

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1795

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S.P. 720

In Senate, April 25, 2023

### **An Act to Protect Patients by Prohibiting Certain Medical Facility Fees**

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Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by President JACKSON of Aroostook.  
Cosponsored by Speaker TALBOT ROSS of Portland and  
Senators: BALDACCI of Penobscot, DAUGHTRY of Cumberland, HICKMAN of Kennebec,  
INGWERSEN of York, NANGLE of Cumberland, TIPPING of Penobscot, VITELLI of  
Sagadahoc.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §1718-H** is enacted to read:

3 **§1718-H. Hospital facility fees**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5 following terms have the following meanings.

6 A. "Campus" means the main buildings of a hospital; the physical area immediately  
7 adjacent to a hospital's main buildings and other areas and structures that are not strictly  
8 contiguous to the main buildings but are located within 250 yards of the main buildings;  
9 and any other area that has been determined on a case-by-case basis by the federal  
10 Department of Health and Human Services, Centers for Medicare and Medicaid  
11 Services to be part of a hospital's campus.

12 B. "Facility fee" means any fee charged or billed by a health care provider for  
13 outpatient services provided in a hospital-based facility or freestanding emergency  
14 facility that is intended to compensate the health care provider for the operational  
15 expenses of the health care provider, separate and distinct from a professional fee, and  
16 charged or billed regardless of how a health care service is provided.

17 C. "Freestanding emergency facility" means an emergency medical care facility that  
18 is licensed under section 1811. "Freestanding emergency facility" does not include an  
19 urgent care clinic.

20 D. "Health care provider" means a person, whether for profit or nonprofit, that  
21 furnishes bills or is paid for health care service delivery in the normal course of  
22 business. "Health care provider" includes, but is not limited to, a health system,  
23 hospital, hospital-based facility, freestanding emergency facility or urgent care clinic.

24 E. "Health system" means:

25 (1) A parent corporation of one or more hospitals;

26 (2) Any entity affiliated with the parent corporation through ownership,  
27 governance, membership or other means; or

28 (3) A hospital and any entity affiliated with the hospital through ownership,  
29 governance, membership or other means.

30 F. "Hospital" means a hospital licensed under section 1811.

31 G. "Hospital-based facility" means a facility that is owned or operated, in whole or in  
32 part, by a hospital where hospital or professional medical services are provided.

33 H. "Professional fee" means any fee charged or billed by a health care provider for  
34 professional medical services provided in a hospital-based facility.

35 **2. Limits on facility fees.** This subsection governs limits on facility fees.

36 A. A health care provider may not charge, bill or collect a facility fee, except for:

37 (1) Services provided on a campus;

38 (2) Services provided at a facility that includes a hospital's emergency department;  
39 or

40 (3) Emergency services provided at a freestanding emergency facility.

1 B. Notwithstanding paragraph A, a health care provider, regardless of the location of  
2 services, may not charge, bill or collect a facility fee for:

3 (1) Outpatient evaluation or management services; or

4 (2) Any other outpatient, diagnostic or imaging services identified by the  
5 department pursuant to subsection 3.

6 **3. Identification of services.** The department shall annually identify services subject  
7 to the limitations on facility fees provided in subsection 2, paragraph B that may reliably  
8 be provided safely and effectively in settings other than hospitals.

9 **4. Annual report.** A hospital, health system and freestanding emergency facility shall  
10 submit a report annually to the department relating to facility fees charged or billed during  
11 the preceding calendar year. The department shall publish the information reported  
12 pursuant to this subsection on its publicly accessible website. The report must be in a  
13 format as prescribed by the department and must include:

14 A. The name and full address of every facility owned or operated by the hospital, health  
15 system or freestanding emergency facility that provides services for which a facility  
16 fee is charged or billed;

17 B. The number of patient visits at a hospital-based facility or freestanding emergency  
18 facility for which a facility fee was charged or billed;

19 C. The number, total amount and range of allowable facility fees paid at a hospital-  
20 based facility or freestanding emergency facility by Medicare, the MaineCare program  
21 or private health insurance;

22 D. For each hospital-based facility, hospital, health system or freestanding emergency  
23 facility, the total amount of facility fees charged or billed and the total revenue received  
24 from facility fees;

25 E. The top 10 procedures or services, identified by procedural terminology codes used  
26 by the American Medical Association, provided by the hospital, health system or  
27 freestanding emergency facility that generated the greatest amount of gross revenue  
28 from facility fees, the number of patients charged or billed for each of the 10 procedures  
29 or services, the gross and net revenue totals for each procedure or service and the total  
30 net amount of revenue received that was derived from facility fees;

31 F. The top 10 procedures or services, identified by procedural terminology codes used  
32 by the American Medical Association, provided by the hospital, health system or  
33 freestanding emergency facility overall for which facility fees are charged or billed  
34 based on the number of patients charged or billed for the 10 procedures or services,  
35 including the gross and net revenue totals received for each procedure or service; and

36 G. Any other information related to facility fees required by the department.

37 **5. Rules.** The department may adopt rules necessary to implement this section,  
38 including, but not limited to, specifying the format and content of reports and imposing  
39 penalties for noncompliance consistent with the department's authority under this chapter.

40 **6. Enforcement.** This subsection governs enforcement of this section.

41 A. A violation of this section is an unfair practice in the conduct of any trade or  
42 commerce pursuant to Title 5, section 207.

1 B. A health care provider that violates any provision of this section or any rules adopted  
2 pursuant to this section is subject to an administrative penalty of not more than \$1,000  
3 per violation.

4 C. The department or its designee may audit a health care provider for compliance  
5 with the requirements of this section. The department or its designee may request  
6 copies of any books, documents, records or data that are necessary for the purposes of  
7 completing the audit. A health care provider shall make those records available and  
8 maintain records for 4 years after providing a service for which a facility fee was  
9 charged, billed or collected.

10

### **SUMMARY**

11 This bill prohibits certain health care providers from charging, billing or collecting a  
12 facility fee in certain situations and requires annual reporting on the amount of facility fees  
13 charged or billed.