



Chambers of Commerce Oppose Legislation Promoting Untold Liability and Frivolous Litigation Against Virginia's Largest Employers

The Virginia Chamber of Commerce along with several regional Chambers join Virginia's Hospitals and Health Systems in opposing HB 2427 (R-Freitas), which would increase the cost of health care in Virginia and harm Virginia's legal climate.

HB 2427 (R-Freitas) presents a significant overreach and windfall that is grossly out of proportion with the underlying policy seeking to promote greater compliance with federal hospital price transparency requirements through the state hospital licensure process. Even before the state hospital licensure requirements take effect, the legislation imposes the prospect of untold liability and frivolous litigation against private businesses:

- Creates a private right of action to recover the full price of a procedure from a hospital that is not in “material compliance” with federal regulations on the date the elective procedure is provided, plus liquidated damages and interest.
- Creates a court mandate to award triple damages equal to the amount of the price of the elective procedure, and reasonable attorney fees and costs if it finds the hospital was “knowingly not in material compliance.”
- Limits collection actions of critical access hospitals and prohibits any hospital from collecting any payment for elective procedures for the duration of any period of time they are found not to be in “material compliance” with hospital price transparency regulations.

The law would impose liability for payments and damages with no requirement to show any actual harm to the patient related to material compliance. And the term “material compliance” is not defined in the legislation or anywhere in the Code, leaving it to courts across jurisdictions to determine, creating conflicting interpretations among federal and state regulators, and the legal system.

This is an unprecedented law creating civil action in state courts for failure to comply with a federal regulation. The negative impact of this legislation would be to erode Virginia's reputation as one of the top states to do business by substantially altering the Commonwealth's legal environment and place Virginia out of step with the rest of the nation.

HB 2427 would create a hostile business environment for hospitals in Virginia – increasing the cost of health care and threatening providers' ability to deliver services to their patients and communities.