

AN ACT

To amend section 3727.44; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 3727.44 (3727.40); to enact sections 5.2410, 5.54, 5.60, 3727.31, 3727.32, 3727.33, 3727.34, 3727.35, 3727.36, 3727.37, 3727.38, 3727.381, and 3727.39; and to repeal sections 3727.42, 3727.43, and 3727.45 of the Revised Code to require hospitals to publish certain price information and to designate "Ohio Black Media Week," "Hindu Heritage Month," and "Older Ohioans Month."

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

SECTION 1. That section 3727.44 be amended; section 3727.44 (3727.40) be amended for the purpose of adopting a new section number as indicated in parentheses; and sections 5.2410, 5.54, 5.60, 3727.31, 3727.32, 3727.33, 3727.34, 3727.35, 3727.36, 3727.37, 3727.38, 3727.381, and 3727.39 of the Revised Code be enacted to read as follows:

Sec. 5.2410. The month of May is designated as "Older Ohioans Month."

Sec. 5.54. The week of the sixteenth day of March is designated as "Ohio Black Media Week" to recognize freedom of the press, information, equity, and equality.

Sec. 5.60. The month of October is designated as "Hindu Heritage Month" to recognize the contributions of Hindu Americans to the culture, education, faith, and life of the state.

Sec. 3727.31. As used in sections 3727.31 to 3727.40 of the Revised Code:

(A) "Ancillary service" means a hospital item or service that a hospital customarily provides as part of a shoppable service.

(B) "Chargemaster" means the list maintained by a hospital of each hospital item or service for which the hospital has established a charge.

(C) "De-identified maximum negotiated charge" means the highest charge that a hospital has negotiated with all third-party payors for a hospital item or service.

(D) "De-identified minimum negotiated charge" means the lowest charge that a hospital has negotiated with all third-party payors for a hospital item or service.

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

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

(G) "Hospital" has the same meaning as in section 3722.01 of the Revised Code.

(H) "Hospital items or services" means all items or services, including individual items or services and service packages, that may be provided by a hospital to a patient in connection with an inpatient admission or an outpatient department visit, as applicable, for which the hospital has established a standard charge, including all of the following:

(1) Supplies and procedures;

(2) Room and board;

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

(4) Services of physicians and non-physician practitioners, employed by the hospital, the charges for which are generally referred to as professional fees;

(5) Any other item or service for which a hospital has established a standard charge.

(I) "Gross charge" means the charge for a hospital item or service that is reflected on a hospital's chargemaster, absent any discounts.

(J) "Machine-readable format" means a digital representation of information in a file that can be imported or read into a computer system for further processing. "Machine-readable format" includes XML, JSON, and CSV formats.

(K) "Payor-specific negotiated charge" means the charge that a hospital has negotiated with a third-party payor for a hospital item or service.

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

(1) Publicly available information;

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

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

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

(O) "Service package" means an aggregation of individual hospital items or services into a single service with a single charge.

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

(Q) "Standard charge" means the regular rate established by the hospital for a hospital item or service provided to a specific group of paying patients. "Standard charge" includes all of the following:

(1) The gross charge;

- (2) The payor-specific negotiated charge;
- (3) The de-identified minimum negotiated charge;
- (4) The de-identified maximum negotiated charge;
- (5) The discounted cash price.

(R) "Targeted advertising" means displaying an advertisement that is selected based on personal data obtained from the use of a hospital's internet-based price estimator tool by a person in this state. "Targeted advertising" does not include any of the following:

- (1) Advertising in response to the user's request for information or feedback;
- (2) Advertisements based on activities within a hospital's own web sites or online applications;
- (3) Advertisements based on the context of a user's current search query, visit to a web site, or online application;
- (4) Processing personal data solely for measuring or reporting advertising performance, reach, or frequency.

(S) "Third-party payor" means an entity that is, by statute, contract, or agreement, legally responsible for payment of a claim for a hospital item or service.

Sec. 3727.32. A hospital shall make public both of the following:

(A) As described in section 3727.33 of the Revised Code, a digital file in a machine-readable format that contains a list of all standard charges, expressed in dollar amounts, for all hospital items or services;

(B) As described in section 3727.34 of the Revised Code, a consumer-friendly list of standard charges for the hospital's shoppable services or an internet-based price estimator tool.

Sec. 3727.33. (A) A hospital shall maintain a list of all standard charges for all hospital items or services in accordance with this section. The hospital shall ensure that the list is available at all times to the public, including by posting the list electronically in the manner provided by this section.

(B) The standard charges contained in the list shall reflect the standard charges applicable to that location of the hospital, regardless of whether the hospital operates in more than one location or operates under the same license as another hospital.

(C) The list shall include the following information, as applicable:

- (1) A description of each hospital item or service provided by the hospital;
- (2) The following charges, expressed in dollar amounts, for each particular hospital item or service when provided in either an inpatient setting or an 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;

(e) The payor-specific negotiated charge, listed by the name of the third-party payor and health plan associated with the charge and displayed in a manner that clearly associates the charge with each third-party payor and health plan;

(f) Any code used by the hospital for purposes of accounting or billing for the hospital item or service, including the current procedural terminology (CPT) code, healthcare common procedure coding system (HCPCS) code, diagnosis related group (DRG) code, national drug code (NDC), or other common identifier.

(D) The information contained in the list shall be published in a single digital file that is in a machine-readable format.

(E) The list shall be displayed in a prominent location on the home page of the hospital's publicly accessible internet web site or be accessible by selecting a dedicated link that is prominently displayed on that home page. If the hospital operates multiple locations and maintains a single internet web site, a separate list shall be posted for each location the hospital operates and shall be displayed in a manner that clearly associates the list with the applicable location.

(F) The list shall satisfy all of the following conditions:

(1) Be available free of charge; without having to register or establish a user account or password; without having to submit personal identifying information, including any information pertaining to an individual's health care coverage or other benefits; and without having to overcome any other impediment in order to access the list, including such impediments as entering a code or completing any type of security measure known as challenge-response authentication;

(2) Be accessible to a common commercial operator of an internet search engine to the extent necessary for the search engine to index the list and display the list as a result in response to a search query of a user of the search engine;

(3) Be formatted in a manner prescribed by the template developed under division (G) of this section;

(4) Be digitally searchable;

(5) Use the following naming convention specified by the United States centers for medicare and medicaid services, specifically:

"<ein> <hospital-name>_standardcharges.[jsonxmlcsv]."

(G) For purposes of division (F)(3) of this section, the director of health shall develop a template that each hospital shall use in formatting the list. In developing the template, the director shall do both of the following:

(1) Consider any applicable federal guidelines for formatting similar lists required by federal statutes or regulations and ensure that the design of the template enables health care consumers or other researchers to compare the charges contained in the lists maintained by each hospital;

(2) Design the template to be substantially similar to the template used by the United States centers for medicare and medicaid services for purposes similar to those of sections 3727.31 to 3727.40 of the Revised Code, if the director determines that designing the template in that manner

serves the purposes of this section and that the department of health benefits from the director developing and requiring that substantially similar design.

(H) At least once each year, the hospital shall update the list it maintains under this section. The hospital shall clearly indicate the date on which the list was most recently updated, either on the list or in a manner that is clearly associated with the list.

Sec. 3727.34. (A) Subject to division (E) of this section, a hospital shall maintain and make publicly available a list of the standard charges described in divisions (C)(2)(b), (c), (d), and (e) of section 3727.33 of the Revised Code for the hospital's shoppable services. With respect to the shoppable services that are included on the list, a hospital may select the shoppable services to be included on the list, subject to all of the following:

(1) The list shall include at least three hundred shoppable services, unless the hospital provides fewer than three hundred shoppable services, in which case the list shall include the number of shoppable services that the hospital provides.

(2) Of the shoppable services selected for purposes of division (A)(1) of this section, the list shall include the seventy services specified as shoppable services by the United States centers for medicare and medicaid services, unless the hospital does not provide all of the seventy services, in which case the list shall include as many of those services as the hospital does provide.

(3) In selecting a shoppable service for purposes of inclusion on the list, a hospital shall do both of the following:

(a) Consider how frequently the hospital provides the service and the hospital's billing rate for that service;

(b) Prioritize the selection of services that are among the services most frequently provided by the hospital.

(B) A hospital's list maintained under this section shall include all of the following information:

(1) A plain-language description of each shoppable service included on the list;

(2) The payor-specific negotiated charge that applies to each shoppable service included on the list and any ancillary service, listed by the name of the third-party payor and health plan associated with the charge and displayed in a manner that clearly associates the charge with the third-party payor and health plan;

(3) The discounted cash price that applies to each shoppable service included on the list and any ancillary service or, if the hospital does not offer a discounted cash price for one or more of the shoppable or ancillary services on the list, the gross charge for the shoppable service or ancillary service, as applicable;

(4) The de-identified minimum negotiated charge that applies to each shoppable service included on the list and any ancillary service;

(5) The de-identified maximum negotiated charge that applies to each shoppable service included on the list and any ancillary service;

(6) Any code used by the hospital for purposes of accounting or billing for each shoppable service included on the list and any ancillary service, including the current procedural terminology (CPT) code, healthcare common procedure coding system (HCPCS) code, diagnosis related group (DRG) code, national drug code (NDC), or other common identifier.

(C) If applicable, the list shall do the following:

(1) State each location at which the hospital provides the shoppable service and whether the standard charges included in the list apply at that location to the provision of that shoppable service in an inpatient setting, an outpatient department setting, or in both of those settings, as applicable;

(2) Indicate if one or more of the shoppable services specified by the United States centers for medicare and medicaid services is not provided by the hospital.

(D) The list shall satisfy the following conditions, as applicable:

(1) Be displayed in the same manner prescribed by division (E) of section 3727.33 of the Revised Code for the list required under that section;

(2) Be available and accessible in the same manner prescribed by divisions (F)(1) and (2) of section 3727.33 of the Revised Code for the list required by that section;

(3) Be searchable by service description, billing code, and payor;

(4) Be formatted in a manner that is consistent with the template developed by the director of health under division (G) of section 3727.33 of the Revised Code for the list required under that section;

(5) Be updated in the same manner prescribed by division (H) of section 3727.33 of the Revised Code for the list required under that section.

(E)(1) A hospital may, in lieu of maintaining and making publicly available the list of shoppable services otherwise required by this section, maintain an internet-based price estimator tool that satisfies all of the following:

(a) Provides a cost estimate for each shoppable service and any ancillary service otherwise required to be included on the list of shoppable services;

(b) Allows a person to obtain an estimate of the amount the person will be obligated to pay the hospital if the person elects to use the hospital to provide the service;

(c) Is available and accessible in the same manner prescribed by division (F)(1) of section 3727.33 of the Revised Code for the list required by that section.

(2) A hospital that maintains an internet-based price estimator tool deemed by the United States centers for medicare and medicaid services to meet the requirements of the federal price transparency law regarding the list of standard charges for shoppable services also meets the requirements of this section.

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

(4) A hospital shall not use, sell, or process personal data acquired from the use of the hospital's internet-based price estimator tool by a person in this state for the purposes of targeted

advertising.

Sec. 3727.35. Each time a hospital updates a list or internet-based price estimator tool as required under sections 3727.33 and 3727.34 of the Revised Code, the hospital shall submit the updated list or a description of the updates to the internet-based price estimator tool to the director of health. The director shall prescribe the form in which the updated list or description is to be submitted.

Sec. 3727.36. (A) No hospital shall do any of the following:

(1)(a) Fail to comply with the requirement to make public the list described in section 3727.33 of the Revised Code;

(b) Fail to comply with the requirements to make public the either the list or the internet-based price estimator tool described in section 3727.34 of the Revised Code.

(2)(a) Fail to maintain the list required by section 3727.33 of the Revised Code in accordance with the requirements of that section;

(b) Fail to maintain either the list or the internet-based price estimator tool required by section 3727.34 of the Revised Code in accordance with the requirements of that section.

(3) Fail in any other manner to comply with the requirements that apply to a list and, if applicable, the internet-based price estimator tool, under sections 3727.31 to 3727.40 of the Revised Code.

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

(1) Reviewing any credible analysis prepared regarding compliance or noncompliance by hospitals;

(2) Auditing the internet web sites of hospitals for compliance;

(3) Confirming that each hospital submits updated lists as required by section 3727.35 of the Revised Code.

(C)(1) The director of health shall create and make publicly available a list that identifies each hospital that is not in compliance with division (A) of this section. The list of noncompliant hospitals shall include any hospital that has been sent a notice of violation under section 3727.37 of the Revised Code, is subject to an order imposing an administrative penalty under section 3727.38 of the Revised Code, has been sent any other written communication from the director regarding a violation of division (A) of this section, or otherwise has been determined by the director to be not in compliance with division (A) of this section.

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

(3) After the director of health has determined that a hospital is not in compliance with division (A) of this section, the materials that consist of notices, orders, communications, and determinations under sections 3727.31 to 3727.40 of the Revised Code are public records, as defined in section 149.43 of the Revised Code.

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

Sec. 3727.37. (A) If the director of health determines that a hospital has violated division (A) of section 3727.36 of the Revised Code, the director shall issue a notice of violation to the hospital. The director shall clearly explain in the notice the manner in which the hospital is not in compliance.

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

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

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

(D) No hospital shall do any of the following:

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

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

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

Sec. 3727.38. (A)(1) Notwithstanding any conflicting provision of the Revised Code, the director of health shall impose an administrative penalty on a hospital if the hospital does both of the following:

(a) Violates division (A) of section 3727.36 of the Revised Code;

(b) Violates division (D) of section 3727.37 of the Revised Code.

(2) Each day a violation continues is considered a separate violation.

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

to 3727.40 of the Revised Code.

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

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

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

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

(2) In setting the amount of the penalty to be imposed on a hospital, the director of health shall consider all of the following:

(a) Previous violations by the hospital's operator;

(b) The seriousness of the violation;

(c) The demonstrated good faith of the hospital's operator;

(d) Any other matters as justice may require.

(D) An administrative penalty collected under this section shall be deposited into the state treasury to the credit of the hospital price transparency fund created by section 3727.381 of the Revised Code.

Sec. 3727.381. There is hereby created in the state treasury the hospital price transparency fund, consisting of administrative penalties collected under section 3727.38 of the Revised Code. The director of health shall administer the fund. The amounts deposited shall be used for purposes of administering and enforcing sections 3727.31 to 3727.40 of the Revised Code, except that the director may use a portion for purposes of informing the public about the availability of hospital price information and other consumer rights under those sections.

Sec. 3727.39. The director of health shall prepare reports and submit them in accordance with all of the following:

(A) On an annual basis, the director shall prepare a report on hospitals that are in violation of division (A) of section 3727.36 or division (D) of section 3727.37 of the Revised Code.

(B) Within sixty days after any change to the federal price transparency law, the director shall prepare a report of the director's recommendations for conforming sections 3727.31 to 3727.40 of the Revised Code with the change or, alternatively, stating that no conforming changes are necessary.

(C) The director shall submit the reports required by divisions (A) and (B) of this section to the general assembly in accordance with section 101.68 of the Revised Code, the chairperson of the standing committee of the house of representatives with primary responsibility for health legislation, the chairperson of the standing committee of the senate with primary responsibility for health legislation, and the governor.

Sec. ~~3727.44~~ 3727.40. The director of health may adopt rules to carry out the purposes of sections ~~3727.42 and 3727.43~~ 3727.31 to 3727.40 of the Revised Code. All rules adopted pursuant to

this section shall be adopted in accordance with Chapter 119. of the Revised Code.

SECTION 2. That existing section 3727.44 of the Revised Code is hereby repealed.

SECTION 3. That sections 3727.42, 3727.43, and 3727.45 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 173

135th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____