

2023 Regular Session

HOUSE BILL NO. 427

BY REPRESENTATIVE CREWS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH CARE/FACILITIES: Provides relative to disclosure by healthcare facilities to patients of prices for certain items and services

1 AN ACT

2 To enact Subpart E of Part IV of Chapter 5-D of Title 40 of the Louisiana Revised Statutes  
3 of 1950, to be comprised of R.S. 40:1176.1 through 1176.9, relative to consumer  
4 access to pricing information for healthcare facility services; to require the  
5 production of pricing information by a healthcare facility; to provide for definitions;  
6 to provide for the content and manner of distribution of the price information to  
7 consumers; to provide for penalties against a facility that fails to provide required  
8 price information; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Subpart E of Part IV of Chapter 5-D of Title 40 of the Louisiana Revised  
11 Statutes of 1950, comprised of R.S. 40:1176.1 through 1176.9, is hereby enacted to read as  
12 follows:

13 SUBPART E. HOSPITAL PRICE TRANSPARENCY

14 §1176.1. Definitions

15 As used in this Subpart, the following terms have the meaning ascribed to  
16 them in this Section:

17 (1) "Ancillary service" means a facility item or service that a facility  
18 customarily provides as part of a shoppable service.

1           (2) "Centers for Medicare and Medicaid Services" or "CMS" means the  
2           Center for Medicare and Medicaid Services in the United States Department of  
3           Health and Human Services.

4           (3) "Chargemaster" means the list of all facility items or services maintained  
5           by a facility for which the facility has established a charge.

6           (4) "Collection action" means any of the following actions taken with respect  
7           to a debt for items and services that were purchased from or provided to a patient by  
8           a facility on a date during which the hospital was not in material compliance with  
9           this Subpart:

10           (a) Attempting to collect a debt from a patient or patient guarantor by  
11           referring the debt, directly or indirectly, to a debt collector, a collection agency, or  
12           other third party retained by or on behalf of the facility.

13           (b) Suing the patient or patient guarantor, or enforcing an arbitration or  
14           mediation clause in any facility documents including contracts, agreements,  
15           statements, or bills.

16           (c) Directly or indirectly causing a report to be made to a consumer reporting  
17           agency.

18           (5) "Collection agency" means any person who:

19           (a) Engages in a business the principal purpose of which is the collection of  
20           debts.

21           (b) Regularly collects or attempts to collect, directly or indirectly, debts  
22           owed or due or asserted to be owed or due to another.

23           (c) Takes assignment of debts for collection purposes.

24           (d) Directly or indirectly solicits for collection debts owed or due or asserted  
25           to be owed or due to another.

26           (6)(a) "Consumer reporting agency" means any person who, for monetary  
27           fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part,  
28           in the practice of assembling or evaluating consumer credit information or other

1 information on consumers for the purpose of furnishing consumer reports to third  
2 parties.

3 (b) "Consumer reporting agency" does not include any business entity that  
4 provides check verification or check guarantee services only.

5 (7)(a) "Debt" means any obligation or alleged obligation of a consumer to  
6 pay money arising out of a transaction, whether or not the obligation has been  
7 reduced to judgment.

8 (b) "Debt" does not include a debt for business, investment, commercial, or  
9 agricultural purposes or a debt incurred by a business.

10 (8) "Debt collector" means any person employed or engaged by a collection  
11 agency to perform the collection of debts owed or due or asserted to be owed or due  
12 to another.

13 (9) "Department" means the Louisiana Department of Health.

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

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

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

20 (13) "Facility" means a hospital licensed pursuant to R.S. 40:2100 et seq.

21 (14) "Facility items or services" means all items and services, including  
22 individual items and services and service packages, that may be provided by a  
23 facility to a patient in connection with an inpatient admission or an outpatient  
24 department visit, as applicable, for which the facility has established a standard  
25 charge, including all of the following:

26 (a) Supplies and procedures.

27 (b) Room and board.

28 (c) Use of the facility and other areas, the charges for which are generally  
29 referred to as facility fees.

1           (d) Services of physicians and non-physician practitioners, employed by the  
2           facility, the charges for which are generally referred to as professional charges.

3           (e) Any other item or service for which a facility has established a standard  
4           charge.

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

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

10           (17) "Payor-specific negotiated charge" means the charge that a facility has  
11           negotiated with a third-party payor for a facility item or service.

12           (18) "Service package" means an aggregation of individual facility items or  
13           services into a single service with a single charge.

14           (19) "Shoppable service" means a service that may be scheduled by a  
15           healthcare consumer in advance.

16           (20) "Standard charge" means the regular rate established by the facility for  
17           a facility item or service provided to a specific group of paying patients. The term  
18           includes all of the following, as defined in this Section:

19           (a) The gross charge.

20           (b) The payor-specific negotiated charge.

21           (c) The de-identified minimum negotiated charge.

22           (d) The de-identified maximum negotiated charge.

23           (e) The discounted cash price.

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

26           §1176.2. Public availability of price information required

27           Notwithstanding any other law, a facility shall make public all of the  
28           following:

1           A. A digital file in a machine-readable format that contains a list of all  
2           standard charges for all facility items or services as described by R.S. 40:1176.3.

3           B. A consumer-friendly list of standard charges for a limited set of shoppable  
4           services as described by R.S. 40:1176.4.

5           §1176.3. List of standard charges

6           A. A facility shall maintain a list of all standard charges for all facility items  
7           or services in accordance with this Section and ensure the list is available at all times  
8           to the public, including by posting the list electronically in the manner provided for  
9           by this Section.

10           B. The standard charges contained in the list required to be maintained by  
11           a facility in accordance with Subsection A of this Section shall reflect the standard  
12           charges applicable to that location of the facility, regardless of whether the facility  
13           operates in more than one location or operates under the same license as another  
14           facility.

15           C. The list required by Subsection A of this Section shall include all of the  
16           following items, as applicable:

17           (1) A description of each facility or item or service provided by the facility.

18           (2) All of the following charges for each individual facility item or service  
19           when provided in either an inpatient setting or an outpatient department setting, as  
20           applicable:

21           (a) The gross charge.

22           (b) The de-identified minimum negotiated charge.

23           (c) The de-identified maximum negotiated charge.

24           (d) The discounted cash price.

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

28           (3) Any code used by the facility for purposes of accounting or billing for  
29           the facility item or service, including the Current Procedural Terminology (CPT)

1 code, the Healthcare Common Procedure Coding System (HCPCS) code, the  
2 Diagnosis Related Group (DRG) code, the National Drug Code (NDC), or other  
3 common identifier.

4 D. The information contained in the list required by Subsection A of this  
5 Section shall be published in a single digital file that is in a machine-readable format.

6 E. The list required by Subsection A of this Section shall be displayed in a  
7 prominent location on the home page of the facility's publicly accessible internet  
8 website or accessible by selecting a dedicated link that is prominently displayed on  
9 the home page of the facility's publicly accessible internet website. If the facility  
10 operates multiple locations and maintains a single internet website, the list required  
11 by Subsection A of this Section shall be posted for each location the facility operates  
12 in a manner that clearly associates the list with the applicable location of the facility.

13 F. The list required by Subsection A of this Section shall:

14 (1) Be available free of charge without having to establish a user account or  
15 password, submit personal identifying information, or overcome any other  
16 impediment, including entering a code to access the list.

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

20 (3) Be formatted in a manner prescribed by the department.

21 (4) Be digitally searchable.

22 G. In prescribing the format of the list required by Paragraph (F)(3) of this  
23 Section, the department shall do all of the following:

24 (1) Develop a template that each facility shall use in formatting the list.

25 (2) Consider any applicable federal guidelines for formatting similar lists  
26 required by federal law or rule and ensure that the design of the template enables  
27 healthcare researchers to compare the charges contained in the lists maintained by  
28 each facility.

1           (3) Design the template to be substantially similar to the template used by  
2           the Centers for Medicare and Medicaid Services for purposes similar to those of this  
3           Subpart if the department determines that designing the template in that manner  
4           serves the purposes of Paragraph (2) of this Subsection and that the department  
5           benefits from developing and requiring that substantially similar design.

6           H. The facility shall update the list required by Subsection A of this Section  
7           at least once each year. The facility shall clearly indicate the date on which the list  
8           was most recently updated, either on the list or in a manner that is clearly associated  
9           with the list.

10           §1176.4. Consumer-friendly list of shoppable services

11           A. Except as provided by Subsection C of this Section, a facility shall  
12           maintain and make publicly available a list of the standard charges described by R.S.  
13           40:1176.3(C)(2) for each of at least three hundred shoppable services provided by  
14           the facility. The facility may select the shoppable services to be included in the list,  
15           except that the list shall include one of the following:

16           (1) The seventy services specified as shoppable services by Centers for  
17           Medicare and Medicaid Services.

18           (2) If the facility does not provide all of the shoppable services described by  
19           Paragraph (1) of this Subsection, as many of those shoppable services the facility  
20           does provide.

21           B. In selecting a shoppable service for purposes of inclusion in the list  
22           required by Subsection A of this Section, a facility shall consider how frequently the  
23           facility provides the service and the facility's billing rate for that service and  
24           prioritize the selection of services that are among the services most frequently  
25           provided by the facility.

26           C. If a facility does not provide three hundred shoppable services, the facility  
27           shall maintain a list of the total number of shoppable services that the facility  
28           provides in a manner that otherwise complies with the requirements of Subsection  
29           A of this Section.

1           D. The lists required by Subsections A and C of this Section shall include all  
2           of the following:

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

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

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

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

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

17          (6) Any code used by the facility for purposes of accounting or billing for  
18          each shoppable service included on the list and any ancillary service, including the  
19          Current Procedural Terminology (CPT) code, the Healthcare Common Procedure  
20          Coding System (HCPCS) code, the Diagnosis Related Group (DRG) code, the  
21          National Drug Code (NDC), or other common identifier.

22           E. If applicable, the lists required by Subsections A and C of this Section  
23           shall include all of the following:

24           (1) A statement of each location at which the facility provides the shoppable  
25           service and whether the standard charges included in the list apply at that location  
26           to the provision of that shoppable service in an inpatient setting, an outpatient  
27           department setting, or in both of those settings, as applicable.

28           (2) An indication if one or more of the shoppable services specified by the  
29           Centers for Medicare and Medicaid Services is not provided by the facility.

1           F. The lists required by Subsections A and C of this Section, as applicable,  
2           shall conform with all of the following:

3           (1) Be displayed in a prominent location on the home page of the facility's  
4           publicly accessible internet website or accessible by selecting a dedicated link that  
5           is prominently displayed on the home page of the facility's publicly accessible  
6           internet website. If the facility operates multiple locations and maintains a single  
7           internet website, the lists required by Subsections A and C of this Section shall be  
8           posted for each location the facility operates in a manner that clearly associates the  
9           list with the applicable location of the facility.

10          (2) Be available free of charge without having to establish a user account or  
11          password, submit personal identifying information, or overcome any other  
12          impediment, including entering a code to access the list.

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

16          (4) Be formatted in a manner prescribed by the department.

17          (5) Be digitally searchable.

18          (6) Be updated in the manner prescribed by R.S. 40:1176.3(H) for the list  
19          required by that Subsection.

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

23          (8) Be formatted in a manner that is consistent with the format prescribed by  
24          the department pursuant to R.S. 40:1176.3(F)(3).

25          §1176.5. Reporting requirement

26          Each time a facility updates a list as required by R.S. 40:1176.3(H) and  
27          1176.4(F)(6), the facility shall submit the updated list to the department. The  
28          department shall prescribe the form in which the updated list shall be submitted to  
29          the department.

1        §1176.6. Monitoring and enforcement

2            A. The department shall monitor each facility's compliance with the  
3        requirements of this Subpart using any of the following methods:

4            (1) Evaluating complaints made by persons to the department regarding  
5        noncompliance with this Subpart.

6            (2) Reviewing any analysis prepared regarding noncompliance with this  
7        Subpart.

8            (3) Auditing the internet website of facilities for compliance with this  
9        Subpart.

10          (4) Confirming that each facility submitted the lists required by R.S. 40:  
11        1176.2.

12          B. If the department determines that a facility is not in compliance with a  
13        provision of this Subpart, the department shall take all the following actions:

14          (1) Provide a written notice to the facility that clearly explains the manner  
15        in which the facility is not in compliance with this Subpart.

16          (2) Request a corrective action plan from the facility if the facility has  
17        materially violated a provision of this Subpart pursuant to R.S. 40:1176.7.

18          (3) Impose an administrative penalty, as determined in R.S. 40:1176.8 on the  
19        facility and publicize the penalty on the department's internet website if the facility  
20        fails to respond to the department's request to submit a corrective action plan, or the  
21        facility fails to comply with the requirements of a corrective action plan submitted  
22        to the department.

23          C. Beginning not later than ninety days after the date of the enactment of this  
24        Act, the department shall create and maintain, on its website, a publicly available list  
25        containing the name of any facility that has been found to have violated this Subpart,  
26        that has been issued an administrative penalty or sent a warning notice, a request for  
27        a corrective action plan, or any other written communication from the department.  
28        Such penalties, notices, and communications shall be public record as subject to  
29        disclosure pursuant to R.S. 44:1 et seq, notwithstanding any exemptions or

1 exclusions to the contrary, in full without redaction. Such list will be updated at least  
2 every thirty days thereafter.

3 D. Notwithstanding any provision of law to the contrary, in considering an  
4 application for renewal of a facility's license or certification, the department shall  
5 consider whether the facility is or has been in compliance with this Subpart.

6 §1176.7. Material violation; corrective action plan

7 A. A facility materially violates this Subpart if the facility fails to do either  
8 of the following:

9 (1) Comply with the requirements of R.S. 40:1176.2.

10 (2) Publicize the facility's standard charges in the form and manner required  
11 by R.S. 40:1176.3 and 1176.4.

12 B. If the department determines that a facility has materially violated this  
13 Subpart, the department shall issue a notice informing the facility of material  
14 violation and request that the facility submit a corrective action plan. The notice  
15 shall indicate the form and manner in which the corrective action plan shall be  
16 submitted to the department, and clearly state the date by which the facility shall  
17 submit the plan.

18 C. A facility that receives a notice in accordance with Subsection B of this  
19 Section shall submit a corrective action plan in the form and manner, and by the  
20 specified date, prescribed by the notice informing the facility of noncompliance and,  
21 as soon as practicable after submission of a corrective action plan to the department,  
22 act to comply with the plan.

23 D. A corrective action plan submitted to the department shall describe in  
24 detail the corrective action the facility will take to address any violation identified  
25 by the department in the notice provided by Subsection B of this Section and provide  
26 a date by which the facility will complete the corrective action described by  
27 Subsection C of this Section.

28 E. A corrective action plan is subject to review and approval by the  
29 department. After the department reviews and approves a facility's corrective action

1 plan, the department shall monitor and evaluate the facility's compliance with the  
2 plan.

3 F. A facility is considered to have failed to respond to the department's  
4 request to submit a corrective action plan if the facility fails to submit a corrective  
5 action plan in the form and manner specified in the notice provided by Subsection  
6 B of this Section by the date specified in the notice provided by Subsection C of this  
7 Section.

8 G. A facility is considered to have failed to comply with a corrective action  
9 plan if the facility fails to address a violation within the specified period of time  
10 contained in the plan.

11 §1176.8. Administrative penalty

12 A. The department shall impose an administrative penalty on a facility in  
13 accordance with the department if the facility fails to respond to the department's  
14 request to submit a corrective action plan or comply with the requirements of a  
15 corrective action plan submitted to the department.

16 B. The department shall impose an administrative penalty on a facility for  
17 a violation of each requirement of this Subpart. The department shall set the penalty  
18 in an amount sufficient to ensure compliance by the facility with the provisions of  
19 this Subpart subject to the limitations prescribed by Subsection C of this Section.

20 C. For a facility with one of the following total gross revenues as reported  
21 to the Centers for Medicare and Medicaid Services or to another entity designated  
22 by department rule in the year preceding the year in which a penalty is imposed, the  
23 penalty imposed by the department shall not be lower than:

24 (1) In the case of a facility with a bed count of thirty or fewer, six hundred  
25 dollars for each day on which the facility fails to comply with such requirements.

26 (2) In the case of a facility with a bed count that is greater than thirty and  
27 equal to or fewer than five hundred and fifty, twenty dollars per bed for each day on  
28 which the facility fails to comply with such requirements.

1                   (3) In the case of a hospital with a bed count that is greater than five hundred  
2                   and fifty, eleven thousand dollars for each day on which the hospital fails to comply  
3                   with such requirements.

4                   D. Each day a violation continues is considered a separate violation.

5                   E. In determining the amount of the penalty, the department shall consider  
6                   all of the following factors:

7                   (1) Previous violations by the facility's operator.

8                   (2) The seriousness of the violation.

9                   (3) The demonstrated good faith of the facility's operator.

10                  (4) Any other matters as justice may require.

11                  F. An administrative penalty collected in accordance with this Subpart shall  
12                  be deposited to the credit of an account in the general revenue fund administered by  
13                  the department. Money in the account shall be appropriated only to the department.  
14                  §1176.9. Failure to comply with laws prohibiting collection of debt

15                  A.(1) Except as provided in Paragraph (2) of this Subsection, a facility that  
16                  is not in material compliance with this Subpart on the date that items or services are  
17                  purchased from or provided to a patient by the facility shall not initiate or pursue a  
18                  collection action against the patient or patient guarantor for a debt owed for the items  
19                  or services.

20                  (2) If a patient believes that a facility was not in material compliance with  
21                  the provisions of this Subpart, that items or services were purchased by or provided  
22                  to the patient, and the facility takes a collection action against the patient or patient  
23                  guarantor, the patient or patient guarantor may file suit to determine if the facility  
24                  was materially out of compliance with the provisions of this Subpart on the date of  
25                  service, and if the noncompliance is related to the items or services. The facility  
26                  shall not take a collection action against the patient or patient guarantor while the  
27                  lawsuit is pending.

1           B. A facility that has been found by a judge or jury, considering compliance  
2           standards issued by the Centers for Medicare and Medicaid Services, to be materially  
3           out of compliance with the provisions of this Subpart shall do all of the following:

4                   (1) Refund the payor any amount of the debt the payor has paid and shall pay  
5                   a penalty to the patient or patient guarantor in an amount equal to the total amount  
6                   of the debt.

7                   (2) Dismiss or cause to be dismissed with prejudice any court action and pay  
8                   any attorney fees and costs incurred by the patient or patient guarantor relating to the  
9                   action.

10                   (3) Remove or cause to be removed from the patient's or patient guarantor's  
11                   credit report any report made to a consumer reporting agency relating to the debt.

12           C. Nothing in this Subpart prohibits a facility from billing a patient, patient  
13           guarantor, or third-party payor, including a health insurer, for items or services  
14           provided to the patient. Nothing in this Subpart requires a facility to refund any  
15           payment made to the facility for items or services provided to the patient, if no  
16           collection action is taken in violation of this Subpart.

---

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB 427 Original

2023 Regular Session

Crews

**Abstract:** Requires healthcare facilities to provide a of list prices for many healthcare services and establishes penalties for noncompliance.

Proposed law defines facility items or services as all items and services that may be provided by a facility to a patient in connection with an inpatient admission or an outpatient department visit.

Proposed law defines "shoppable service" as a service that may be scheduled by a healthcare consumer in advance.

Proposed law defines "healthcare facility" as a hospital licensed pursuant to present law (R.S. 40:2100 et seq.)

Proposed law requires healthcare facilities to provide a list of prices for healthcare services provided by a facility. The facilities are required to provide a list of standard charges for all facility items or services and a consumer-friendly list of standard charges for shoppable services. A standard charge includes all of the following:

- (1) The gross charge.
- (2) The payor-specific charge which is the charge that a facility has negotiated with a third-party payor for a facility item or service.
- (3) The de-identified minimum negotiated charge which is the lowest charge that a facility has negotiated with all third-party payors for a facility item or service.
- (4) The de-identified maximum negotiated charge which is the highest charge that a facility has negotiated with all third-party payors for a facility item or service.
- (5) The discounted cash price.

Proposed law requires a healthcare facility to maintain a list of all standard charges for all facility items or services.

Proposed law requires a healthcare facility to maintain a list of all standard charges for at least 300 shoppable services provided by the facility. The facility is required to provide 70 shoppable services specified by the Centers for Medicare and Medicaid Service (CMS). The facility may select the shoppable services to include in the list. If that facility does not offer 300 shoppable services, the facility shall provide all shoppable services it provides.

Proposed law requires that all lists shall be made readily available on the internet home page of the facility in a single digital file. The lists shall be provided free of charge and accessible without entering a username, password, or other personal identifying information in a format provided by the Louisiana Department of Health (department).

Proposed law provides that the department is tasked with monitoring and enforcing facility compliance with these provisions. If the department determines that a facility is not in compliance, the department shall take the following actions:

- (1) Provide a written notice clearly stating the manner in which the facility is not in compliance.
- (2) Request a corrective action plan that is responsive to the written notice provided by the department.
- (3) Impose an administrative penalty if the facility fails to respond to the department's request for a corrective action plan.

Proposed law establishes a monetary administrative penalty. The value of the administrative penalty is related to the size of the facility.

Proposed law prohibits facilities that fail to comply with the requirements of proposed law from collecting debts from a patient who receives services during the period of noncompliance and authorizes the patient to file a suit to determine whether the facility was materially out of compliance with proposed law.

Proposed law provides that if a facility is found to be materially out of compliance by a judge or jury, the facility will be required to all of the following:

- (1) Refund the payor any amount of the debt the payor has paid and pay a penalty to the patient or patient guarantor in an amount equal to the total amount of the debt.
- (2) Dismiss or cause to be dismissed any court action and pay any attorney fees and costs incurred by the patient or patient guarantor relating to the action.

- (3) Remove or cause to be removed from the patient's or patient's guarantor's credit report any report made to a consumer reporting agency relating to the debt.

Proposed law provides that a facility will not be prohibited from billing any patient for services and will not be required to provide a refund for any services rendered if the facility does not initiate a collection action against the patient.

(Adds R.S. 40:1176.1-1176.9 )