

HEALTH CARE PRICE DISCLOSURE ACT (DRAFT, MAY 11, 2012)

SUMMARY AND BACKGROUND

This Act requires health care professionals to make available the “direct pay” price for at least the 25 most common services or procedures; the Act also requires health care facilities to make available the “direct pay” price for (if applicable) at least the 50 most used diagnosis-related group codes and at least the 50 most used outpatient service codes for the facility.

Over the past 45 years, health care has evolved to a point where consumers have little impact on pricing. The [most recent data](#) on health care spending in the United States, released in January 2012, revealed that the bottom 50% of health care utilizers in the country spend only about 3% of health care dollars. The bottom 70% of health care utilizers spend only about 10% of health care dollars.

Only 12 cents of every health care dollar is paid directly out-of-pocket by patients. The rest is paid by government and insurance—and billings seen by patients rarely reflect actual prices paid, frightening patients about the idea of directly paying for services. Our health care system has put us in a Catch 22: We do not want to pay for health care ourselves because it’s so expensive, but it’s so expensive because we do not pay for it ourselves.

There is little incentive for providers to post prices due to competitive motives. Price transparency for direct cash payers is essential if we are ever to transition to a more market-oriented, competitive health care system.

Transparent pricing will help give episodic health care users—the group that makes up a significant majority of the population—better access to understandable price information, and the marketplace would likely make good use of the open information to disseminate that data in the ways used by every other aspect of our economy.

MODEL LEGISLATION

Section 1. Title. This Act shall be known as the “Health Care Price Disclosure Act.”

Section 2. Definitions. For the purposes of this Act, the following definitions apply:

- A. “Direct pay price” means the price that will be charged for a lawful health care service if the service is paid without a public or private third party, not including an employer, paying for any portion of the service.
- B. “Health care facility” means a hospital, outpatient surgical center, treatment or diagnostic imaging center or urgent care center.
- C. “Health care professional” means a person licensed by **{insert state licensing boards}**.

- D. “Health care provider” does not include a hospital licensed pursuant to **{insert state statute covering license provisions for construction or modification of a health care institution}**.

Section 3. Health Care Insurer; Providers; Negotiated Rates. A health care insurer may not use the direct pay price of a health care provider for a health care service as the basis to decrease any negotiated rate between that health care provider and the health care insurer.

Section 4. Public Availability; Health Care Professional Charges. A health care professional must make available to the public on request in a single document the direct pay price for at least the 25 most common services for the health care professional. The services may be identified by a common procedural terminology code or by a plain English description. The document must be updated at least annually. The direct pay price is for the standard diagnosis for the service and does not include any complications or exceptional treatment.

Section 5. Public Availability; Health Care Facility Charges.

- A. A health care facility must make available to the public on request in a single document the direct pay price for at least the 50 most used diagnosis-related group codes, if applicable, for the facility and at least the 50 most used outpatient service codes, if applicable, for the facility. The document must be updated at least annually. The direct pay price is for the standard diagnosis for the service and does not include any complications or exceptional treatment.
- B. A health care facility is not required to report the direct pay prices to the **{insert state department of health and human services}** for review or filing as a prerequisite to operation. This Section does not authorize the department or **{insert state health and human services secretary}** to approve, disapprove, or limit a health care facility’s direct pay price for services.

Section 6. {Severability Clause}

Section 7. {Repealer Clause}

Section 8. {Effective Date}