

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred House Bill No. 287
3 entitled “An act relating to patient financial assistance policies and medical
4 debt protection” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

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

8 Subchapter 10. Patient Financial Assistance

9 § 9481. DEFINITIONS

10 As used in this subchapter:

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

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

19 (3) “Health care provider” means a person, partnership, corporation,
20 facility, or institution licensed, certified, or otherwise authorized by law to

1 provide professional health care services in this State to an individual during
2 that individual’s medical care, treatment, or confinement.

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

7 (5) “Household income” means income calculated in accordance with
8 the financial methodologies for determining financial eligibility for advance
9 premium tax credits under 26 C.F.R. § 1.36B-2, including the method used to
10 calculate household size, with the following modifications:

11 (A) domestic partners, and any individual who is considered a
12 dependent of either partner for federal income tax purposes, shall be treated as
13 members of the same household;

14 (B) married individuals who file federal income tax returns
15 separately but could file jointly, and any individual who is considered a
16 dependent of one or both spouses for federal income tax purposes, shall be
17 treated as members of the same household;

18 (C) married individuals who are living separately while their divorce
19 is pending shall not be treated as members of the same household, regardless
20 of whether they are filing federal income tax returns jointly or separately; and

1 (D) household income for individuals who are not required to file a
2 federal income tax return, and for undocumented immigrants who have not
3 filed a federal income tax return, shall be calculated as if they had filed a
4 federal income tax return.

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

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

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

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

12 (7) “Medical creditor” means a large health care facility to whom a
13 consumer owes money for health care services.

14 (8) “Medical debt” means a debt arising from the receipt of health care
15 services.

16 (9) “Medical debt collector” means an individual or entity that regularly
17 collects or attempts to collect, directly or indirectly, medical debts originally
18 owed or due, or asserted to be owed or due, to another individual or entity.

19 (10) “Medically necessary health care services” means health care
20 services, including diagnostic testing, preventive services, and after care, that

1 are appropriate to the patient’s diagnosis or condition in terms of type, amount,
2 frequency, level, setting, and duration. Medically necessary care must:

3 (A) be informed by generally accepted medical or scientific evidence
4 and be consistent with generally accepted practice parameters as recognized by
5 health care professions in the same specialties as typically provide the
6 procedure or treatment, or diagnose or manage the medical condition;

7 (B) be informed by the unique needs of each individual patient and
8 each presenting situation; and

9 (C) meet one or more of the following criteria:

10 (i) help restore or maintain the patient’s health;

11 (ii) prevent deterioration of or palliate the patient’s condition; or

12 (iii) prevent the reasonably likely onset of a health problem or
13 detect an incipient problem.

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

17 (12) “Vermont resident” means an individual, regardless of citizenship
18 and including undocumented immigrants, who resides in Vermont, is
19 employed by a Vermont employer to deliver services for the employer in this
20 State in the normal course of the employee’s employment, or attends school in
21 Vermont, or a combination of these. The term includes an individual who is

1 living in Vermont at the time that services are received but who lacks stable
2 permanent housing.

3 § 9482. FINANCIAL ASSISTANCE POLICIES FOR LARGE HEALTH
4 CARE FACILITIES

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

8 (b) The financial assistance policy shall:

9 (1) apply, at a minimum, to all emergency and other medically
10 necessary health care services that the large health care facility offers;

11 (2) provide free or discounted care to Vermont residents and to
12 individuals who live in Vermont at the time the services are delivered but who
13 lack stable permanent housing, as follows:

14 (A) for an uninsured patient with household income at or below 250
15 percent of the federal poverty level (FPL), a 100 percent discount from the
16 amount generally billed for the services received, resulting in free care;

17 (B) for an uninsured patient with household income between 250 and
18 400 percent FPL, a minimum of a 40 percent discount from the amount
19 generally billed for the services received;

1 (C) for a patient with health insurance or other coverage for the
2 services delivered and with household income at or below 250 percent FPL, a
3 waiver of all out-of-pocket costs that would otherwise be due from the patient;

4 (D) for a patient with health insurance or other coverage for the
5 services delivered and with household income between 250 and 400 percent
6 FPL, a minimum of a 40 percent discount on the patient’s out-of-pocket costs;
7 and

8 (E) for patients with household income at or below 600 percent FPL,
9 catastrophic assistance in the event that the large health care facility’s medical
10 bills for a patient’s care exceed 20 percent of the patient’s household income,
11 in which case the facility shall reduce the amount due from the patient to 20
12 percent of the patient’s household income; and

13 (3) include all of the following:

14 (A) the eligibility criteria for financial assistance;

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

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

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

1 (E) the facility’s billing and collections policy, including the actions
2 the facility may take in the event of nonpayment, such as collections action and
3 reporting to credit reporting agencies;

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

7 (G) a plain language summary of the policy.

8 (c) The owners or governing body of the large health care facility shall
9 approve the facility’s financial assistance policy and shall review and approve
10 the policy at least once every three years.

11 (d) A large health care facility may require a patient to be a Vermont
12 resident as a condition of eligibility for financial assistance but shall not
13 impose any requirements regarding the duration of a patient’s status as a
14 Vermont resident.

15 § 9483. IMPLEMENTATION OF FINANCIAL ASSISTANCE POLICY

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

19 (1) determine whether the patient has health insurance or other coverage
20 for the services delivered, including whether the health care services may be

1 covered in whole or in part by an automobile insurance, a worker's
2 compensation, or other type of policy;

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

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

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

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

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

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

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

8 (ii) A patient who is an undocumented immigrant shall also be
9 given the option to submit other documentation of household income, such as a
10 profit and loss statement, in lieu of an income tax return.

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

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

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

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

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

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

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

19 (3) If the facility denies the application for financial assistance, the
20 facility shall allow the patient to submit an appeal within 60 days following
21 receipt of the facility’s decision. The facility shall notify the patient of its

1 approval or denial of the patient’s appeal within 60 days following receipt of
2 the appeal.

3 (d)(1) A large health care facility or medical debt collector shall, at a
4 minimum, offer to any patient who qualifies for financial assistance a payment
5 plan and shall not require the patient to make monthly payments that exceed
6 five percent of the patient’s gross monthly household income.

7 (2) A large health care facility or medical debt collector shall not impose
8 any prepayment or early payment penalty or fee on any patient and shall not
9 charge interest on any medical debt owed by a patient who qualifies for the
10 facility’s financial assistance program.

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

16 § 9484. PUBLIC EDUCATION AND INFORMATION

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

19 (1) making the financial assistance policy and application form easily
20 accessible online through the facility’s website and through any patient portal
21 or other online communication portal used by the facility’s patients;

1 (2) providing paper copies of the financial assistance policy and
2 application form upon request at no charge, both by mail and at the facility’s
3 office; for hospitals, copies shall also be available in the hospital’s patient
4 reception and admissions areas and in the locations in which patient billing and
5 financial assistance services are provided;

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

8 (4) notifying and informing members of the community served by the
9 facility about the financial assistance policy in a manner reasonably calculated
10 to reach the members of the community who are most likely to need financial
11 assistance, including members who are non-native English speakers, provided
12 that these efforts shall be commensurate with the facility’s size and income;
13 and

14 (5) conspicuously displaying notices of and information regarding the
15 financial assistance policy in the facility’s offices; for hospitals, the notices and
16 information shall be posted in the hospital’s patient reception and admissions
17 areas and in the locations in which patient billing and financial assistance
18 services are provided.

19 (b) Each large health care facility shall directly notify individuals who
20 receive care from the facility about the facility’s financial assistance policy by,
21 at a minimum:

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

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

7 (A) a telephone number that the patient can call to request a financial
8 assistance application and to receive information about the financial assistance
9 policy and the application process; and

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

12 (c) All written or oral attempts by a medical creditor or medical debt
13 collector to collect a medical debt arising from health care services delivered
14 by a large health care facility shall include information for the patient about the
15 relevant financial assistance policy or policies.

16 § 9485. PROHIBITION ON SALE OF MEDICAL DEBT

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

18 § 9486. PROHIBITION OF WAIVER OF RIGHTS

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

1 § 9487. ENFORCEMENT

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

6 Sec. 2. HOSPITAL FINANCIAL ASSISTANCE POLICIES; PLAIN
7 LANGUAGE SUMMARY; 2025 HOSPITAL BUDGET REVIEW

8 Each hospital licensed under 18 V.S.A. chapter 43 shall submit a plain
9 language summary of its financial assistance policy to the Green Mountain
10 Care Board during the hospital fiscal year 2025 budget review process.

11 Sec. 3. EFFECTIVE DATE

12 This act shall take effect on July 1, 2022, with large health care facilities
13 coming into compliance with the provisions of Sec. 1 (18 V.S.A. 221,
14 subchapter 10) not later than July 1, 2024.

15

16

17

18 (Committee vote: _____)

19

20

Representative _____

21

FOR THE COMMITTEE