

## **BILL ANALYSIS**

C.S.H.B. 3749  
By: Coleman  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Hospitals routinely unbundle and mark up the price of implantable medical devices and specialty drugs by 600 to 1,000 percent. Often a complicated surgery bill will include billed charges for multiple devices. Medical devices and specialty drugs often are carved out of preferred provider reimbursement rates as "outliers" and thus are not subject to the same discounted reimbursement rates as other care.

A similar issue led, in part, to disputes and lawsuits in the workers' compensation market under the old hospital fee guidelines. The new hospital fee guidelines, adopted by the division of workers' compensation in 2008, addressed this problem and provided hospitals with an option: to leave the implants bundled with the other charges for the hospital stay and receive a bundled fee or to unbundle the implants and receive a lower Medicare fee for the hospital stay with a limit of 10 percent or \$1,000 per device markup (not to exceed \$2,000) for all implants used in the procedure.

Hospitals sometimes refuse to provide invoice support for the cost of implants and often claim that they are prohibited from sharing that information because of the contract with the manufacturer or supplier of the device. The same thing happens with specialty drugs, although the issue is not limited to hospitals.

C.S.H.B. 3749 sets forth provisions regarding the creation of an interim committee to study the itemized billing statements of certain health care facilities and the collection of information for purposes of that study.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3749 requires the Department of State Health Services (DSHS) to collect information concerning the itemized billing statements of health care facilities, including information concerning the unit prices charged to health care facilities by manufacturers, suppliers, or providers for medical hardware provided to patients by health care facilities, devices or implants provided to patients by health care facilities, prescription specialty drugs or drug protocols dispensed to patients by health care facilities, and health care services provided to patients by health services providers for health care facilities. The bill requires a health care facility to provide the required pricing information and prohibits a health care facility from including in a contract to which the health care facility is a party and that is entered into or renewed on or after the effective date of the bill, a provision that prohibits the health care facility from disclosing the required pricing information. The bill requires DSHS to provide the information collected to the interim committee established under the bill's provisions.

C.S.H.B. 3749 creates an interim committee consisting of three senators appointed by the lieutenant governor and three state representatives appointed by the speaker of the house of representatives. The bill requires the interim committee to conduct a study concerning transparency of itemized billing statements of health care facilities. The bill requires the study to examine the extent the unit prices charged to facilities by manufactures, suppliers, and providers reflect discounts, rebates, and other adjustments to the price billed, the manner in which the billing statement accurately reflects the actual unit prices charged to and paid by facilities, and whether the billing statement includes invoices or other sufficient documentation to support the actual unit prices paid; the effects of health care facility billing practices on patient access to health care and on third-party payors, including the effects of pricing and discounting practices on the uninsured and underinsured and on insurers, governmental payors, and other third-party payors; the economic consequences of health care facility billing practices on consumers and third-party payors, including the effects of bankruptcy and denied claims; the resolution of patient complaints on health care facility billed charges and billing practices, including resolution through reduction in charges to a patient through any available charity care or discounts offered by the health care facility for patients; and the effects of health care facility billing practices related to any increase in the amount of the billed unit prices presented to consumers and third-party payors compared to the actual unit prices charged to and paid by facilities.

C.S.H.B. 3749 requires the interim committee to elect a presiding officer from among its members and to convene at the call of the presiding officer. The bill requires the committee to hold public hearings and include information gathered in the hearing in the study conducted by the committee.

C.S.H.B. 3749 requires the interim committee to submit a report on the results of the study, including recommendations for legislation to address issues identified in the study, to the governor, lieutenant governor, and speaker of the house of representatives not later than December 1, 2010. The bill establishes that its provisions expire September 1, 2011.

C.S.H.B. 3749 defines "department," "health care facility," and "interim committee."

### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 3749 omits provisions included in the original requiring an itemized statement of billed services a health facility is required to provide either to a consumer or to a third-party payor who is actually or potentially responsible for payment to include the unit price billed for any medical hardware provided by the facility, each device or implant provided by the facility, and any prescription specialty drug or drug protocol dispensed by the facility. The substitute omits provisions included in the original requiring this itemized statement, to the extent the unit price reflects a discount, rebate, or other adjustment to the price paid by the facility, to be accompanied by sufficient documentation to support the unit price charged.

C.S.H.B. 3749 adds provisions not included in the original creating an interim committee to study and submit a report on the itemized billing statements of certain health care facilities and requiring the Department of State Health Services to collect and a health care facility to provide pricing information for use by the interim committee for purposes of the study. The substitute adds provisions not included in the original defining "department," "health care facility," and "interim committee." The substitute adds a provision not included in the original establishing that its provisions expire September 1, 2011. The substitute differs from the original by changing the effective date of the bill from September 1, 2009, to on passage, or, if the bill does not

receive the required vote, September 1, 2009.