provided to a patient at that outpatient facility. 380

(B) The requirements of this section apply only to 381  
existing outpatient physician facilities purchased or otherwise 382  
acquired by a hospital or multi-hospital system. Nothing in this 383  
section shall be construed to apply to an outpatient facility 384  
that is constructed by a hospital or multi-hospital system, or 385  
that did not previously operate as an outpatient physician 386

facility prior to its acquisition by a hospital or multi- 387  
hospital system. 388

**Section 2.** That existing section 3727.44 of the Revised 389  
Code is hereby repealed. 390

**Section 3.** That sections 3727.42, 3727.43, and 3727.45 of 391  
the Revised Code are hereby repealed. 392