

House Bill 765

By: Representatives Campbell of the 35th, Roberts of the 52nd, Cummings of the 39th, Panitch of the 51st, Hugley of the 141st, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia
2 Annotated, the "Fair Business Practices Act of 1975," so as to provide for information on
3 medical assistance; to provide for interest, fees, and payment plans; to provide for billing and
4 collection rules; to provide for liability for medical debt; to provide for consumer reporting
5 agencies; to prohibit collection of medical debt during health insurance appeals; to provide
6 for accessibility; to provide for remedies; to provide for agreements; to provide for
7 definitions; to provide for a short title; to provide for related matters; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Medical Debt Protection Act."

12 **SECTION 2.**

13 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, the
14 "Fair Business Practices Act of 1975," is amended by adding a new Code section to read as
15 follows:

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16 "10-1-393.20.

17 (a) As used in this Code section, the term:

18 (1) 'Consumer' means an individual and excludes nonhuman entities.

19 (2) 'Consumer reporting agency' means any person, which, for monetary fees, dues, or
20 on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of
21 assembling or evaluating consumer credit information or other information on consumers
22 for the purpose of furnishing consumer reports to third parties.

23 (3) 'External review' means a review of an adverse benefit determination, including a
24 final internal adverse benefit determination, conducted pursuant to any applicable state
25 external review process, a federal external review process as described at 42 U.S.C.
26 Section 300gg-19, a review pursuant to 29 U.S.C. Section 1133, a Medicare appeals
27 process, a Medicaid appeals process, or another applicable appeals process.

28 (4) 'Extraordinary collection action' means:

29 (A) Selling an individual's debt to another party, except if, prior to the sale, the medical
30 creditor has entered into a legally binding written agreement with the medical debt
31 buyer of the debt under which:

32 (i) The medical debt buyer or collector is prohibited from engaging in any
33 extraordinary collection actions to obtain payment for the care;

34 (ii) The medical debt buyer is prohibited from charging interest on the debt;

35 (iii) The debt is returnable or recallable by the medical creditor upon a determination
36 by the medical creditor or medical debt buyer that the individual is eligible for
37 financial assistance; and

38 (iv) The medical debt buyer shall adhere to procedures which shall be specified in the
39 agreement that ensure that the individual does not pay, and has no obligation to pay,
40 the medical debt buyer and the medical creditor together more than they are
41 personally responsible for paying in compliance with this Code section;

- 42 (B) Reporting adverse information about the consumer to a consumer reporting
43 agency; or
- 44 (C) Actions that require a legal or judicial process, including:
- 45 (i) Placing a lien on an individual's property;
46 (ii) Attaching or seizing an individual's bank account or any other personal property;
47 (iii) Commencing a civil action against an individual; or
48 (iv) Garnishing an individual's wages.
- 49 (5) 'Financial assistance policy' means a written policy made pursuant to 26 U.S.C.
50 Section 501(r)(4) or its implementing regulations, including 26 CFR Section 1.501(r)-1.
- 51 (6) 'Healthcare services' means services for the diagnosis, prevention, treatment, cure,
52 or relief of a physical, dental, behavioral, substance use disorder, or mental health
53 condition, illness, injury, or disease. Such term includes any procedures, products,
54 devices, or medications.
- 55 (7) 'Internal review' means review by a health insurance plan or other insurer of an
56 adverse benefit determination.
- 57 (8) 'Large healthcare facility' means any of the following entities:
- 58 (A) A licensed hospital, whether a not for profit entity or a for profit entity;
59 (B) A licensed nursing home, whether a not for profit entity or a for profit entity;
60 (C) An outpatient clinic or facility affiliated with a hospital or operating under the
61 license of a hospital;
62 (D) A licensed freestanding emergency department; and
63 (E) A licensed outpatient surgery center.
- 64 (9) 'Medical assistance' means any public assistance program that assists consumers with
65 healthcare costs.
- 66 (10) 'Medical creditor' means any large healthcare facility that provides healthcare
67 services and to whom the consumer owes money for healthcare services, or the large
68 healthcare facility that provided healthcare services and to whom the consumer owes

69 money for healthcare services, or the large healthcare facility that provided healthcare
70 services and to whom the consumer previously owed money if the medical debt has been
71 purchased by one or more medical debt buyers.

72 (11) 'Medical debt buyer' means an individual or entity that is engaged in the business
73 of purchasing medical debts for collection purposes, whether it collects the debt itself or
74 hires a third party for collection or an attorney for litigation in order to collect such debt.

75 (12) 'Medical debt collector' means any person that regularly collects or attempts to
76 collect, directly or indirectly, medical debts originally owed or due or asserted to be owed
77 or due to another. A medical debt buyer is a medical debt collector. Such term does not
78 include the Department of Human Services or an individual filing a child support action
79 under Title 19. Medical debt collector does not include anyone collecting debt charged
80 to a credit card.

81 (13) 'Patient' means the individual who received healthcare services or is discharged
82 from a large healthcare facility, or within ten days of discharge if the patient receives
83 emergency care.

84 (14) 'Time of service' means before a patient leaves or is discharged from a large
85 healthcare facility, or within ten days of discharge if the patient receives emergency care.

86 (b)(1) All large healthcare facilities shall provide uninsured patients with a written notice
87 containing information regarding eligibility and the application process for medical
88 assistance at the time of service.

89 (2) Each billing statement that a large healthcare facility sends to an uninsured patient
90 shall include a written notice containing information regarding medical assistance and the
91 application process for medical assistance.

92 (3) The written notice required by paragraphs (1) and (2) of this subsection shall include:

93 (A) A statement that the consumer may qualify for medical assistance;

- 94 (B) A statement describing how consumers may apply for medical assistance,
95 including a website and telephone number where information on applying for such
96 assistance may be obtained;
- 97 (C) A list of local organizations or public or private agencies that may provide
98 assistance with an application for medical assistance; and
- 99 (D) A contact number for the consumer to call a large healthcare facility to reach
100 someone who can assist the consumer with an application for medical assistance.
- 101 (4) The notice required under this subsection shall only be sent to patients who received
102 services in an emergency department, admitted to a hospital, or receiving surgery in a
103 large healthcare facility.
- 104 (c)(1) Large healthcare facilities and medical debt collectors may not charge any interest
105 or late fees to consumers.
- 106 (2) Large healthcare facilities and medical debt collectors shall offer to any consumer
107 with outstanding debt totaling \$500.00 or more a payment plan and may not require the
108 consumer to make monthly payments that exceed 5 percent of the consumer's gross
109 monthly income. Failure to provide proof of income may not be used as a basis to deny
110 any consumer a payment plan.
- 111 (3) No initial payment on a monthly payment plan may be due under any of the
112 following circumstances:
- 113 (A) Within the first 30 days after the healthcare services were provided;
114 (B) Within 30 days after the first bill is sent; or
115 (C) During any period in which a medical creditor or medical debt collector has
116 requested any form of documentation from a consumer.
- 117 (4) Prepayment or early payment penalties or fees, service or administrative charges or
118 fees, or any other fees or charges unrelated to the care provided shall be prohibited,
119 including on any prepayment plans.

120 (5) Notwithstanding any other provisions in this Code section, a consumer shall not be
121 prohibited from voluntarily making any additional or early payments on any medical debt
122 at any time.

123 (d)(1) The following extraordinary collections actions may not be used by any medical
124 creditor or debt collector to collect debts owed for healthcare services:

125 (A) Causing an individual's arrest;

126 (B) Causing an individual to be subject to a writ of body attachment or capias;

127 (C) Foreclosing on an individual's real property;

128 (D) Garnishing the wages, disability insurance payments or any other disability
129 benefits, workers' compensation payments or unemployment benefits of a consumer;
130 or

131 (E) Garnishing or attaching a bank account, pension, annuity, or retirement account of
132 a consumer.

133 (2) A large healthcare facility or medical creditor that sells medical debt to a medical
134 debt buyer or medical debt collector under a contract remains liable for any actions taken
135 by the medical debt buyer or medical debt collector, including any violations of any
136 provisions of this Code section.

137 (3) No medical creditor or medical debt collector may engage in any permissible
138 extraordinary collection actions until 120 days after the first bill for a medical debt has
139 been sent.

140 (4) At least 30 days before taking any extraordinary collection actions, a medical creditor
141 or medical debt collector shall provide to the consumer a notice containing:

142 (A) In the case of large healthcare facilities and medical debt collectors collecting debt
143 for healthcare services provided by such facilities, stating whether financial assistance
144 is available for eligible individuals and providing a plain-language summary of any
145 such financial assistance policy;

146 (B) Identifying the extraordinary collection actions that will be initiated in order to
147 obtain payment; and

148 (C) Providing a deadline after which such extraordinary collection actions shall be
149 initiated; provided, however, that such date may be no earlier than 30 days after the date
150 of the notice.

151 (5) A large healthcare facility or a medical debt collector collecting the debt for
152 healthcare services provided by such a facility may not use any extraordinary collection
153 actions unless such actions are described in the large healthcare facility's billing and
154 collections policy.

155 (6) If the consumer has paid any part of the medical debt in excess of the amount the
156 consumer owes after any financial assistance or charity care offered by the large
157 healthcare facility, the large healthcare facility or medical debt collector shall refund any
158 excess amount to the consumer within 60 days. If a change in the financial circumstances
159 of the consumer makes the consumer eligible for any financial assistance or charity care,
160 any payments made prior to the change in circumstances that make the patient eligible
161 for such financial assistance or charity care shall not be required to be refunded.

162 (7) A large healthcare facility or medical creditor that sells medical debt to a medical
163 debt buyer or medical debt collector under a contract remains liable for any actions taken
164 by the medical debt buyer or medical debt collector, including any violations of any
165 provisions of this Code section.

166 (e)(1) Parents shall be jointly liable for any medical debts incurred by children under the
167 age of 18.

168 (2) No spouse or other person may be liable for the medical debt or nursing home debt
169 of any other person age 18 or older. A spouse may voluntarily consent to assume
170 liability, but such consent:

171 (A) Shall be on a separate stand-alone document signed by the spouse;

172 (B) May not be solicited in an emergency room or during an emergency situation; and

173 (C) May not be required as a condition of providing any emergency or nonemergency
174 healthcare services.

175 (f)(1) For a period of one year following the date when the consumer was first given a
176 bill for medical debt or three months following the date of the most recent payment made
177 toward a payment plan on medical debt, whichever is later, no medical creditor or
178 medical debt collector may communicate with or report any information to any consumer
179 reporting agency regarding such medical debt.

180 (2) After the time period described in paragraph (1) of this subsection, medical creditors
181 and medical debt collectors shall give consumers at least one additional bill before
182 reporting a medical debt to any consumer reporting agency. The amount reported to the
183 consumer reporting agency shall be the same amount stated in this bill, and such bill shall
184 state that the debt is being reported to a consumer reporting agency. Medical debt
185 collectors shall also provide the notice required by 15 U.S.C. Section 1692g before
186 reporting a debt to a consumer reporting agency.

187 (g)(1) No medical creditor or medical debt collector that knows or should know about
188 an internal review, external review, or other appeal of a health insurance decision that is
189 pending or was pending within the previous 60 days may do any of the following:

190 (A) Provide information relative to unpaid charges for healthcare services to a
191 consumer reporting agency;

192 (B) Communicate with the consumer regarding the unpaid charges for healthcare
193 services for the purpose of seeking to collect the charges; or

194 (C) Initiate a lawsuit or arbitration proceeding against the consumer relative to unpaid
195 charges for healthcare services.

196 (2) If a medical debt has previously been reported to a consumer reporting agency and
197 the medical creditor or medical debt collector that reported the information learns of an
198 internal review, external review, or other appeal of a health insurance decision that is
199 pending or was pending within the previous 60 days, such medical creditor or medical

200 debt collector shall instruct the consumer reporting agency to delete the information about
201 the debt.

202 (3) No medical creditor that knows or should have known about an internal review,
203 external review, or other appeal of a health insurance decision that is pending or was
204 pending within the previous 60 days may refer, place, or send the unpaid charges for
205 healthcare services to a medical debt collector including by selling the debt to a medical
206 debt buyer.

207 (h)(1) Consumers may not be charged interest or late fees on medical debt, regardless of
208 any agreements to the contrary.

209 (2) Paragraph (1) of this subsection shall apply to any judgments resulting from medical
210 debt, regardless of any agreements to the contrary.

211 (i) A large healthcare facility shall provide a contact number with which a consumer may
212 request oral interpretation services, at no cost to the consumer, for any information or
213 document that is provided to the consumer under this Code section.

214 (j)(1) In addition to any remedies a consumer may have at law or in equity, any violation
215 of this Code section is an unlawful practice under this part.

216 (2) Any consumer may sue for injunctive or other appropriate equitable relief to enforce
217 this Code section.

218 (3) The remedies provided in this subsection are not intended to be the exclusive
219 remedies available to a consumer nor shall the consumer exhaust any administrative
220 remedies provided under this subsection or any other applicable law.

221 (4) No agreement between the consumer and a large healthcare provider or medical debt
222 collector may contain a provision that, prior to a dispute arising, waives or inhibits or has
223 the practical effect of waiving or inhibiting any rights under this Code section or the
224 rights of a consumer to resolve that dispute by obtaining any of the following:

225 (A) Injunctive, declaratory, or other equitable relief;

226 (B) Multiple or minimum damages as specified by statute;

- 227 (C) Attorney's fees and costs as specified by statute or as available at common law;
228 (D) A hearing at which that party can present evidence; or
229 (E) Requiring any form of alternative dispute resolution, including arbitration.
230 (5) Any provision in a written agreement violating any provision of this Code section
231 shall be void and unenforceable. A court may refuse to enforce any written agreement
232 as equity may require.

233

SECTION 3.

234 All laws and parts of laws in conflict with this Act are repealed.