

SENATE No. 792

The Commonwealth of Massachusetts

PRESENTED BY:

Susan L. Moran

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act limiting facility fees.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Susan L. Moran</i>	<i>Plymouth and Barnstable</i>	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	<i>3/6/2023</i>

SENATE No. 792

By Ms. Moran, a petition (accompanied by bill, Senate, No. 792) of Susan L. Moran and Joanne M. Comerford for legislation to limit facility fees. Health Care Financing.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act limiting facility fees.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111 of the General Laws is hereby amended by inserting after
2 section 53H the following section:-

3 Section 53I - Facility Fees

4 As used in this section, the following words shall have the following meanings:

5 "Affiliated provider", a provider that is: (a) Employed by a hospital or health system, (b)
6 under a professional services agreement with a hospital or health system that permits such
7 hospital or health system to bill on behalf of such provider, or (c) a clinical faculty member of a
8 medical school that is affiliated with a hospital or health system in a manner that permits such
9 hospital or health system to bill on behalf of such clinical faculty member;

10 "Campus", (a) the physical area immediately adjacent to a hospital's main buildings and
11 other areas and structures that are not strictly contiguous to the main buildings but are located
12 within two hundred fifty yards of the main buildings, or (b) any other area that has been

13 determined on an individual case basis by the Centers for Medicare and Medicaid Services to be
14 part of a hospital's campus;

15 "Facility fee", any fee charged or billed by a hospital or health system for outpatient
16 hospital services provided in a hospital-based facility that is: (a) Intended to compensate the
17 hospital or health system for the operational expenses of the hospital or health system, and (b)
18 separate and distinct from a professional fee.

19 "Health system", (a) a parent corporation of one or more hospitals and any entity
20 affiliated with such parent corporation through ownership, governance, membership or other
21 means, or (b) a hospital and any entity affiliated with such hospital through ownership,
22 governance, membership or other means

23 "Hospital", an establishment for the lodging, care and treatment of persons suffering from
24 disease or other abnormal physical or mental conditions and includes inpatient psychiatric
25 services in general hospitals.

26 "Hospital-based facility", a facility that is owned or operated, in whole or in part, by a
27 hospital or health system where hospital or professional medical services are provided.

28 "Professional fee", means any fee charged or billed by a provider for professional
29 medical services provided in a hospital-based facility; and

30 "Provider", an individual, entity, corporation or health care provider, whether for profit or
31 nonprofit, whose primary purpose is to provide professional medical services.

32 A hospital, health system, or hospital-based facility shall not collect a facility fee of more
33 than \$30 per patient visit for:

34 (a) Outpatient health care services that use a current procedural terminology evaluation
35 and management code and are provided at a hospital-based facility, other than a hospital
36 emergency department, located off-site from a hospital campus; or

37 (b) Outpatient health care services, other than those provided in an emergency
38 department located off-site from a hospital campus, received by a patient who is uninsured of
39 more than the Medicare rate.

40 Notwithstanding the provisions of this section, if an insurance contract that is in effect on
41 the date of passage of this act provides 100% reimbursement to the contract holder for facility
42 fees, a hospital or health system may continue to collect reimbursement from the health insurer
43 for facility fees over \$30 until the date of expiration of such contract.

44 A violation of this section shall be considered an unfair trade practice pursuant to Chapter
45 93A.

46 SECTION 2. Section 228 of said chapter 111, as appearing in the 2020 Official Edition,
47 is hereby amended by striking out the third paragraph and inserting thereof the following
48 paragraph:-

49 (2) If the health care provider is participating in the patient's or prospective patient's
50 health benefit plan, the health care provider shall, at the time of scheduling the admission,
51 procedure or service: (i) provide the charge and the amount of any facility fees for the admission,
52 procedure or service; (ii) inform the patient or prospective patient of the amount of the charge or
53 facility fee that the patient or prospective patient will be responsible for that is not covered
54 through the patient's health benefit plan; and (iii) inform the patient or prospective patient that
55 the patient or prospective patient may obtain additional information about any applicable out-of-

56 pocket costs pursuant to section 23 of chapter 176O; provided, however, that if a health care
57 provider is unable to quote a specific amount in advance due to the health care provider's
58 inability to predict the specific treatment or diagnostic code, the health care provider shall
59 disclose the estimated maximum allowed amount for the admission, procedure or service and the
60 amount of any anticipated facility fees. A health care provider may assist a patient or prospective
61 patient in using the patient's or prospective patient's health plan's toll-free number and website
62 pursuant to said section 23 of said chapter 176O.

63 SECTION 3. The Massachusetts Health Policy Commission shall conduct a study of
64 potential strategies to raise awareness of the difference in cost to the patient for receiving
65 outpatient services at a hospital outpatient department versus a non hospital setting, such as a
66 physician office.