

Representative Jim Bird proposes the following substitute bill:

BALANCE BILLING AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Bird

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Health Code related to hospital billing and amends the Occupations and Professions Code related to health care provider billing.

Highlighted Provisions:

This bill:

- prohibits a hospital from seeking to collect an amount from a patient that exceeds the amount the patient is required to pay under an agreement between the hospital and the patient's health insurer;

- prohibits a health care provider from seeking to collect an amount from a patient that exceeds the amount the patient is required to pay under an agreement between the health care provider and the patient's insurer;

- requires a hospital or a health care provider to include a notification on its statement to the patient; and

- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2015.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **26-21-20**, as last amended by Laws of Utah 2009, Chapter 11

29 **58-1-502**, as last amended by Laws of Utah 2013, Chapter 262

30 ENACTS:

31 **58-1-501.8**, Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **26-21-20** is amended to read:

35 **26-21-20. Hospital billing -- Itemized charges and balance billing.**

36 (1) For purposes of this section[~~,"hospital" includes~~]:

37 (a) "Health care" is as defined in Section [31A-1-301](#).

38 (b) "Health insurer" means a person that:

39 (i) offers a health benefit plan, as defined in Section [31A-1-301](#);

40 (ii) offers a policy or certificate that provides solely for:

41 (A) dental;

42 (B) vision; or

43 (C) a Medicare supplement, as defined in Section [31A-1-301](#); or

44 (iii) provides self-insurance, as defined in Section [31A-1-301](#).

45 (c) "Hospital" includes:

46 [~~(a)~~] (i) an ambulatory surgical facility;

47 [~~(b)~~] (ii) a general acute hospital; and

48 [~~(c)~~] (iii) a specialty hospital.

49 (2) A hospital shall provide a statement of itemized charges to any patient receiving

50 medical care or other services from that hospital.

51 (3) (a) The statement shall be provided to the patient or the patient's personal

52 representative or agent at the hospital's expense, personally, by mail, or by verifiable electronic

53 delivery after the hospital receives an explanation of benefits from a third party payer which

54 indicates the patient's remaining responsibility for the hospital charges.

55 (b) If the statement is not provided to a third party, it shall be provided to the patient as

56 soon as possible and practicable.

57 (4) The statement required by this section:
58 (a) shall itemize each of the charges actually provided by the hospital to the patient;
59 (b) (i) shall include the words in bold "THIS IS THE BALANCE DUE AFTER
60 PAYMENT FROM YOUR HEALTH INSURER"; or
61 (ii) shall include other appropriate language if the statement is sent to the patient under
62 Subsection (3)(b); and
63 (c) may not include charges of physicians who bill separately.

64 (5) The requirements of this section do not apply to patients who receive services from
65 a hospital under Title XIX of the Social Security Act.

66 (6) If a hospital that provides health care to a patient has an agreement with the
67 patient's health insurer that applies to the patient:

68 (a) the hospital may not knowingly attempt to collect an amount from the patient that
69 exceeds the copay, coinsurance, or other amount that the patient is required to pay for the
70 health care under the agreement; and

71 (b) the statement described in Subsection (2) shall include a notification directing the
72 patient to compare the statement with the patient's explanation of benefits from the patient's
73 insurer.

74 (7) Subsection (6) does not apply to a hospital that agrees with a patient that the patient
75 will pay the hospital for health care in cash rather than through insurance.

76 ~~[(6)]~~ (8) Nothing in this section prohibits a hospital from sending an itemized billing
77 statement to a patient before the hospital has received an explanation of benefits from an
78 insurer. If a hospital provides a statement of itemized charges to a patient prior to receiving the
79 explanation of benefits from an insurer, the itemized statement shall be marked in bold:
80 "DUPLICATE: DO NOT PAY" or other appropriate language.

81 Section 2. Section **58-1-501.8** is enacted to read:

82 **58-1-501.8. Unauthorized billing -- Unprofessional conduct.**

83 (1) As used in this section:

84 (a) "Health care" is as defined in Section [31A-1-301](#).

85 (b) "Health care provider" means a person that is:

86 (i) defined as a health care provider in Section [78B-3-403](#); and

87 (ii) licensed under this title.

- 88 (c) "Health insurer" means a person that:
89 (i) offers a health benefit plan, as defined in Section 31A-1-301;
90 (ii) offers a policy or certificate that provides solely for:
91 (A) dental;
92 (B) vision; or
93 (C) a Medicare supplement, as defined in Section 31A-1-301; or
94 (iii) provides self-insurance, as defined in Section 31A-1-301.
95 (2) If a health care provider that provides health care to a patient has an agreement with
96 the patient's health insurer that applies to the patient:
97 (a) it is unprofessional conduct for the health care provider to knowingly attempt to
98 collect an amount from the patient that exceeds the copay, coinsurance, or other amount that
99 the patient is required to pay for the health care under the agreement; and
100 (b) the health care provider shall provide the patient with a statement of itemized
101 charges that includes a notification directing the patient to compare the statement with the
102 patient's explanation of benefits from the patient's insurer.
103 (3) Subsection (2) does not apply to a health care provider that agrees with a patient
104 that the patient will pay the health care provider for health care in cash rather than through
105 insurance.

106 Section 3. Section **58-1-502** is amended to read:

107 **58-1-502. Unlawful and unprofessional conduct -- Penalties.**

108 (1) Unless otherwise specified in this title, a person who violates the unlawful conduct
109 provisions defined in this title is guilty of a class A misdemeanor.

110 (2) (a) In addition to any other statutory penalty for a violation related to a specific
111 occupation or profession regulated by this title, if upon inspection or investigation, the division
112 concludes that a person has violated Subsection [58-1-501\(1\)\(a\)](#), [\(1\)\(c\)](#), or [\(2\)\(o\)](#), [Subsection](#)
113 [58-1-501.8\(2\)](#), or a rule or order issued with respect to those subsections, and that disciplinary
114 action is appropriate, the director or the director's designee from within the division shall
115 promptly:

- 116 (i) issue a citation to the person according to this section and any pertinent rules;
117 (ii) attempt to negotiate a stipulated settlement; or
118 (iii) notify the person to appear before an adjudicative proceeding conducted under

119 Title 63G, Chapter 4, Administrative Procedures Act.

120 (b) (i) The division may assess a fine under this Subsection (2) against a person who
121 violates Subsection 58-1-501(1)(a), (1)(c), or (2)(o), Subsection 58-1-501.8(2), or a rule or
122 order issued with respect to those subsections, as evidenced by:

- 123 (A) an uncontested citation;
- 124 (B) a stipulated settlement; or
- 125 (C) a finding of a violation in an adjudicative proceeding.

126 (ii) The division may, in addition to or in lieu of a fine under Subsection (2)(b)(i),
127 order the person to cease and desist from violating Subsection 58-1-501(1)(a), (1)(c), or (2)(o),
128 Subsection 58-1-501.8(2), or a rule or order issued with respect to those subsections.

129 (c) Except for a cease and desist order, the division may not assess the licensure
130 sanctions cited in Section 58-1-401 through a citation.

131 (d) A citation shall:

- 132 (i) be in writing;
- 133 (ii) describe with particularity the nature of the violation, including a reference to the
134 provision of the chapter, rule, or order alleged to have been violated;

135 (iii) clearly state that the recipient must notify the division in writing within 20
136 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing
137 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

138 (iv) clearly explain the consequences of failure to timely contest the citation or to make
139 payment of a fine assessed by the citation within the time specified in the citation.

140 (e) The division may issue a notice in lieu of a citation.

141 (f) (i) If within 20 calendar days from the service of the citation, the person to whom
142 the citation was issued fails to request a hearing to contest the citation, the citation becomes the
143 final order of the division and is not subject to further agency review.

144 (ii) The period to contest a citation may be extended by the division for cause.

145 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
146 the license of a licensee who fails to comply with a citation after it becomes final.

147 (h) The failure of an applicant for licensure to comply with a citation after it becomes
148 final is a ground for denial of license.

149 (i) The division may not issue a citation under this section after the expiration of six

150 months following the occurrence of a violation.

151 (j) The director or the director's designee shall assess fines according to the following:

152 (i) for the first offense handled pursuant to Subsection (2)(a), a fine of up to \$1,000;

153 (ii) for a second offense handled pursuant to Subsection (2)(a), a fine of up to \$2,000;

154 and

155 (iii) for each subsequent offense handled pursuant to Subsection (2)(a), a fine of up to

156 \$2,000 for each day of continued offense.

157 (3) (a) An action for a first or second offense that has not yet resulted in a final order of

158 the division may not preclude initiation of a subsequent action for a second or subsequent

159 offense during the pendency of a preceding action.

160 (b) The final order on a subsequent action is considered a second or subsequent

161 offense, respectively, provided the preceding action resulted in a first or second offense,

162 respectively.

163 (4) (a) The director may collect a penalty that is not paid by:

164 (i) either referring the matter to a collection agency; or

165 (ii) bringing an action in the district court of the county where the person against whom

166 the penalty is imposed resides or in the county where the office of the director is located.

167 (b) A county attorney or the attorney general of the state shall provide legal assistance

168 and advice to the director in an action to collect the penalty.

169 (c) A court may award reasonable attorney fees and costs to the division in an action

170 brought by the division to enforce the provisions of this section.

171 Section 4. **Effective date.**

172 This bill takes effect on July 1, 2015.