COMMITTEE ON HEALTH AND HUMAN SERVICES

SENATE AMENDMENTS TO H.B. 2417

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:
   "Section 1. Section 32-3216, Arizona Revised Statutes, is amended to read:

   32-3216. Health care providers; charges; public availability; direct payment; notice; definitions

   A. A health care provider must make available on request or online the direct pay price for at least the twenty-five most commonly provided services, if applicable, for the health care provider. The services may be identified by a common procedural terminology code or by a plain-English description. The direct pay prices must be updated at least annually and must be based on the services from a twelve-month period that occurred within the eighteen-month period preceding the annual update. The direct pay price must be for the standard treatment provided for the service and may include the cost of treatment for complications or exceptional treatment. Health care providers who are owners or employees of a legal entity with fewer than three licensed health care providers are exempt from the requirements of this subsection.

   B. Subsection A of this section does not apply to emergency services.

   C. The health care services provided by health care providers in veterans administration facilities, health facilities on military bases, Indian health services hospitals and other Indian health service facilities, tribal owned clinics, the Arizona state hospital and any health care facility determined to be exempt pursuant to section 36-437, subsection D, are exempt from the requirements and provisions of this section.
D. Subsection A of this section does not prevent a health care provider from offering either additional discounts or additional lawful health care services for an additional cost to a person or an employer paying directly.

E. A health care provider is not required to report the direct pay prices to a government agency or department or to a government-authorized or government-created entity for review or filing. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider's direct pay price for services. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care provider's ability to change the published or posted direct pay price for services.

F. A health care system may not punish a person or employer for paying directly for lawful health care services or a health care provider for accepting direct payment from a person or employer for lawful health care services.

G. Except as provided in subsection J–K of this section, a health care provider who receives direct payment from a person or employer for a lawful health care service is deemed paid in full if the entire fee for the service is paid and shall not submit a claim for payment or reimbursement for the service to any health care system. This subsection does not prevent a health care provider from pursuing a health care lien for customary charges pursuant to title 33. This subsection does not affect the ability of a health care provider to submit claims for the same service provided on other occasions to the same or a different person if no direct payment occurs. This subsection does not require a health care provider to refund or adjust any capitated payment, bundled payment or other form of prepayment or global payment made by a health care system to the health care provider for lawful health care services to be provided by the health care provider for the person who makes, or on whose behalf an employer makes, direct payment to the health care provider.
H. Before a health care provider who is contracted as a network provider for a health care system accepts direct payment from a person or an employer, and the person is an enrollee of the same health care system, the health care provider shall obtain the person's or employer's signature on a notice in a form that is substantially similar to the following:

Important notice about direct payment for your health care services

The Arizona Constitution permits you to pay a health care provider directly for health care services. Before you make any agreement to do so, please read the following important information:

If you are an enrollee of a health care system (more commonly referred to as a health insurance plan) and your health care provider is contracted with the health insurance plan, the following apply:

1. You may not be required to pay the health care provider directly for the services covered by your plan, except for cost share amounts that you are obligated to pay under your plan, such as copayments, coinsurance and deductible amounts.

2. Your provider's agreement with the health insurance plan may prevent the health care provider from billing you for the difference between the provider's billed charges and the amount allowed by your health insurance plan for covered services.

3. If you pay directly for a health care service, your health care provider will not be responsible for submitting claim documentation to your health insurance plan for that claim. Before paying your claim, your health insurance plan may require you to provide information and submit documentation necessary to determine whether the services are covered under your plan.

4. If you do not pay directly for a health care service, your health care provider may be responsible for submitting claim
documentation to your health insurance plan for the health care
service.

Your signature below acknowledges that you received this
notice before paying directly for a health care service.

I. A health care provider who receives direct payment for a lawful
health care service and who complies with subsection H of this section is not
responsible for submitting documentation of any kind for purposes of
reimbursement to any health care system for that claim if the failure to
submit such documentation does not conflict with the terms of any federal or
state contracts to which the health care system is a party and the health
care provider has agreed to serve patients under or with applicable state or
federal programs in which a health care provider and health care system
participate.

J. IF AN ENROLLEE PAYS TO A HEALTH CARE PROVIDER WHO IS AN
OUT-OF-NETWORK PROVIDER THE DIRECT PAY PRICE FOR A LAWFUL HEALTH CARE SERVICE
THAT IS COVERED UNDER THE ENROLLEE'S HEALTH CARE PLAN, PURSUANT TO THE
REQUIREMENTS OF THIS SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE
APPLIED FIRST TO THE ENROLLEE'S IN-NETWORK DEDUCTIBLE WITH ANY REMAINING
MONIES BEING APPLIED TO THE ENROLLEE'S OUT-OF-NETWORK DEDUCTIBLE, IF
APPLICABLE. THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE
AMOUNT PAID DIRECTLY OR THE INSURER'S HIGHEST IN-NETWORK CONTRACTED RATE IN
ARIZONA FOR THE SERVICE OR SERVICES, WHICHEREVER IS LOWER.

K. This section does not impair the provisions of a health care
system's private health care network provider contract, except that a health
care provider may accept direct payment from a person or employer or may
decline to bill the health care system directly for services paid directly by
a person or employer if the health care provider has complied with subsection
H of this section and the health care provider's receipt of direct payment
and the declination to bill the health care system do not conflict with the
terms of any federal or state contract to which the health care system is a
party and the health care provider has agreed to serve patients under or with
applicable state or federal programs in which both a health care provider and
health care system participate.
A health care provider who does not comply with the requirements of this section commits unprofessional conduct. Any disciplinary action taken by the health professional's licensing board may not include revocation of the health care provider's license.

For the purposes of this section:

1. "Direct pay price" means the price that will be charged by a health care provider for a lawful health care service, regardless of the health insurance status of the person, if the entire fee for the service is paid in full directly to a health care provider by the person, including the person's health savings account, or by the person's employer and that does not prohibit a provider from establishing a payment plan with the person paying directly for services.

2. "Emergency services" means lawful health care services needed to evaluate and stabilize an emergency medical condition as defined in 42 United States Code section 1396u-2(b)(2)(C).

3. "Enrollee" means a person who is enrolled in a health care plan provided by a health insurer.

4. "Health care plan" means a policy, contract or evidence of coverage issued to an enrollee. Health care plan does not include limited benefit coverage as defined in section 20-1137.

5. "Health care provider" means a person who is licensed pursuant to chapter 7, 8, 13, 16, 17, 19 or 34 of this title.

6. "Health care system" means a public or private entity whose function or purpose is the management, processing or enrollment of individuals or the payment, in full or in part, of health care services.

7. "Health insurer" means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, medical service corporation or hospital and medical service corporation as defined in title 20.

8. "Lawful health care services" means any health-related service or treatment, to the extent that the service or treatment is permitted or not prohibited by law or regulation, that may be provided by persons or businesses otherwise permitted to offer the services or treatments.
9. "Punish" means to impose any penalty, surcharge or named fee with a
similar effect that is used to discourage the exercise of rights under this
section.

Sec. 2. Section 36-437, Arizona Revised Statutes, is amended to read:
36-437. Health care facilities; charges; public availability;
direct payment; notice; definitions

A. A health care facility with more than fifty inpatient beds must
make available on request or online the direct pay price for at least the
fifty most used diagnosis-related group codes, if applicable, for the
facility and at least the fifty most used outpatient service codes, if
applicable, for the facility. The services may be identified by a common
procedural terminology code or by a plain-English description. The health
care facility must update the direct pay prices at least annually based on
the services from a twelve-month period that occurred within the
eighteen-month period preceding the annual update. The direct pay price must
be for the standard treatment provided for the service and may include the
cost of treatment for complications or exceptional treatment.

B. A health care facility with fifty or fewer inpatient beds must make
available on request or online the direct pay price for at least the
thirty-five most used diagnosis-related group codes, if applicable, for the
facility and at least the thirty-five most used outpatient service codes if
applicable, for the facility. The services may be identified by a common
procedural terminology code or by a plain-English description. The health
care facility must update the direct pay prices at least annually based on
the services from a twelve-month period that occurred within the
eighteen-month period preceding the annual update. The direct pay price must
be for the standard treatment provided for the service and may include the
cost of treatment for complications or exceptional treatment.

C. Subsections A and B of this section do not apply if a discussion of
the direct pay price would be a violation of the federal emergency medical
treatment and labor act.

D. Veterans administration facilities, health facilities on military
bases, Indian health services hospitals and other Indian health services
facilities, tribal owned clinics and the Arizona state hospital are exempt from the requirements and provisions of this section. If the director of the Arizona department of health services determines that a health care facility does not serve the general public, the health care facility shall be exempt from the requirements and provisions of this section if the facility does not serve the general public.

E. Subsections A and B of this section do not prevent a health care facility from offering either additional discounts or additional lawful health care services for an additional cost to a person or an employer paying directly.

F. A health care facility is not required to report the direct pay prices to a government agency or department or to a government-authorized or government-created entity for review. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care facility's direct pay price for services. A government agency or department or government-authorized or government-created entity may not approve, disapprove or limit a health care facility's ability to change the published or posted direct pay price for services.

G. A health care system may not punish a person or employer for paying directly for lawful health care services or a health care facility for accepting direct payment from a person or employer for lawful health care services.

H. Except as provided in subsection K–L of this section, a health care facility that receives direct payment from a person or employer for a lawful health care service is deemed paid in full if the entire fee for the service is paid and shall not submit a claim for payment or reimbursement for the service to any health care system. This subsection does not prevent a health care facility from pursuing a health care lien for customary charges pursuant to title 33. This subsection does not affect the ability of a health care facility to submit claims for the same service provided on other occasions to the same or a different person if no direct payment occurs. This subsection does not require a health care facility to refund or adjust
any capitated payment, bundled payment or any other form of prepayment or global payment made by a health care system to the health care facility for lawful health care services to be provided by the health care facility for the person who makes, or on whose behalf an employer makes, direct payment to the health care facility.

I. Before a health care facility that is contracted as a network provider for a health care system accepts direct payment from a person or an employer, and the person is an enrollee of the same health care system, the health care facility shall obtain the person's or employer's signature on a notice in a form that is substantially similar to the following:

Important notice about direct payment for your health care services

The Arizona Constitution permits you to pay a health care facility directly for health care services. Before you make any agreement to do so, please read the following important information:

If you are an enrollee of a health care system (more commonly referred to as a health insurance plan) and your health care facility is contracted with the health insurance plan, the following apply:

1. You may not be required to pay the health care facility directly for the services covered by your plan, except for cost share amounts that you are obligated to pay under your plan, such as copayments, coinsurance and deductible amounts.

2. Your provider's agreement with the health insurance plan may prevent the health care facility from billing you for the difference between the facility's billed charges and the amount allowed by your health insurance plan for covered services.

3. If you pay directly for a health care service, your health care facility will not be responsible for submitting claim documentation to your health insurance plan for that claim. Before paying your claim, your health insurance plan may require
you to provide information and submit documentation necessary to determine whether the services are covered under your plan.

4. If you do not pay directly for a health care service, your health care facility may be responsible for submitting claim documentation to your health insurance plan for the health care service.

Your signature below acknowledges that you received this notice before paying directly for a health care service.

J. A health care facility that receives direct payment for a lawful health care service and that complies with subsection I of this section is not responsible for submitting documentation of any kind for purposes of reimbursement to any health care system for that claim if the failure to submit such documentation does not conflict with the terms of any federal or state contracts to which the health care system is a party and the health care facility has agreed to serve patients under or with applicable state or federal programs in which a health care facility and health care system participate.

K. IF AN ENROLLEE PAYS TO A HEALTH CARE FACILITY THAT IS AN OUT-OF-NETWORK PROVIDER THE DIRECT PAY PRICE FOR A LAWFUL HEALTH CARE SERVICE THAT IS COVERED UNDER THE ENROLLEE'S HEALTH CARE PLAN, PURSUANT TO THE REQUIREMENTS OF THIS SECTION, THE AMOUNT PAID BY THE ENROLLEE SHALL BE APPLIED FIRST TO THE ENROLLEE'S IN-NETWORK DEDUCTIBLE WITH ANY REMAINING MONIES BEING APPLIED TO THE ENROLLEE'S OUT-OF-NETWORK DEDUCTIBLE, IF APPLICABLE. THE AMOUNT APPLIED TO THE IN-NETWORK DEDUCTIBLE SHALL BE THE AMOUNT PAID DIRECTLY OR THE INSURER'S HIGHEST IN-NETWORK CONTRACTED RATE IN ARIZONA FOR THE SERVICE OR SERVICES, WHICHEVER IS LOWER.

K. L. This section does not impair the provisions of a health care system's private health care network provider contract, except that a health care facility may accept direct payment from a person or employer or may decline to bill the health care system directly for services paid directly by a person or employer if the health care facility has complied with subsection I of this section and the health care facility's receipt of direct payment and the declination to bill the health care system do not conflict with the
terms of any federal or state contract to which the health care system is a
party and the health care facility has agreed to serve patients under or with
applicable state or federal programs in which a health care facility and
health care system participate.

This section may not prevent the Arizona department of health
services from performing an investigation of a health care facility under the
department's powers and duties as defined PRESCRIBED in THIS title 36. If a
health care facility fails to comply with this section, the penalty shall not
include the revocation of the license to deliver health care services.

For the purposes of this section:

1. "Direct pay price" means the entire price that will be charged by a
health care facility for a lawful health care service, regardless of the
health insurance status of the person, if the entire fee for the service is
paid in full directly to a health care facility by the person, including the
person's health savings account, or by the person's employer and that does
not prohibit a facility from establishing a payment plan with the person
paying directly for services.

2. "Enrollee" means a person who is enrolled in a health care plan
provided by a health insurer.

3. "Health care facility" means a hospital, outpatient surgical
center, health care laboratory, diagnostic imaging center or urgent care
center.

4. "Health care plan" means a policy, contract or evidence of coverage
issued to an enrollee. Health care plan does not include limited benefit
coverage as defined in section 20-1137.

5. "Health care provider" means a person who is licensed pursuant to
TITLE 32, chapter 7, 8, 13, 16, 17, 19 or 34 of title 32.

6. "Health care system" means a public or private entity whose
function or purpose is the management, processing or enrollment of
individuals or the payment, in full or in part, of health care services.

7. "Health insurer" means a disability insurer, group disability
insurer, blanket disability insurer, health care services organization,
 Senate Amendments to H.B. 2417

1 hospital service corporation, medical service corporation or hospital and
2 medical service corporation as defined in title 20.
3 8. "Lawful health care services" means any health-related service or
4 treatment, to the extent that the service or treatment is permitted or not
5 prohibited by law or regulation, that may be provided by persons or
6 businesses otherwise permitted to offer the services or treatments.
7 9. "Punish" means to impose any penalty, surcharge or named fee with a
8 similar effect that is used to discourage the exercise of rights under this
9 section.
10 Sec. 3. Applicability
11 This act applies to policies, contracts or plans that are issued or
12 renewed from and after December 31, 2015.”
13 Amend title to conform

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C: mjh