

1 H.287

2 Introduced by Representatives Cordes of Lincoln, Anthony of Barre City,  
3 Burrows of West Windsor, Cina of Burlington, Colburn of  
4 Burlington, Houghton of Essex, Ode of Burlington, Small of  
5 Winooski, Surprenant of Barnard, Troiano of Stannard, and  
6 Vyhovsky of Essex

7 Referred to Committee on

8 Date:

9 Subject: Health; health care providers; health care facilities; patients; financial  
10 assistance policies; medical debt

11 Statement of purpose of bill as introduced: This bill proposes to set minimum  
12 requirements for specified health care facilities' patient financial assistance  
13 policies. It would also provide patients with certain protections against  
14 medical debt.

15 An act relating to patient financial assistance policies and medical debt  
16 protection

17 It is hereby enacted by the General Assembly of the State of Vermont:

18 Sec. 1. 18 V.S.A. chapter 221, subchapter 10 is added to read:

19 Subchapter 10. Patient Financial Assistance

20 § 9481. DEFINITIONS

1       As used in this subchapter:

2           (1) “Amount generally billed” means the amount a large health care  
3 facility generally bills to individuals for emergency or other medically  
4 necessary health care services, determined using the “look-back method” set  
5 forth in 26 C.F.R. § 1.501(r)-5(b)(3).

6           (2) “Credit reporting agency” means a person who, for fees, dues, or on  
7 a cooperative basis, regularly engages in whole or in part in the practice of  
8 assembling or evaluating information concerning a consumer’s credit or other  
9 information for the purpose of furnishing a credit report to another person.

10          (3) “Health care provider” means a person, partnership, corporation,  
11 facility, or institution licensed, certified, or otherwise authorized by law to  
12 provide professional health care services in this State to an individual during  
13 that individual’s medical care, treatment, or confinement.

14          (4) “Health care services” means services for the diagnosis, prevention,  
15 treatment, cure, or relief of a physical, dental, behavioral, or mental health  
16 condition or substance use disorder, including procedures, products, devices,  
17 and medications.

18          (5) “Household income” means income calculated in accordance with  
19 the financial methodologies for determining financial eligibility for Medicaid  
20 under 42 C.F.R. § 435.603, including the method used to calculate household  
21 size.

1           (6) “Large health care facility” means each of the following health care  
2 providers:

3           (A) a hospital licensed pursuant to chapter 43 of this title;

4           (B) an outpatient clinic or facility affiliated with or operating under  
5 the license of a hospital licensed pursuant to chapter 43 of this title; and

6           (C) an ambulatory surgical center licensed pursuant to chapter 49 of  
7 this title.

8           (7) “Large health care facility contractor” means a health care provider  
9 or other entity located in or outside this State that is not employed by but  
10 contracts with a large health care facility located in this State to provide health  
11 care or health care-related services directly or indirectly to or for the benefit of  
12 the large health care facility’s patients, such as imaging services, ambulance  
13 services, or laboratory services, occurring in the large health care facility or  
14 pursuant to orders from health care professionals employed by the facility.  
15 The term includes an independent health care provider who is not employed by  
16 a large health care facility but who delivers any health care or health care-  
17 related service in that facility.

18           (8) “Medical creditor” means a large health care facility to whom a  
19 consumer owes money for health care services.

20           (9) “Medical debt” means a debt arising from the receipt of health care  
21 services.

1           (10) “Medical debt collector” means an individual or entity that  
2           regularly collects or attempts to collect, directly or indirectly, medical debts  
3           originally owed or due, or asserted to be owed or due, to another individual or  
4           entity.

5           (11) “Medically necessary health care services” means health care  
6           services, including diagnostic testing, preventive services, and after care, that  
7           are appropriate to the patient’s diagnosis or condition in terms of type, amount,  
8           frequency, level, setting, and duration.

9           (12) “Patient” means the individual who receives or received health care  
10           services and shall include a parent if the patient is a minor or a legal guardian  
11           if the patient is a minor or adult under guardianship.

12           (13) “Vermont resident” means an individual, regardless of citizenship  
13           and including undocumented immigrants, who resides, is employed, or attends  
14           school in Vermont, or a combination of these.

15           § 9482. FINANCIAL ASSISTANCE POLICIES FOR LARGE HEALTH

16           CARE FACILITIES

17           (a) Each large health care facility in this State shall develop a written  
18           financial assistance policy that, at a minimum, complies with the provisions of  
19           this subchapter and any applicable federal requirements.

20           (b) The financial assistance policy shall:

- 1           (1) apply, at a minimum, to all emergency and other medically  
2           necessary health care services that the large health care facility offers;
- 3           (2) provide free or discounted care to Vermont residents and to  
4           individuals who live in Vermont at the time the services are delivered but who  
5           lack stable housing, as follows:
- 6                   (A) for an uninsured patient with household income at or below 300  
7                   percent of the federal poverty level (FPL), a 100 percent discount from the  
8                   amount generally billed for the services received, resulting in free care;
- 9                   (B) for an uninsured patient with household income between 300 and  
10                  500 percent FPL, a minimum of a 30 percent discount from the amount  
11                  generally billed for the services received;
- 12                  (C) for a patient with health insurance or other coverage for the  
13                  services delivered and with household income at or below 300 percent FPL, a  
14                  waiver of all out-of-pocket costs that would otherwise be due from the patient;
- 15                  (D) for a patient with health insurance or other coverage for the  
16                  services delivered and with household income between 300 and 500 percent  
17                  FPL, a minimum of a 30 percent discount on the patient's out-of-pocket costs;
- 18                  (E) for all patients with household income below 500 percent FPL, a  
19                  limit on the total amount due from the patient during any 12-month period of  
20                  an amount equal to not more than 100 percent FPL for the applicable  
21                  household size; and

1           (F) for all patients, regardless of household income, catastrophic  
2           assistance in the event that the large health care facility's medical bills for a  
3           patient's care exceed 20 percent of the patient's household income, in which  
4           case the facility shall reduce the amount due from the patient to 20 percent of  
5           the patient's household income; and

6           (3) include all of the following:

7                   (A) the eligibility criteria for financial assistance;

8                   (B) the basis for calculating amounts charged to patients;

9                   (C) the method and process for applying for financial assistance,  
10           including the information and documentation that the facility may require a  
11           patient to provide as part of the application;

12                   (D) the reasonable steps that the facility will take to determine  
13           whether a patient is eligible for financial assistance;

14                   (E) the facility's billing and collections policy, including the actions  
15           the facility may take in the event of nonpayment, such as collections action and  
16           reporting to credit reporting agencies;

17                   (F) an appeals process for patients who are denied financial  
18           assistance or who believe the amount of financial assistance granted is  
19           inconsistent with the policy or the provisions of this subchapter; and

1           (G) a plain language summary of the policy, not to exceed two pages  
2           in length, with a Flesch reading ease score of at least 40, less than 20 percent  
3           passive sentences, and a Flesch-Kincaid grade level not greater than 10.5.

4           (c) The owners or governing body of the large health care facility shall  
5           approve the facility's financial assistance policy and shall review and approve  
6           the policy at least once every three years.

7           (d) A large health care facility may require a patient to be a Vermont  
8           resident as a condition of eligibility for financial assistance but shall not  
9           impose any requirements regarding the duration of a patient's status as a  
10          Vermont resident; provided, however, that the facility shall also extend its  
11          financial assistance policy to individuals who live in Vermont at the time they  
12          receive health care services from the facility but who lack stable housing.

13          (e)(1) A large health care facility shall include in each of its contracts with  
14          a large health care facility contractor provisions that require the large health  
15          care facility contractor to:

16                (A) adhere to the provisions of the facility's financial assistance  
17                policy for all health care and health care-related services delivered to a patient  
18                of the facility in connection with a given episode of care;

19                (B) inform patients of the facility to whom the contractor delivers  
20                health care and health care-related services about the facility's financial

1 assistance policy as set forth in subsection 9484(b) of this subchapter to the  
2 extent applicable to the contractor's role in the patient's care; and

3 (C) accept the same or a copy of the same financial assistance  
4 application that the patient submitted to the facility without imposing a  
5 separate application requirement, rely on the facility's determination of the  
6 patient's eligibility for financial assistance, and apply discounts for financially  
7 eligible patients in accordance with subsection 9482(b) of this subchapter.

8 (2) A large health care facility may include a provision in a contract  
9 with a large health care facility contractor that exempts the contractor from the  
10 requirements of subdivisions (1)(A)–(C) of this subsection for services that  
11 meet the following conditions:

12 (A) the patient's initial contact with the contractor regarding the  
13 services occurred in a setting other than the large health care facility; and

14 (B) the contractor provided the patient with written notice that the  
15 services would not be eligible for assistance under the large health care  
16 facility's patient assistance policy before the patient committed to the services  
17 and, at a minimum, 96 hours before the services were delivered.

18 § 9483. IMPLEMENTATION OF FINANCIAL ASSISTANCE POLICY

19 (a) In addition to any other actions required by applicable State or federal  
20 law, a large health care facility shall take the following steps before seeking  
21 payment for any emergency or medically necessary health care services:



1           (1) determine whether the patient has health insurance or other coverage  
2           for the services delivered, including whether the health care services may be  
3           covered in whole or in part by an automobile insurance, a worker's  
4           compensation, or other type of policy;

5           (2) if the patient is uninsured, offer to provide the patient with  
6           information on how to apply for, and offer to connect the patient with help in  
7           applying for, public programs that may assist with health care costs; provided,  
8           however, that an undocumented immigrant's refusal to apply for public  
9           programs shall not be grounds for denying financial assistance under the  
10           facility's financial assistance policy;

11           (3) offer to provide the patient with information on how to apply for,  
12           and offer to connect the patient with help in applying for, health insurance and  
13           private programs that may assist with health care costs; provided, however,  
14           that a patient's refusal to apply for private health insurance shall not be  
15           grounds for denying financial assistance under the facility's financial  
16           assistance policy;

17           (4) if available, use information in the facility's possession to determine  
18           the patient's eligibility for free or discounted care based on the criteria set forth  
19           in subdivision 9482(b)(2) of this subchapter; and

20           (5) offer to the patient, at no charge, a financial assistance policy  
21           application and assistance in completing the application.

1       (b) A large health care facility shall determine a patient's eligibility for  
2       financial assistance as follows:

3           (1)(A) The facility shall determine a patient's household income using  
4       the patient's most recent federal or state income tax return.

5           (B)(i) The facility shall give each patient the option to submit pay  
6       stubs, documentation of public assistance, or other documentation of  
7       household income that the Department of Vermont Health Access identifies as  
8       valid documentation for purposes of this subchapter in lieu of or in addition to  
9       an income tax return.

10          (ii) A patient who is an undocumented immigrant shall also be  
11       given the option to submit a profit and loss statement in lieu of an income tax  
12       return.

13          (C) The facility shall not require any additional information to verify  
14       income beyond the sources of information set forth in subdivisions (A) and (B)  
15       of this subdivision (1).

16          (2) The facility may grant financial assistance to a patient  
17       notwithstanding the patient's failure to provide one of the required forms of  
18       household income documentation and may rely on, but not require, other  
19       evidence of eligibility.

1           (3) The facility may grant financial assistance based on a determination  
2           of presumptive eligibility relying on information in the facility's possession  
3           but shall not presumptively deny an application based on that information.

4           (4)(A) The facility may, but is not required to, include an asset test in its  
5           financial assistance eligibility criteria. If the facility chooses to include an  
6           asset test in its financial assistance eligibility criteria, the asset test shall only  
7           apply to liquid assets. For purposes of determining financial assistance  
8           eligibility, liquid assets shall not include the household's primary residence,  
9           any 401(k) or individual retirement accounts, or any pension plans.

10           (B) Any limit on liquid assets for purposes of financial assistance  
11           eligibility shall be set at a dollar amount not less than 400 percent of the  
12           federal poverty level for the relevant household size for the year in which the  
13           health care services were delivered.

14           (c)(1) Within 30 calendar days following receipt of an application for  
15           financial assistance, the large health care facility shall notify the patient in  
16           writing as to whether the application is approved or disapproved or, if the  
17           application is incomplete, what information is needed to complete the  
18           application.

19           (2) If the facility approves the application for financial assistance, the  
20           facility shall provide the patient with a calculation of the financial assistance  
21           granted and a revised bill.

1           (3) If the facility denies the application for financial assistance, the  
2           facility shall allow the patient to submit an appeal within 60 days following  
3           receipt of the facility's decision. The facility shall notify the patient of its  
4           approval or denial of the patient's appeal within 30 days following receipt of  
5           the appeal.

6           (d)(1) A large health care facility or medical debt collector shall, at a  
7           minimum, offer to any patient who qualifies for financial assistance a payment  
8           plan of not less than 24 months and shall not require the patient to make  
9           monthly payments that exceed five percent of the patient's gross monthly  
10          household income.

11          (2) A large health care facility or medical debt collector shall not impose  
12          any prepayment or early payment penalty or fee on any patient and shall not  
13          charge interest on any medical debt owed by a patient who qualifies for the  
14          facility's patient assistance program.

15          (e) A large health care facility shall not discriminate on the basis of race,  
16          color, sex, sexual orientation, gender identity, marital status, religion, ancestry,  
17          national origin, citizenship, immigration status, primary language, disability,  
18          medical condition, or genetic information in its provision of financial  
19          assistance or in the implementation of its financial assistance policy.

1     § 9484. PUBLIC EDUCATION AND INFORMATION

2           (a) Each large health care facility shall publicize its financial assistance  
3     policy widely by:

4           (1) making the financial assistance policy and application form easily  
5     accessible online through the facility's website and through any patient portal  
6     or other online communication portal used by the facility's patients;

7           (2) providing paper copies of the financial assistance policy and  
8     application form upon request at no charge, both by mail and at the facility's  
9     office; for hospitals, copies shall also be available in at least one location in  
10    each department and in the hospital's admissions area;

11          (3) providing oral and written translations of the financial assistance  
12    policy upon request;

13          (4) notifying and informing members of the community served by the  
14    facility about the financial assistance policy in a manner reasonably calculated  
15    to reach the members of the community who are mostly likely to need financial  
16    assistance, including members who are non-native English speakers, provided  
17    that these efforts shall be commensurate with the facility's size and income;

18    and

19          (5) conspicuously displaying notices of and information regarding the  
20    financial assistance policy in the facility's offices; for hospitals, the notices and

1 information shall be posted in at least one location in each department and in  
2 the hospital's admissions area.

3 (b) Each large health care facility shall directly notify individuals who  
4 receive care from the facility about the facility's financial assistance policy by,  
5 at a minimum:

6 (1) offering a paper copy of the financial assistance policy to each  
7 patient as part of the patient's first visit or, in the case of a hospital, during the  
8 intake and discharge processes; and

9 (2) including a conspicuous written notice on billing statements,  
10 whether sent by the facility or by a medical debt collector, stating that financial  
11 assistance is available to some patients based on income and including:

12 (A) a telephone number that the patient can call to request a financial  
13 assistance application and to receive information about the financial assistance  
14 policy and the application process; and

15 (B) the specific website address at which copies of the policy and  
16 application are available.

17 (c) All written or oral attempts by a medical creditor or medical debt  
18 collector to collect a medical debt arising from health care services delivered  
19 by a large health care facility, including services delivered through a large  
20 health care facility contractor, shall include information for the patient about  
21 the relevant financial assistance policy or policies.

1     § 9485. DEBT FORGIVENESS IS NOT BREACH OF CONTRACT

2         A medical creditor's forgiveness of any portion of an insured patient's co-  
3     payment, coinsurance, deductible, facility fees, out-of-network charges, or  
4     other cost-sharing shall not be deemed to be a breach of contract or other  
5     violation of any agreement between the medical creditor and an insurer or  
6     other payor or contractor.

7     § 9486. PROHIBITION ON SALE OF MEDICAL DEBT

8         No large health care facility shall sell its medical debt.

9     § 9487. REMEDIES

10         (a)(1) Collection activity against an individual whom the medical creditor  
11     or medical debt collector knew or should have known was or should have been  
12     eligible for financial assistance under this subchapter is an unfair and deceptive  
13     act in trade and commerce in violation of 9 V.S.A. § 2453.

14         (2) A person who violates any provision of this subchapter commits an  
15     unfair and deceptive act in trade and commerce in violation of 9 V.S.A.

16     § 2453.

17         (b) Any individual may sue for injunctive or other appropriate equitable  
18     relief to enforce the provisions of this subchapter. A court shall award costs  
19     and reasonable attorney's fees to an individual who prevails in an action  
20     brought under this section.

1       (c) The remedies provided in this section are not intended to be the  
2       exclusive remedies available to an individual, nor must an individual exhaust  
3       any administrative remedies provided under this subchapter or any other  
4       applicable law.

5       (d)(1) No financial assistance policy or agreement between a patient and a  
6       large health care facility, large health care facility contractor, or medical debt  
7       collector shall contain a provision that, prior to a dispute arising, waives or has  
8       the practical effect of waiving the patient's legal rights to resolve a dispute,  
9       including by obtaining one or more of the following:

10               (A) injunctive, declaratory, or other equitable relief;

11               (B) damages in any form or amount, including the damages specified  
12       in 9 V.S.A. § 2461;

13               (C) attorney's fees and costs; or

14               (D) a hearing at which the patient may present evidence in person.

15       (2) Any provision in a financial assistance policy or written agreement  
16       violating this subsection shall be void and unenforceable. A court may refuse  
17       to enforce other provisions of the financial assistance policy or written  
18       agreement as equity may require.



1     § 9488. PROHIBITION OF WAIVER OF RIGHTS

2             Any waiver by a patient or other individual of any protection provided by or  
3     any right of the patient or other individual under this subchapter is void and  
4     shall not be enforced by any court or any other person.

5     § 9489. ENFORCEMENT

6             The Office of the Attorney General has the same authority to make rules,  
7     conduct civil investigations, enter into assurances of discontinuance, and bring  
8     civil actions for violations of this subchapter as is provided under 9 V.S.A.  
9     chapter 63, subchapter 1.

10    Sec. 2. EFFECTIVE DATE

11            This act shall take effect on July 1, 2021.