



# Senate

General Assembly

**File No. 447**

January Session, 2021

Substitute Senate Bill No. 683

*Senate, April 14, 2021*

The Committee on Public Health reported through SEN. DAUGHERTY ABRAMS of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING HOSPITAL BILLING AND COLLECTION EFFORTS BY HOSPITALS AND COLLECTION AGENCIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-673 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2021*):

3 (a) As used in this section:

4 (1) "Collection agent" has the same meaning as provided in section  
5 19a-509b.

6 ~~[(1)]~~ (2) "Cost of providing services" means a hospital's published  
7 charges at the time of billing, multiplied by the hospital's most recent  
8 relationship of costs to charges as taken from the hospital's most recently  
9 available annual financial filing with the unit.

10 (3) "High deductible health plan" has the same meaning as provided  
11 in Section 220(c)(2) or Section 223(c)(2) of the Internal Revenue Code of

12 1986, or any subsequent corresponding internal revenue code of the  
13 United States, as amended from time to time.

14 [(2)] (4) "Hospital" [means an institution licensed by the Department  
15 of Public Health as a short-term general hospital] has the same meaning  
16 as provided in section 19a-490.

17 [(3)] (5) "Poverty income guidelines" means the poverty income  
18 guidelines issued from time to time by the United States Department of  
19 Health and Human Services.

20 (6) "Underinsured patient" means any person who is insured under a  
21 high deductible health plan and liable for one or more hospital charges,  
22 and whose income is at or below six hundred per cent of the poverty  
23 income guidelines.

24 [(4)] (7) "Uninsured patient" means any person who is liable for one  
25 or more hospital charges whose income is at or below two hundred fifty  
26 per cent of the poverty income guidelines who (A) has applied and been  
27 denied eligibility for any medical or health care coverage provided  
28 under the Medicaid program due to failure to satisfy income or other  
29 eligibility requirements, and (B) is not eligible for coverage for hospital  
30 services under the Medicare or CHAMPUS programs, or under any  
31 Medicaid or health insurance program of any other nation, state,  
32 territory or commonwealth, or under any other governmental or  
33 privately sponsored health or accident insurance or benefit program  
34 including, but not limited to, workers' compensation and awards,  
35 settlements or judgments arising from claims, suits or proceedings  
36 involving motor vehicle accidents or alleged negligence.

37 (b) (1) No hospital or entity that is owned by or affiliated with such  
38 hospital that has provided health care [services] to an uninsured patient  
39 may collect from the uninsured patient more than the cost of providing  
40 [services] such health care.

41 (2) No hospital or entity that is owned by or affiliated with such  
42 hospital that has provided health care to an underinsured patient on or

43 after October 1, 2021, may collect from the underinsured patient more  
44 than the cost of providing health care plus interest at an annual rate that  
45 is not greater than the lesser of:

46 (A) The weekly average one-year constant maturity yield of United  
47 States Treasury securities as published by the Board of Governors of the  
48 Federal Reserve System for the week preceding the date on which such  
49 underinsured patient first receives a bill for such health care if such  
50 average is equal to or greater than two per cent per annum;

51 (B) A rate established by the executive director of the Office of Health  
52 Strategy, established under section 19a-754a, and in effect on the date on  
53 which such underinsured patient first receives a bill for such health care  
54 if the Board of Governors of the Federal Reserve System discontinues  
55 the rate described in subparagraph (A) of this subdivision; or

56 (C) Five per cent.

57 (c) Each collection agent [, as defined in section 19a-509b,] engaged in  
58 collecting a debt from a patient arising from [services] health care  
59 provided at a hospital shall provide written notice to such patient as to  
60 whether the hospital deems the patient an insured patient,  
61 underinsured patient or [an] uninsured patient and the reasons for such  
62 determination.

63 Sec. 2. Section 19a-673b of the general statutes is repealed and the  
64 following is substituted in lieu thereof (*Effective October 1, 2021*):

65 (a) No hospital, as defined in section 19a-490, or entity that is owned  
66 by or affiliated with such hospital shall refer to a collection agent, as  
67 defined in section 19a-509b, or initiate an action against an individual  
68 patient or such patient's estate to collect fees arising from health care  
69 provided at a hospital [on] or entity that is owned by or affiliated with  
70 such hospital:

71 (1) On or after October 1, 2003, unless the hospital or entity that is  
72 owned by or affiliated with such hospital has [made a determination  
73 whether] determined that such individual patient is [(1)] an uninsured

74 patient, as defined in section 19a-673, as amended by this act, [and (2)  
75 not eligible] who is ineligible for the hospital bed fund; [.] or

76 (2) On or after October 1, 2021, unless the hospital or entity that is  
77 owned by or affiliated with such hospital has determined that such  
78 individual patient is:

79 (A) An uninsured patient, as defined in section 19a-673, as amended  
80 by this act, who is ineligible for the hospital bed fund; or

81 (B) An underinsured patient, as defined in section 19a-673, as  
82 amended by this act, who is ineligible for the hospital bed fund and, if  
83 such underinsured patient has requested review of an adverse  
84 determination, as defined in section 38a-591a, for health care provided  
85 at such hospital, such underinsured patient has received a final adverse  
86 determination, as defined in section 38a-591a, for such health care.

87 (b) On or after October 1, 2021, no hospital or entity that is owned by  
88 or affiliated with such hospital, as defined in section 19a-490, and no  
89 collection agent, as defined in section 19a-509b, that receives a referral  
90 from a hospital or entity that is owned by or affiliated with such  
91 hospital, shall:

92 (1) Report an individual patient to a credit rating agency, as defined  
93 in section 36a-695, for a period of one year beginning on the date that  
94 such patient first receives a bill for health care provided by the hospital  
95 or entity that is owned by or affiliated with such hospital to such patient  
96 on or after October 1, 2021;

97 (2) Initiate an action to foreclose a lien on an individual patient's  
98 primary residence if the lien was filed to secure payment for health care  
99 provided by the hospital or entity that is owned by or affiliated with  
100 such hospital to such patient on or after October 1, 2021; or

101 (3) Apply to a court for an execution against an individual patient's  
102 wages pursuant to section 52-361a, or otherwise seek to garnish such  
103 patient's wages, to collect payment for health care provided by the  
104 hospital or entity that is owned by or affiliated with such hospital to

105 such patient on or after October 1, 2021, if such patient is eligible for the  
106 hospital bed fund.

107 [(b)] (c) Nothing in [this] subsection (a) or (b) of this section shall  
108 affect [a hospital's] the ability of a hospital or entity that is owned by or  
109 affiliated with such hospital to initiate an action against an individual  
110 patient or such patient's estate to collect coinsurance, deductibles or fees  
111 arising from health care provided at a hospital or entity that is owned  
112 by or affiliated with such hospital where such coinsurance, deductibles  
113 or fees may be eligible for reimbursement through awards, settlements  
114 or judgments arising from claims, suits or proceedings. In addition,  
115 nothing in [this section] said subsections shall affect [a hospital's] the  
116 ability of a hospital or entity that is owned by or affiliated with such  
117 hospital to initiate an action against an individual patient or such  
118 patient's estate where payment or reimbursement has been made, or  
119 likely is to be made, directly to the patient.

120 Sec. 3. Section 19a-673d of the general statutes is repealed and the  
121 following is substituted in lieu thereof (*Effective October 1, 2021*):

122 If, at any point in the debt collection process, whether before or after  
123 the entry of judgment, a hospital [, a consumer collection agency acting  
124 on behalf of the hospital, an attorney representing the hospital or any  
125 employee or agent of the hospital] or entity that is owned by or affiliated  
126 with such hospital, as defined in section 19a-490, or a collection agent,  
127 as defined in section 19a-509b, becomes aware that a debtor from whom  
128 the hospital or entity that is owned by or affiliated with such hospital is  
129 seeking payment for [services] health care rendered receives  
130 information that the debtor has requested review of an adverse  
131 determination, as defined in section 38a-591a, for such health care and  
132 has not received a final adverse determination, as defined in section 38a-  
133 591a, or is eligible for hospital bed funds, free or reduced price hospital  
134 services [,] or any other program which would result in the elimination  
135 of liability for the debt or reduction in the amount of such liability, [the]  
136 such hospital [, collection agency, attorney, employee or agent] or entity  
137 that is owned by or affiliated with such hospital or collection agent shall

138 promptly discontinue all collection efforts against such debtor for such  
 139 health care and refer the collection file for such health care to [the] such  
 140 hospital [for determination of such eligibility. The] or entity that is  
 141 owned by or affiliated with such hospital until such hospital or entity  
 142 determines whether such debtor is eligible for such elimination or  
 143 reduction or receives such final adverse determination. Such collection  
 144 [effort] efforts shall not resume until such hospital or entity makes such  
 145 determination [is made] or such debtor receives such final adverse  
 146 determination.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	19a-673
Sec. 2	October 1, 2021	19a-673b
Sec. 3	October 1, 2021	19a-673d

**Statement of Legislative Commissioners:**

In Sec. 1(b)(1), "services" was bracketed and "such health care" was inserted after the closing bracket for accuracy; in Sec. (1)(b)(2)(B), "19a-754" was changed to "19a-754a" for accuracy; and in Sec. 2(a)(2)(B), "not received" was changed to "received" for accuracy.

**PH**            *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
UConn Health Ctr.	Various - Revenue Loss	Potential Significant	Potential Significant

Note: Various=Various

**Municipal Impact:** None

**Explanation**

The bill, which affects collections for hospitals and entities affiliated with them, is anticipated to result in a loss in net patient revenue to the UConn Health Center that is potentially significant, beginning in FY 22. As the bill is effective beginning October 1, 2021, the FY 22 revenue loss is anticipated to be three-quarters of the annual revenue loss.

**Section 1** prevents hospitals or affiliated entities from collecting from an underinsured patient more than the cost of providing services (as defined in statute) plus interest. The bill defines an underinsured patient as one who is insured under an IRS-qualified high deductible health plan and whose income is at or below 600 percent of poverty guidelines. Data from the Kaiser Family Foundation indicates that nationally, 23 percent of employees who are insured through employer-based health insurance are enrolled in such a plan.<sup>1</sup> Therefore, a substantial portion of UConn Health net patient revenues may be impacted by this provision. The extent of the revenue loss to UConn

<sup>1</sup> "2019 Employer Health Benefits Survey, Section 8: High-Deductible Health Plans with Savings Option," Kaiser Family Foundation, September 25, 2019. Accessed April 13, 2021 at: <https://www.kff.org/report-section/ehbs-2019-section-8-high-deductible-health-plans-with-savings-option/>

Health depends on the difference between current billing practices and the cost of providing services plus interest, along with the billing volume associated with underinsured patients.

Section 1 also extends an existing limitation on hospital collections from uninsured patients to include entities affiliated with a hospital, such as UConn Health's University Medical Group (UMG). Currently, UConn Health's affiliated entities provide uninsured patients or other self-pay patients with a 40 percent discount. Therefore, the extent of revenue loss from this provision depends on the difference between the current discounted price and the cost of providing services. However, there is some uncertainty regarding implementation of this provision as the bill's definition of "cost of providing services" does not apply to some services provided by UConn Health's affiliated entities. Among all Connecticut residents, approximately six percent are uninsured, according to the Kaiser Family Foundation.<sup>2</sup>

**Section 2** makes several changes specific to hospital and affiliated entity bills that have been unpaid and sent to collections. One such change prohibits the reporting of any patient with an unpaid bill, to a credit rating agency, before a year has passed since the patient first received a bill. Currently, UConn Health and its entities send unpaid bills to a collection agency for assistance between approximately 70 days and several months. UConn Health reports that FY 19 annual revenues from such collections were approximately \$1 million, and that the likelihood of receiving payment declines as time passes. To the extent that sending unpaid patient bills to collections cannot be de-coupled from reporting these patients to a credit rating agency, and consequently more time must pass before bills are sent to collections, then UConn Health will experience a revenue loss of less than \$1 million annually.

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<sup>2</sup> "Health Insurance Coverage of the Total Population, 2019," Kaiser Family Foundation. Accessed April 13, 2021 at: <https://www.kff.org/other/state-indicator/total-population/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

Other Section 2 changes as well as those within Section 3 are not anticipated to affect current UConn Health practices and therefore will have no fiscal impact.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to health care cost inflation, unpaid bill volume, and changes in UConn Health's patient mix, in terms of uninsured and underinsured patients.

**OLR Bill Analysis****SB 683*****AN ACT CONCERNING HOSPITAL BILLING AND COLLECTION EFFORTS BY HOSPITALS AND COLLECTION AGENCIES.*****SUMMARY**

This bill extends certain hospital collection laws to cover entities that are owned by, or affiliated with, hospitals, and expands the scope of these laws. Among other things, it:

1. prohibits these related entities, and not just hospitals, from collecting from an uninsured patient more than the cost of providing the services;
2. prohibits hospitals or related entities from collecting from an underinsured patient more than the cost of providing the services plus interest, capped at a maximum of 5% annually;
3. prohibits referrals to collection agencies for underinsured patients, not just uninsured patients, who are eligible for the hospital bed fund;
4. limits or restricts when hospitals, related entities, and collection agents may refer patients to credit rating agencies, foreclose a lien on a patient's primary residence, or garnish a patient's wages; and
5. requires hospitals, related entities, and collection agents to discontinue collection activities if they become aware that a hospital debtor is awaiting a decision on a final adverse determination (i.e., a final review to determine whether a specific service is reimbursable by the patient's health insurance coverage).

The bill specifies that these provisions apply to all hospitals licensed with the Department of Public Health. It also makes various minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2021

## **§ 1 — COLLECTION LIMITS**

### ***Uninsured Patients***

Current law prohibits hospitals from collecting from an uninsured patient more than the cost of providing the services. The bill extends this prohibition to (1) all licensed hospitals, not just short-term general hospitals, and (2) entities owned by or affiliated with hospitals.

For these purposes, existing law generally defines an “uninsured patient” as someone with an income at or below 250% of the federal poverty level (FPL) who (1) applied but did not qualify for Medicaid and (2) is not eligible for coverage under Medicare or another governmental or private insurance plan.

### ***Underinsured Patients***

Beginning with health care services provided on or after October 1, 2021, the bill prohibits hospitals, or entities owned by or affiliated with them, from collecting from an underinsured patient more than the cost of providing the health care plus interest (see below).

The bill defines an underinsured patient as someone insured under a high deductible health plan with a maximum income of 600% FPL (\$131,760 for a family of 3 in 2021).

Under the bill, when the hospital or other entity is collecting from an underinsured patient, the maximum annual interest they may charge is the lesser of:

1. the weekly average one-year constant maturity yield of U.S. Treasury securities, as published by the Federal Reserve for the week before the patient first received a bill, if that average is at least 2%;

2. a rate set by the Office of Health Strategy executive director and in effect when the patient first received a bill, if the Federal Reserve discontinued the rate described above; or
3. 5%.

Current law requires collection agents, when collecting on behalf of hospitals, to notify patients in writing as to whether the hospital deems them to be insured or uninsured. The bill makes a conforming change by requiring this notice to also indicate whether the hospital deems the patient underinsured.

## **§ 2 — INITIATION OF DEBT COLLECTION AND OTHER ACTIVITIES**

Current law prohibits a hospital from referring a patient's unpaid bill to a collection agent or initiating an action against a patient or his or her estate, unless it determined that the individual is uninsured and not eligible for a bed fund. (Generally, a hospital bed fund refers to gifts of money, stock, or other property to a hospital to provide free patient care.) The bill extends these provisions to (1) entities owned by or affiliated with hospitals and (2) underinsured patients ineligible for a bed fund.

Additionally, the bill prohibits these collection referrals or actions involving such underinsured patients who have requested review of an adverse insurance determination and are still awaiting a final adverse determination.

The bill also prohibits hospitals, entities owned by or affiliated with them, and collection agents who receive their referrals from taking the following actions related to a health care debt for services provided on or after October 1, 2021:

1. reporting a patient to a credit rating agency until at least a year after the patient receives a bill;
2. bringing an action to foreclose a lien that was filed on the patient's primary residence (see BACKGROUND); or

3. if the patient is eligible for the hospital bed fund, attempting to garnish his or her wages to collect payment.

Current law specifies that the restriction on hospital collection activities does not affect a hospital's ability to bring an action against a patient or an estate in certain circumstances. The bill extends these provisions to (1) entities owned by, or affiliated with, hospitals and (2) the provisions described above (e.g., the provisions on collection referrals involving underinsured patients). As a result, hospitals and other entities may bring an action against a patient or an estate:

1. to collect coinsurance, deductibles, or fees, provided they may be eligible for reimbursement through awards, settlements, or judgments; or
2. when payment or reimbursement has been made, or likely will be made, directly to the patient.

### **§ 3 — SUSPENSION OF DEBT COLLECTION**

Current law requires hospitals and collection agencies to discontinue collection efforts when they become aware that a hospital debtor received information that he or she is eligible for hospital bed funds, free or reduced-price hospital care, or any other program that would eliminate or reduce debt liability. They must refer the collection file to the hospital for an eligibility determination, and collection cannot resume until the determination is made.

The bill extends these provisions to entities owned by or affiliated with hospitals. It also requires hospitals, these entities, and collection agents to similarly discontinue collection efforts if they become aware that a patient is awaiting a final adverse insurance determination.

### **BACKGROUND**

#### ***Homestead Exemption***

Connecticut law exempts certain property from court judgment. The law generally permits a debtor to exclude his or her home from execution of a judgment up to the value of \$75,000, but there is a higher

threshold of \$125,000 for debt arising out of hospital services. This homestead exemption is based upon the equity value of a primary residence (CGS § 52-352b(t)).

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable

Yea 22    Nay 11    (03/29/2021)