

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 425

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO PATIENT ACT; AMENDING TITLE 48, IDAHO CODE, BY THE  
2 ADDITION OF A NEW CHAPTER 3, TITLE 48, IDAHO CODE, TO PROVIDE A SHORT  
3 TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE  
4 REQUIREMENTS FOR EXTRAORDINARY COLLECTION ACTIONS WHEN COLLECTING MED-  
5 ICAL DEBTS, TO PROVIDE FOR FEES AND COSTS IN EXTRAORDINARY COLLECTION  
6 ACTIONS, TO PROVIDE FOR EXTRAORDINARY COLLECTIONS AFTER UNTIMELY NO-  
7 TICE IN CERTAIN CASES, TO PROVIDE FOR THE BURDEN OF PROOF, TO PROVIDE FOR  
8 THE REBUTTABLE PRESUMPTION OF RECEIPT, TO PROVIDE FOR THE DELIVERY OF A  
9 CONSOLIDATED SUMMARY OF SERVICES, TO PROVIDE FOR CONTRACTED SERVICE, TO  
10 PROVIDE FOR ENFORCEMENT AND CIVIL PENALTIES, AND TO PROVIDE FOR NON-EX-  
11 TRAORDINARY COLLECTION ACTIONS.  
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended  
15 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
16 ter 3, Title 48, Idaho Code, and to read as follows:

17 CHAPTER 3  
18 IDAHO PATIENT ACT

19 48-301. SHORT TITLE. This act shall be known and may be cited as the  
20 "Idaho Patient Act."

21 48-302. LEGISLATIVE INTENT. The Idaho legislature finds that medical  
22 billing practices have little visibility to Idaho citizens. As a result,  
23 consumers often find themselves in collection actions for debts they were  
24 unaware of, from health care providers whom they do not recognize. Once in  
25 collections, current Idaho law enables excessive attorney's fees and fails  
26 to provide judges with clear guidance to combat abuses of the collections  
27 process. This chapter shall govern the fair collection of debts owed to  
28 health care providers.

29 48-303. DEFINITIONS. For the purposes of this chapter:  
30 (1) "Consolidated summary of services" means a written notice that con-  
31 tains, at a minimum, the following:  
32 (a) The name and contact information, including telephone number, of  
33 the patient;  
34 (b) The name and contact information, including telephone number, of  
35 the health care facility that the patient visited to receive goods or  
36 services;  
37 (c) The date and duration of the visit to the health care facility by the  
38 patient;

1 (d) A general description of goods and services provided to the patient  
2 during the visit to the health care facility, including the name, ad-  
3 dress, and telephone number of each billing entity whose health care  
4 providers provided the services and goods to the patient; and

5 (e) A clear and conspicuous notification at the top of the notice that  
6 states: "This is Not a Bill. This is a Summary of Medical Services You  
7 Received. Retain This Summary for Your Records. Please Contact Your  
8 Insurance Company and the Health Care Providers Listed on this Summary  
9 to Determine the Final Amount You May Be Obligated to Pay."

10 (2) "Contested judgment" means a court judgment sought by one (1) party  
11 that is challenged by another party through a filing with the court or by pre-  
12 senting evidence or argument at a hearing before the court.

13 (3) "Extraordinary collection action" means any of the following ac-  
14 tions done in connection with a patient's debt:

15 (a) Prior to sixty (60) days from the patient's receipt of the fi-  
16 nal statement, selling, transferring, or assigning any amount of  
17 a patient's debt to any third-party, or otherwise authorizing any  
18 third-party to collect the debt in a name other than the name of the  
19 health care provider;

20 (b) Reporting adverse information about the patient to a consumer re-  
21 porting agency; or

22 (c) Commencing any judicial or legal action or filing or recording any  
23 document in relation thereto, including but not limited to:

24 (i) Placing a lien on a person's property or assets;

25 (ii) Attaching or seizing a person's bank account or any other  
26 personal property;

27 (iii) Initiating a civil action against any person; or

28 (iv) Garnishing an individual's wages.

29 (4) "Final statement" means a written notice that contains, at a mini-  
30 mum, the following:

31 (a) The name and contact information, including telephone number, of  
32 the patient;

33 (b) The name and contact information, including telephone number, of  
34 the health care facility where the health care provider provided goods  
35 and services to the patient;

36 (c) A list of the goods and services, including prices, that the health  
37 care provider provided to the patient during the patient's visit to the  
38 health care facility, including the date the goods and services were  
39 provided in reasonable detail;

40 (d) A statement that a full itemized list of goods and services provided  
41 to the patient is available upon the patient's request;

42 (e) The name of the third-party payors to which the charges for health  
43 care services were submitted by the health care provider and the pa-  
44 tient's group and membership numbers;

45 (f) A detailed description of all reductions, offsets, third-party  
46 payor payments, including payments already received from the patient,  
47 that reduced the price charged for the goods and services provided to  
48 the patient during the visit; and

1 (g) The final amount that the patient is liable to pay after taking into  
2 account all applicable reductions, including but not limited to the  
3 items identified in paragraph (f) of this subsection.

4 (5) "Health care facility" means any person, entity, or institution op-  
5 erating a physical or virtual location that holds itself out to the public  
6 as providing health care services through itself, through its employees, or  
7 through third-party health care providers. Health care facilities include  
8 but are not limited to hospitals and other licensed inpatient centers; ambu-  
9 latory surgical or treatment centers; skilled nursing centers; residential  
10 treatment centers; urgent care centers; diagnostic, laboratory, and imaging  
11 centers; and rehabilitation and other therapeutic health settings, as well  
12 as medical transportation providers.

13 (6) "Health care provider" means:

14 (a) A physician or other health care practitioner licensed, accred-  
15 ited, or certified to perform health care services consistent with  
16 state law, or any agent or third-party representative thereof; or

17 (b) A health care facility or its agent.

18 (7) "Health care services" means services for the diagnosis, preven-  
19 tion, treatment, cure, or relief of a health condition, illness, injury, or  
20 disease.

21 (8) "Patient" means a person who seeks or receives services from a  
22 health care provider. For the purposes of this chapter, "patient" includes a  
23 parent if the patient is a minor, a legal guardian if the patient is an adult  
24 under guardianship, or any person contractually or otherwise liable for the  
25 financial obligations of the person receiving goods or services from the  
26 health care provider.

27 (9) "Third-party payor" means a health carrier as defined in section  
28 41-5903, Idaho Code, or a self-funded plan as defined in section 41-4002 or  
29 41-4102, Idaho Code.

30 (10) "Uncontested judgment" means a court judgment sought by one (1)  
31 party that is not contested by another party by filing with the court or by  
32 presenting evidence or argument at a hearing before the court.

33 48-304. REQUIREMENTS FOR EXTRAORDINARY COLLECTION ACTION. No person  
34 shall engage, directly or indirectly, in any extraordinary collection ac-  
35 tion against a patient unless:

36 (1) Within forty-five (45) days from the date of the provision of goods  
37 or the delivery of services to the patient or from the date of discharge of  
38 the patient from a health care facility, whichever is later, a health care  
39 provider submits its charges related to the provision of goods or services to  
40 the third-party payor or payors of the patient, identified by the patient to  
41 the health care provider in connection with the services, if any, or, in the  
42 event no third-party payor was identified, to the patient;

43 (2) Within sixty (60) days from the date of the provision of goods or  
44 services to the patient or from the date of discharge, whichever is later,  
45 the patient receives from the health care facility, free of charge, a consol-  
46 idated summary of services;

47 (3) The patient receives, free of charge, a final statement from the  
48 billing entity of the health care provider;

1 (4) The health care provider does not charge or cause to accrue any in-  
2 terest, fees, or other ancillary charges until at least sixty (60) days have  
3 passed from the date of receipt of the final statement; and

4 (5) At least one hundred eighty (180) days have passed from receipt of  
5 the final statement by the patient and final resolution of all internal re-  
6 views, good faith disputes, and appeals of any charges or third-party payor  
7 obligations or payments.

8 48-305. FEES AND COSTS FOR EXTRAORDINARY COLLECTION AC-  
9 TION. (1) Notwithstanding any provision of law or agreement to the contrary,  
10 a patient shall have no liability to any party taking extraordinary collec-  
11 tion action for costs, expenses, and fees, including attorney's fees, unless  
12 the party has complied with section 48-304, Idaho Code, and then only subject  
13 to the following limitations:

14 (a) In the case of an uncontested judgment against the patient, the  
15 court may award, in addition to the outstanding principal, up to three  
16 hundred fifty dollars (\$350) or an amount equal to one hundred percent  
17 (100%) of the outstanding principal amount, whichever is less, plus  
18 any prejudgment interest accrued in accordance with section 48-304(4),  
19 Idaho Code;

20 (b) In the case of a contested judgment against the patient, the court  
21 may award, in addition to the outstanding principal, up to seven hundred  
22 fifty dollars (\$750) or an amount equal to one hundred percent (100%) of  
23 the outstanding principal amount, whichever is less, plus any prejudg-  
24 ment interest accrued in accordance with section 48-304(4), Idaho Code;

25 (c) In the case of postjudgment motions and writs, the court may award  
26 up to seventy-five dollars (\$75.00) for any successful motion or ap-  
27 plication for a writ of attachment to any particular garnishee and  
28 twenty-five dollars (\$25.00) for any subsequent application for a writ  
29 to the same garnishee. In the case of garnishments, the court may also  
30 award service fees as prescribed by the applicable board of county com-  
31 missioners pursuant to section 11-729, Idaho Code.

32 (2) In the case of a contested judgment, if a party taking extraordi-  
33 nary collection action against a patient prevails against a patient and in-  
34 curs costs, expenses, and fees, including attorney's fees, that are grossly  
35 disproportionate to the award amounts set forth in subsection (1)(b) of this  
36 section, then the party may petition the court for a supplemental award for  
37 costs, expenses, and fees. Upon an affirmative showing that the incurred  
38 costs, expenses, and fees are grossly disproportionate to the award amounts  
39 set forth in subsection (1)(b) of this section, and that fees were incurred  
40 because of the patient's willful attempt to avoid paying a bona fide debt,  
41 then the court may take into account the factors outlined in rule 54(e) (3) of  
42 the Idaho rules of civil procedure and may, in its discretion, award suppl-  
43 mental costs, expenses, and reasonable attorney's fees.

44 (3) Notwithstanding any provision of law or agreement to the contrary,  
45 if a patient in a contested judgment is a prevailing party, then the patient  
46 shall be entitled to recover from a nonprevailing party all costs, expenses,  
47 and fees, including attorney's fees, incurred by the patient in contesting  
48 the action, and the patient shall have no liability to any nonprevailing par-

1 ties for any costs, expenses, and fees, including attorney's fees and pre-  
2 judgment interest incurred by a nonprevailing party.

3 48-306. EXTRAORDINARY COLLECTION AFTER UNTIMELY NOTICE -- LIMITA-  
4 TION. If a party is unable to engage in an extraordinary collection action  
5 because the health care provider or health care facility failed to meet the  
6 timing requirements of section 48-304(1) or (2), Idaho Code, but complies  
7 with such timing requirements within an additional forty-five (45) days,  
8 then as long as all other requirements of section 48-304, Idaho Code, have  
9 been satisfied, such party may commence an extraordinary collection action.  
10 Notwithstanding any provision of law or agreement to the contrary, in any  
11 such collection action, the patient shall have no liability for costs, ex-  
12 penses, and fees, including attorney's fees.

13 48-307. BURDEN OF PROOF. Any person seeking to engage in an extraor-  
14 dinary collection action bears the burden of establishing that the require-  
15 ments of sections 48-304 and 48-306, Idaho Code, if applicable, have been  
16 satisfied prior to engaging in any extraordinary collection action. Any  
17 party commencing a judicial action against a patient must plead with partic-  
18 ularity its compliance with each requirement of sections 48-304 and 48-306,  
19 Idaho Code, as the case may be.

20 48-308. REBUTTABLE PRESUMPTION OF RECEIPT. A patient shall be pre-  
21 sumed to have received a consolidated summary of services or a final state-  
22 ment three (3) days after the document has been sent by first class mail to  
23 the patient's address confirmed by the patient during the patient's last  
24 visit to the health care provider or as updated by the patient in subsequent  
25 written or electronic communications. Nothing in this section shall be  
26 interpreted as precluding the patient from agreeing in writing to receive  
27 consolidated summaries of services or final statements via email or other  
28 electronic means.

29 48-309. DELIVERY OF CONSOLIDATED SUMMARY OF SERVICES. Notwithstand-  
30 ing any provision of law to the contrary in this chapter, a health care facil-  
31 ity is not required to send a consolidated summary of services to a patient  
32 prior to engaging in extraordinary collection action if:

33 (1) The patient will receive a final statement from a single billing en-  
34 tity for all goods and services provided to the patient at that health care  
35 facility;

36 (2) The patient was clearly informed in writing of the name, phone num-  
37 ber, and address of the billing entity; and

38 (3) The health care facility otherwise complies with all other provi-  
39 sions of section 48-304, Idaho Code.

40 48-310. CONTRACTED SERVICE. Nothing in this chapter prohibits a  
41 health care facility from authorizing a health care provider by contract to  
42 provide the consolidated summary of services required by section 48-304(2),  
43 Idaho Code, on its behalf.

1           48-311. ENFORCEMENT AND CIVIL PENALTIES. If any party takes any extra-  
2 ordinary collection action other than in accordance with section 48-304 or  
3 48-306, Idaho Code, then:

4           (1) Notwithstanding any provision of law or agreement to the contrary,  
5 a patient shall have no liability to any party for any collection costs, ex-  
6 penses, and fees, including attorney's fees and prejudgment and postjudg-  
7 ment interest;

8           (2) The party is liable to the patient in an amount equal to any actual  
9 damages sustained by the patient as a result of any failure to comply, or one  
10 thousand dollars (\$1,000), whichever is greater; and

11           (3) Where a court finds a party has wilfully or knowingly violated sec-  
12 tion 48-304 or 48-306, Idaho Code, the court may award up to three (3) times  
13 the amount of actual damages, or three thousand dollars (\$3,000), whichever  
14 is greater. In any successful action to enforce the liability set forth in  
15 this section, the patient shall be entitled to the costs of the action, to-  
16 gether with reasonable attorney's fees, as determined by the court.

17           48-312. NON-EXTRAORDINARY COLLECTION ACTIONS. Nothing in this chap-  
18 ter shall be interpreted to restrict the ability of any person to demand and  
19 collect payment for the principal amount of any medical goods or services  
20 by means other than extraordinary collection action, as defined in section  
21 48-303, Idaho Code.