

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2417

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 32-3216, Arizona Revised Statutes, is amended to  
3 read:

4 32-3216. Health care providers; charges; public availability;  
5 direct payment; notice; definitions

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

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

19 C. The health care services provided by health care providers in  
20 veterans administration facilities, health facilities on military bases,  
21 Indian health services hospitals and other Indian health service facilities,  
22 tribal owned clinics, the Arizona state hospital and any health care facility  
23 determined to be exempt pursuant to section 36-437, subsection D, are exempt  
24 from the requirements ~~and provisions~~ of this section.

1           D. Subsection A of this section does not prevent a health care  
2 provider from offering either additional discounts or additional lawful  
3 health care services for an additional cost to a person or an employer paying  
4 directly.

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

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

18           G. Except as provided in subsection ~~J~~ K of this section, a health  
19 care provider who receives direct payment from a person or employer for a  
20 lawful health care service is deemed paid in full if the entire fee for the  
21 service is paid and shall not submit a claim for payment or reimbursement for  
22 the service to any health care system. This subsection does not prevent a  
23 health care provider from pursuing a health care lien for customary charges  
24 pursuant to title 33. This subsection does not affect the ability of a  
25 health care provider to submit claims for the same service provided on other  
26 occasions to the same or a different person if no direct payment occurs.  
27 This subsection does not require a health care provider to refund or adjust  
28 any capitated payment, bundled payment or other form of prepayment or global  
29 payment made by a health care system to the health care provider for lawful  
30 health care services to be provided by the health care provider for the  
31 person who makes, or on whose behalf an employer makes, direct payment to the  
32 health care provider.

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

6                           Important notice about direct payment  
7                           for your health care services

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

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

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

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

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

31           4. If you do not pay directly for a health care service,  
32 your health care provider may be responsible for submitting claim

1 documentation to your health insurance plan for the health care  
2 service.

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

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

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

23 ~~J.~~ K. This section does not impair the provisions of a health care  
24 system's private health care network provider contract, except that a health  
25 care provider may accept direct payment from a person or employer or may  
26 decline to bill the health care system directly for services paid directly by  
27 a person or employer if the health care provider has complied with subsection  
28 H of this section and the health care provider's receipt of direct payment  
29 and the declination to bill the health care system do not conflict with the  
30 terms of any federal or state contract to which the health care system is a  
31 party and the health care provider has agreed to serve patients under or with  
32 applicable state or federal programs in which both a health care provider and  
33 health care system participate.

1           ~~L.~~ L. A health care provider who does not comply with the  
2 requirements of this section commits unprofessional conduct. Any  
3 disciplinary action taken by the health professional's licensing board may  
4 not include revocation of the health care provider's license.

5           ~~M.~~ M. For the purposes of this section:

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

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

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

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

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

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

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

30           8. "Lawful health care services" means any health-related service or  
31 treatment, to the extent that the service or treatment is permitted or not  
32 prohibited by law or regulation, that may be provided by persons or  
33 businesses otherwise permitted to offer the services or treatments.

1           9. "Punish" means to impose any penalty, surcharge or named fee with a  
2 similar effect that is used to discourage the exercise of rights under this  
3 section.

4           Sec. 2. Section 36-437, Arizona Revised Statutes, is amended to read:

5           36-437. Health care facilities; charges; public availability;  
6                           direct payment; notice; definitions

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

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

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

32           D. Veterans administration facilities, health facilities on military  
33 bases, Indian health services hospitals and other Indian health services

1 facilities, tribal owned clinics and the Arizona state hospital are exempt  
2 from the requirements ~~and provisions~~ of this section. If the director of the  
3 Arizona department of health services determines that a health care facility  
4 does not serve the general public, the health care facility shall be exempt  
5 from the requirements ~~and provisions~~ of this section if the facility does not  
6 serve the general public.

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

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

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

24 H. Except as provided in subsection ~~K~~ L of this section, a health  
25 care facility that receives direct payment from a person or employer for a  
26 lawful health care service is deemed paid in full if the entire fee for the  
27 service is paid and shall not submit a claim for payment or reimbursement for  
28 the service to any health care system. This subsection does not prevent a  
29 health care facility from pursuing a health care lien for customary charges  
30 pursuant to title 33. This subsection does not affect the ability of a  
31 health care facility to submit claims for the same service provided on other  
32 occasions to the same or a different person if no direct payment occurs.  
33 This subsection does not require a health care facility to refund or adjust

1 any capitated payment, bundled payment or ~~any~~ other form of prepayment or  
2 global payment made by a health care system to the health care facility for  
3 lawful health care services to be provided by the health care facility for  
4 the person who makes, or on whose behalf an employer makes, direct payment to  
5 the health care facility.

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

11 Important notice about direct payment  
12 for your health care services

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

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

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

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

30 3. If you pay directly for a health care service, your  
31 health care facility will not be responsible for submitting claim  
32 documentation to your health insurance plan for that claim.  
33 Before paying your claim, your health insurance plan may require

1           you to provide information and submit documentation necessary to  
2           determine whether the services are covered under your plan.

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

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

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

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

27          ~~K.~~ L. This section does not impair the provisions of a health care  
28          system's private health care network provider contract, except that a health  
29          care facility may accept direct payment from a person or employer or may  
30          decline to bill the health care system directly for services paid directly by  
31          a person or employer if the health care facility has complied with subsection  
32          I of this section and the health care facility's receipt of direct payment  
33          and the declination to bill the health care system do not conflict with the

1 terms of any federal or state contract to which the health care system is a  
2 party and the health care facility has agreed to serve patients under or with  
3 applicable state or federal programs in which a health care facility and  
4 health care system participate.

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

10 ~~M.~~ N. For the purposes of this section:

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

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

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

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

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

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

31 7. "Health insurer" means a disability insurer, group disability  
32 insurer, blanket disability insurer, health care services organization,

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

NANCY BARTO

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03/13/2015  
2:05 PM  
C: mjh