

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Public Health Service Act to provide additional transparency and consumer protections relating to medical debt collection practices.

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IN THE SENATE OF THE UNITED STATES

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Mr. MURPHY (for himself and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Public Health Service Act to provide additional transparency and consumer protections relating to medical debt collection practices.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Strengthening Con-  
5 sumer Protections and Medical Debt Transparency Act”.

6 **SEC. 2. MEDICAL DEBT COLLECTIONS.**

7 (a) IN GENERAL.—Part C of title XXVII of the Pub-  
8 lic Health Service Act (42 U.S.C. 300gg–91 et seq.) is  
9 amended by adding at the end the following:

1 **“SEC. 2796. MEDICAL DEBT COLLECTIONS.**

2 “(a) DEFINITIONS.—

3 “(1) IN GENERAL.—In this section:

4 “(A) DATABASE.—The term ‘database’  
5 means the medical debt collection database es-  
6 tablished under subsection (e).

7 “(B) DEBT COLLECTOR.—The term ‘debt  
8 collector’ has the meaning as defined under the  
9 Fair Debt Collection Practices Act.

10 “(C) EXTRAORDINARY COLLECTION AC-  
11 TION.—The term ‘extraordinary collection ac-  
12 tion’ is as defined for purposes of section  
13 501(r) of the Internal Revenue Code of 1986  
14 (as in effect on the date of enactment of this  
15 section).

16 “(D) HEALTH CARE ENTITY.—The term  
17 ‘health care entity’ means an entity defined  
18 pursuant to paragraph (2).

19 “(E) MEDICAL DEBT.—The term ‘medical  
20 debt’ means debt arising from a patient’s re-  
21 ceipt of medical services, products, or devices.

22 “(2) HEALTH CARE ENTITY.—For purposes of  
23 this section, the Secretary shall develop a definition  
24 of the term ‘health care entity’ that shall include—

1           “(A) nonprofit, for-profit, critical access,  
2           and cancer hospitals, including hospital-owned  
3           facilities;

4           “(B) independently licensed outpatient,  
5           ambulatory, behavioral, optical, radiology, lab-  
6           oratory, dental, emergency departments, and  
7           urgent care centers;

8           “(C) physician group practices, with an ex-  
9           emption for small practices, as determined by  
10          the Secretary;

11          “(D) physician staffing firms or physician  
12          services companies;

13          “(E) nursing home, skilled nursing and  
14          long-term care facilities;

15          “(F) any health care agent of an entity de-  
16          scribed in this paragraph; and

17          “(G) other entities as specified by the Sec-  
18          retary.

19          “(b) REQUIREMENTS AND PROHIBITIONS.—

20                 “(1) DEBT COLLECTION.—A health care entity,  
21                 or its debt collector, shall not commence, or shall  
22                 halt, an extraordinary collection action with respect  
23                 to a patient if the entity or its designee is notified  
24                 by any party that a health insurance appeal is pend-  
25                 ing.

1           “(2) DETERMINATION OF ELIGIBILITY FOR AS-  
2           SISTANCE.—A health care entity, or its debt col-  
3           lector, shall not commence any extraordinary collec-  
4           tion actions with respect to a patient until the entity  
5           determines whether the patient qualifies for assist-  
6           ance, either through enrollment in a Federal or  
7           State program or through the entity’s charity care  
8           or financial assistance policy, with respect to such  
9           debt. The entity shall refer such patient to any such  
10          assistance where available.

11          “(3) PROHIBITION ON EXTRAORDINARY COL-  
12          LECTION.—With respect to medical debt collection  
13          relating to a patient, a health care entity, or its debt  
14          collector, shall not take any extraordinary collection  
15          actions (including an action described in sections  
16          1.501(r)–6(a)(2) of title 26, Code of Federal Regu-  
17          lations (as in effect on the date of enactment of this  
18          section)) until the expiration of the 180-day period  
19          beginning on the date on which the initial bill is sent  
20          to the patient, or a later date if applicable.

21          “(4) PROVIDING INFORMATION TO PATIENTS.—  
22          A health care entity or its debt collector shall pro-  
23          vide a patient with—

24                  “(A) an easy-to-understand itemized state-  
25                  ment of the medical debt owed by the patient

1 to the health care entity prior to such entity, or  
2 the debt collector acting on behalf of the entity,  
3 commencing collection activities relating to such  
4 debt;

5 “(B) a copy of the detailed receipts of any  
6 payments made to the entity or its debt col-  
7 lector by the patient relating to the medical  
8 debt involved within 30 days of such payments;  
9 and

10 “(C) information about the availability of  
11 language-assistance services for individuals with  
12 limited English proficiency (LEP).

13 “(5) LIMITATION ON RECOVERY BY NONPROFIT  
14 ENTITIES.—A health care entity that is a nonprofit  
15 entity, or its debt collector, shall not collect amounts  
16 for the medical debt of a patient who is not enrolled  
17 in health insurance coverage, that are in excess of  
18 the amount generally billed, as described in sections  
19 1.501(r)–1(b)(1) and 1.501(r)–5(b) of title 26, Code  
20 of Federal Regulations.

21 “(6) REQUIREMENT OF HEALTH CARE ENTITY  
22 OR ITS DEBT COLLECTOR.—Prior to commencing  
23 any debt collection activity with respect to a medical  
24 debt, the health care entity or its debt collector shall

1       make all reasonable efforts to confirm the identity of  
2       the debtor.

3       “(c) PENALTIES.—Except as provided in this section,  
4 a health care entity, or its debt collector, that fails to com-  
5 ply with any provision of this section with respect to a  
6 patient shall be liable to such patient for damages in an  
7 amount equal to the sum of—

8           “(1) any actual damages sustained by such pa-  
9       tient as a result of such failure to comply;

10          “(2) in the case of an action commenced—

11           “(A) by an individual, any additional dam-  
12       ages as the court may permit, but not to exceed  
13       \$1,000 for each failure to comply; or

14           “(B) by a class of patients—

15            “(i) such amount for each named  
16       plaintiff as could be recovered under para-  
17       graph (1) and subparagraph (A); and

18            “(ii) such amount as the court may  
19       allow for all other class members, without  
20       regard to a minimum individual recovery,  
21       not to exceed the lesser of \$2,000,000 or  
22       1 percent of the annual net income of the  
23       covered provider; and

24          “(3) in the case of any successful action under  
25       this section, the costs of the action, together with a

1 reasonable attorney's fee as determined appropriate  
2 by the court.

3 “(d) ESTABLISHMENT OF DATABASE.—

4 “(1) IN GENERAL.—The Secretary shall estab-  
5 lish and regularly update a medical debt collection  
6 public database.

7 “(2) REQUIRED INFORMATION.—Not later than  
8 12 months after the date of enactment of this sec-  
9 tion, and annually thereafter, a health care entity  
10 shall submit to the database a debt collection report  
11 that shall include—

12 “(A) the name and contact information of  
13 any debt collector owned, utilized, or retained  
14 by the entity or to which the entity assigned or  
15 sold medical debt during the year;

16 “(B) a description, or link to such descrip-  
17 tion, of the processes and policies of the entity  
18 for assigning a medical debt to the debt col-  
19 lector and for compensating such collector for  
20 services provided to the entity;

21 “(C) the type and number of extraordinary  
22 collection practices the entity, or debt collector  
23 reported by the entity pursuant to subpara-  
24 graph (A), undertakes or seeks to undertake,  
25 such as wage garnishment, bank account at-

1           tachments, liens, arrest warrants, reporting to a  
2           consumer reporting agency, and lawsuits;

3           “(D) the breakdown, by race and ethnicity,  
4           gender, and ZIP Code of residence, of medical  
5           debt collection accounts referred to a debt col-  
6           lector;

7           “(E) the breakdown, by race or ethnicity,  
8           gender, and ZIP Code of residence, against  
9           whom the health entity, or a debt collector used  
10          by the health entity, filed an action to collect a  
11          debt owed on a medical bill;

12          “(F) the breakdown, by race or ethnicity,  
13          gender, and ZIP Code of residence, of medical  
14          debt collection accounts the health entity has  
15          and has not reported or classified as bad debt;

16          “(G) the total dollar amount of the cost of  
17          charges for health care services provided to pa-  
18          tients but not collected by the health entity for  
19          patients covered by insurance, including the  
20          out-of-pocket costs for patients covered by in-  
21          surance, and patients without insurance;

22          “(H) the recovery rate on medical debt col-  
23          lection cases assigned to the debt collector, as  
24          defined by the Secretary;



1                   “(I) the number of bills paid using a credit  
2                   card; and

3                   “(J) any other information determined ap-  
4                   propriate by the Secretary.

5                   “(3) AVAILABILITY OF INFORMATION.—The in-  
6                   formation contained in the database shall be avail-  
7                   able on a public, searchable internet website regu-  
8                   larly updated by the Secretary. The Secretary shall  
9                   annually publish a public list on HHS.gov of any  
10                  health care entity that fails to submit such required  
11                  information.

12                  “(4) CFPB REPORT.—Not later than 12  
13                  months after the expiration of two annual reporting  
14                  periods under paragraph (2), the Director of the  
15                  Consumer Financial Protection Bureau shall submit  
16                  to Congress a report containing an analysis of the  
17                  reports submitted under that paragraph and an ex-  
18                  planation of whether the findings based on the data-  
19                  base under this subsection are a useful tool for the  
20                  agency’s Supervision of Nondepository Covered Per-  
21                  sons, including the Risk-Based Supervision Program  
22                  (under section 1024 of Public Law 111–203). Such  
23                  report shall include recommendations to improve the  
24                  disclosures by health care entities for the purposes  
25                  of supervising the medical debt industry, including

1 for predictive analytics, machine learning, or other  
2 analysis techniques used in its Risk-Based Super-  
3 vision Program.”.

4 (b) CFPB REPORT.—Not later than 12 months after  
5 the date of enactment of this Act, and every 2 years there-  
6 after, the Consumer Financial Protection Bureau shall  
7 publicly report on medical debt collections, incorporating  
8 data from the medical debt collection public database es-  
9 tablished pursuant to section 2795(a) of the Public Health  
10 Service Act, anonymized data from the three largest credit  
11 bureaus, the Consumer Financial Protection Bureau data-  
12 base of consumer complaints, information from the Con-  
13 sumer Financial Protection Bureau’s Supervision of Non-  
14 depository Covered Persons program including the Risk-  
15 Based Supervision Program, and relevant complaints and  
16 information from other sources as available.