

THE FLORIDA SENATE
2024 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

HB 7089 — Health Care Expenses

by Health & Human Services Committee and Rep. Grant and others (CS/SB 1640 by Fiscal Policy Committee and Senator Collins)

Consumer Protections Relating to Debt Collection Practices of Hospitals and Ambulatory Surgical Centers

The bill creates several consumer protections relating to the collection of medical debt.

The bill requires hospitals and ambulatory surgical centers (ASCs) to have an internal grievance process for patients to dispute charges.

In regard to the medical debt collection practices of hospitals and ASCs (facilities) medical debt, the bill prohibits a hospital or ASC from engaging in extraordinary collections actions such as certain legal or judicial processes including commencing a civil action, garnishing wages, or placing a lien on property:

- Before the facility makes a reasonable effort to determine whether the individual is eligible for assistance under the facility's financial assistance plan and, if eligible, before the facility makes a decision regarding the patient's application for such financial assistance.
- Before the facility has provided the individual with an itemized statement or bill.
- During an ongoing grievance process or an ongoing appeal of a claim adjudication.
- Before billing any applicable insurer and allowing the insurer to adjudicate a claim.
- For 30 days after notifying the patient, in writing by a traceable delivery method, that a collection action will commence absent additional action by the patient.
- While the individual:
 - Negotiates in good faith the final amount of a bill for services rendered; or
 - Complies with all terms of a payment plant with the facility.

The bill establishes a three-year statute of limitations for actions to collect medical debt, which runs from the date on which the facility refers the medical debt to a third-party for collection. Currently, medical debt is subject to a five-year statute of limitation.

The bill exempts from attachment, garnishment, or other legal process in an action on hospital medical debt:

- A debtor's interest, not to exceed \$10,000 in value, in a single motor vehicle. Currently, the exempt interest is \$1,000.
- A debtor's interest in personal property, not to exceed \$10,000 in value, if the debtor does not claim or receive the benefits of a homestead exemption. Currently, the exempt interest is \$1,000.

Price Transparency Provisions Relating to Facilities and Insurers

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The bill creates price transparency requirements for hospitals, ASCs, and insurers relating to nonemergency services.

The bill requires a hospital or ASC must post standard charges for specified shoppable services on its website or implement an internet-based price estimator tool that meets federal standards.

The bill requires hospitals and ASCs must provide estimates of anticipated charges for nonemergency services and provide such good faith estimates (GFEs) to the patient's health insurer and the patient. A health insurer, in turn, must prepare an advanced explanation of benefits (AEOB) for the insured patient, within a specified time frame prior to the service being provided, based on the facility's estimate. An individual may request a GFE from a facility or an AEOB from an insurer, and the facility or the insurer must provide the applicable document within three business days after receipt of a request from an individual. These provisions are consistent with existing federal law.

The bill defers implementation of these provisions as follows:

- The changes made in this act relating to shoppable services, do not apply to ASCs until January 1, 2026.
- The changes made by this act to s. 395.301, F.S., relating to the issuance of GFEs by facilities, are not effective until the federal agencies adopt rules to implement the law. The Agency for Health Care Administration must notify the Division of Law Revision upon the promulgation of the final rule.
- The changes made by this act to s. 627.446, F.S., relating to the AEOBs issued by insurers upon the submission of a GFE by a facility, are not effective until federal rules are adopted relating to the GFE and the AEOBs. The Office of Insurance Regulation must notify the Division of Law Revision upon the promulgation of the final rule pertaining to AEOBs.

Direct Health Care Agreements

The bill expands the health care providers that may participate in a direct health care agreement that is exempt from the insurance code to include a health care provider licensed under ch. 490 (practice of psychology) or ch. 491, F.S., (clinical, counseling, and psychotherapy services).

Transparency and Accountability Requirements of Community-Based Care Lead Agencies

The bill amends laws governing contracts of the Department of Children and Families (DCF) with community-based care lead agencies (CBCs) to increase transparency and accountability related to the administration of and services provided by the CBCs.

The bill revises contractual rights and obligations between DCF and the CBCs. For example, the bill provides that DCF may only extend a contract for a period of one to five years in accordance with s. 287.057, F.S., if the CBC has met performance expectations within the monitoring evaluation. The DCF must set forth minimum training criteria for CBC board members in the

contracts with the CBCs. The CBCs must ensure that board members participate in annual training related to their responsibilities to provide oversight and ensure accountability and transparency for the CBC system of care, and to provide fiduciary oversight to prevent conflicts of interest, promote accountability and transparency, and protect state and federal funding from misuse. The board of directors must discharge their duties in accordance with s. 617.0830, F.S.

The bill establishes the regulatory framework for a CBC's subcontracts and transactions with related parties, revises the CBC subcontract procurement process, and creates contractual remedies to address conflicts of interest, failures to follow procurement law, noncompliance with contractual requirements, and inadequate performance in the provision of child protection and child welfare services. The CBCs must competitively procure all contracts, consistent with the federal simplified acquisition threshold. The CBCs are required to competitively procure all contracts in excess of \$35,000 with related parties.

The bill requires board member of CBCs to disclose any known actual or potential conflicts to the DCF. The bill requires a CBC to post a fidelity bond for the board to cover any costs associated with reprocurement and the assessed penalties related to a failure of a board member to disclose a conflict of interest. All DCF contracts with CBCs must contain the following penalty provisions:

- The DCF must impose penalties in the amount of \$5,000 per occurrence for each known and potential conflict of interest, which is not disclosed to the DCF.
- If a contract is executed for which a conflict of interest was not disclosed to the DCF before execution of contract, the following penalties apply:
 - A penalty in the amount of \$20,000 for a first offense.
 - A penalty in the amount of \$30,000 for a second or subsequent offense.
 - The removal of the board member who did not disclose a known conflict of interest.

Further, a contract procured by a CBC board for which a conflict of interest was not disclosed to DCF before execution of the contract must be reprocured. The DCF must recoup from the CBC expenses related to a contract that was executed without disclosure of a conflict of interest.

The bill caps the salary of a CBC administrative employee at 150 percent of the Secretary of DCF's salary, regardless of the number of contracts a CBC may execute with DCF. The bill also requires contracts between DCF and CBCs to delineate the rights and obligations related to the acquisition, transfer, or other disposition of real property and sets minimum standards for those rights and obligations. Effective July 1, 2024, the DCF must approve any sale, transfer, or disposition of real property acquired and held by the CBC using state funds.

The bill repeals the current law related to the allocation of funds to CBCs and directs DCF in collaboration with the CBCs and child welfare providers to develop a new funding methodology for core service funding allocation that at a minimum, must be:

- Actuarially sound;
- Reimbursement based;

- Designed to incentivize efficient and effective CBC operations, prevention, family preservation, and child permanency;
- Scalable to account for regional cost-of-living differences; and
- Consider variable costs for in-home and out-of-home care, prevention services, operational costs, and fixed costs.

The bill also establishes the Future of Child Protection Contracting and Funding Workgroup to study, evaluate, and offer recommendations relating to contracts and general funding of the child welfare system. The DCF must convene the workgroup and is responsible for producing and submitting a report on the workgroup's findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 15, 2025.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2024.

Vote: Senate 37-0; House 111-0