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**EXPERT INSIGHT** | Center for a Healthy America

# UPDATE ON HOSPITAL PRICE TRANSPARENCY IN 2023 STATE LEGISLATIVE SESSIONS

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## TOPLINE POINTS

- Federal hospital price transparency requirements went into effect in January 2021. Two years later, compliance is still sub-par, with less than one in five hospitals meeting all federal requirements.
- Model state policy encourages better compliance with the federal rules through the codification of the requirements, additional penalties, and consumer protections.
- Virginia and New Hampshire have taken early action in their 2023 legislative sessions to ensure patients are put in charge of their healthcare by making it difficult for non-compliant hospitals to pursue debt collection activities against patients and by empowering patients to fight back.

Last year, the Center for a Healthy America (CHA) worked with Texas State Representative Dr. Tom Oliverson and our colleagues at Patient Rights Advocate (PRA), Gingrich360, and the Texas Public Policy Foundation to create a [model hospital price transparency policy](#) that encourages greater compliance with existing federal requirements for hospitals to post public prices. This model policy was unanimously adopted by the American Legislative Exchange Council last summer. The goal of the model policy is to encourage better hospital compliance with the [federal hospital price transparency rule](#). Transparency is a necessary step to spur competition amongst providers that will help lower healthcare prices and enable patients to make better-informed decisions about their care.

Now two years beyond its effective date, enforcement of the federal hospital price transparency rule by the Centers for Medicare and Medicaid Services is severely lacking—only [two](#) hospitals have been fined thus far despite a high non-compliance rate



by hospitals. One recent study estimates that only [19%](#) of hospitals are compliant, and a study by PRA using a different methodology found just [16%](#) of a national sample of 2000 hospitals were compliant in August 2022. Given the lack of federal enforcement and in light of the benefits that patients stand to gain by having access to consumer-friendly transparent hospital prices before procedures occur, state lawmakers are now rightfully taking matters into their own hands in their 2023 sessions.

Already, a handful of states have introduced hospital price transparency legislation that reflects the policies in the model legislation, and two of those states—Virginia and New Hampshire—held hearings last week on price transparency legislation. Their legislation could potentially address deficiencies in state-specific compliance in both states. The previously mentioned PRA study found only 20% (9 out of 45 hospitals) in compliance in Virginia and just 27% (8 out of 30 hospitals) in compliance in New Hampshire in August 2022.

Virginia’s bill, [HB 2427](#), sponsored by Delegates Nicholas Freitas and Dan Helmer, builds on previous hospital price transparency efforts in the state. It does so by adding the private right of action and consumer protection terms that will deter non-compliant hospitals from pursuing debt collection against patients. Put plainly, a patient may sue the hospital and recover damages if a hospital is not posting prices and complying with the price transparency rule, and the hospital initiates a collection action against the patient for an unpaid hospital bill (beyond the initial action of sending a patient a bill for services).

This bill was [reported with amendments](#) (5-Yes, 4-No) by the Virginia House of Representatives Health, Welfare and Institutions Subcommittee #2 on January 26, 2023. [Supporters](#) of the legislation included individuals representing Power to the Patients, Virginia Poverty Law Center, and the Commonwealth Institute. The bill was opposed by the Virginia Hospital and Healthcare Association and 11 hospitals/health systems (Inova Health System, University of Virginia (UVA) Health, Augusta Health, Hospital Corporation of America Hospitals, Riverside Health System, Chesapeake Regional Healthcare, Ballad Health, Virginia Commonwealth University Health, Bon Secours Virginia, Sentara Healthcare, and Carilion Clinic). Though some of the hospital representatives noted in their testimony that their organizations are fully compliant with the federal requirements, there is evidence of significant statewide non-compliance—indicating that more can be done to ensure patients benefit from price transparency. Notably, of the 45 Virginia hospitals assessed in the August 2022 PRA report, five Bon Secours hospitals, two Sentara Healthcare hospitals, and the Inova Fairfax hospital were non-compliant, while UVA University Hospital and two Carilion hospitals were compliant.

Another Virginia bill, [HB 2435](#), implements an additional component of the model policy by including state monitoring and enforcement mechanisms for non-compliant hospitals.



The bill, which is sponsored by Delegate Keith Hodges, also creates a new civil penalty and is [scheduled to be heard](#) by the House Health, Welfare and Institutions Subcommittee #1 on January 31, 2023.

In 2016, Virginia enacted [legislation](#) that required hospitals to submit an estimated payment amount to patients upon request no less than three days before a scheduled procedure. Building on this effort, last year, Governor Glenn Youngkin signed [HB 481](#) into law, which codified a portion of the federal rule into state statute and goes into effect on July 1, 2023. These laws are a good first step toward price transparency, and the additional policies being considered by the House of Delegates further the goal of putting patients in charge of their healthcare by making sure that every patient knows the price of their scheduled procedure before it happens.

New Hampshire's bill, [HB 389](#), is similar to Virginia's proposed legislation and creates consumer protections for patients who receive services at non-compliant hospitals. The bill states that "A patient or patient guarantor is not responsible for the cost of items or services provided to the patient by the hospital if the hospital was not in material compliance with hospital price transparency laws on a date on or after the effective date of this section that items or services were purchased on or provided to the patient." Additionally, the bill, which is sponsored by Representatives Emily Phillips and Josh Yokela, prevents hospitals that flout price transparency requirements from taking collection actions against patients. The bill was heard in committee on January 26 and was opposed by the New Hampshire Hospital Association and supported by Patient Rights Advocate. We will continue watching closely for more updates on this legislation.

These policies demonstrate continued progress toward achieving better compliance with hospital price transparency requirements and putting patients in charge of healthcare—a goal [supported](#) by nearly 9 in 10 Americans. The CHA team will continue to monitor policy developments during 2023 state legislative sessions and commends state policymakers who are committed to putting patients first.

