



## Health Facility Compliance Guidance Letter

<b>Number:</b> GL 21-2008-A
<b>Title:</b> Required Disclosure of Prices for Certain Items and Services (SB 1137-87R) [Amended]
<b>Provider Types:</b> General and Special Hospitals
<b>Date Issued:</b> May 13, 2022

### 1.0 Subject and Purpose

This amended guidance letter replaces the previous GL 21-2008 to provide additional guidance to general and special hospitals licensed under [Texas Health and Safety Code \(HSC\) 241](#) regarding [Senate Bill \(SB\) 1137's](#) reporting requirements and enforcement.

The Texas Health and Human Services Commission (HHSC) provides guidance to licensed providers on legislation passed during the 87<sup>th</sup> Legislature, Regular Session (2021). SB 1137, relating to the required disclosure of prices for certain items and services provided by certain medical facilities; providing administrative penalties, took effect September 1, 2021.

SB 1137 added [HSC Chapter 327](#), which requires a hospital licensed under HSC Chapter 241 to prominently display a list or dedicated link to a list of all standard charges for hospital items and services on the home page of the hospital's website.

This letter provides instruction to general and special hospitals on the passage of SB 1137 and outlines provider responsibilities and expectations.

### 2.0 Legislative Details & Provider Responsibilities

SB 1137 requires general and special hospitals to maintain a chargemaster,<sup>1</sup> which is a list of all facility items or services<sup>2</sup> for which the facility has

<sup>1</sup> Defined at HSC §327.001(2).

<sup>2</sup> Defined at HSC §327.001(8).

established a charge, and a publicly available, consumer-friendly list of standard charges for each of at least 300 shoppable services. SB 1137 requires the chargemaster and shoppable services list to meet certain accessibility requirements, and hospitals must submit the required list to HHSC.

## 2.1 Chargemaster Requirements for Standard Charges

The hospital must ensure the chargemaster:

- Is always available to the public;<sup>3</sup>
- Contains the standard charges applicable to the hospital's location, regardless of whether the hospital operates in more than one location or under the same license as another hospital;<sup>4</sup>
  - Note: if the hospital has multiple locations and maintains a single website for all locations, the hospital must post the chargemaster for each hospital location;<sup>4</sup>
- Contains a description of each item or service provided in either inpatient or outpatient setting;<sup>5</sup>
- Contains the following charges for each individual item or service as applicable:<sup>6</sup>
  - Gross charge;
  - De-identified minimum negotiated charge;
  - De-identified maximum negotiated charge;
  - Discounted cash price; and
  - Payor-specific negotiated charge;
- Contains any billing or accounting code for each service, including the following:<sup>7</sup>
  - The Current Procedural Terminology (CPT) code;

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<sup>3</sup> HSC §327.003(a)(2).

<sup>4</sup> HSC §327.003(b) and (e).

<sup>5</sup> HSC §327.003(c)(1).

<sup>6</sup> HSC §327.003(c)(2).

<sup>7</sup> HSC §327.003(c)(3).

- The Healthcare Common Procedure Coding System (HCPCS) code;
- The Diagnosis Related Group (DRG) code;
- The National Drug Code (NDC); or
- Another common identifier.

## 2.2 Shoppable Services Consumer-Friendly List Requirements

SB 1137 also requires a hospital to maintain a publicly available, consumer-friendly list of standard charges for each of at least 300 shoppable services provided by the facility which includes:<sup>8</sup>

- De-identified minimum negotiated charges;
- De-identified maximum negotiated charges;
- Discounted cash prices; and
- Payor-specific negotiated charges.

The hospital may select which shoppable services to include in the list, and the list must include the 70 services specified as shoppable services by the Centers for Medicare and Medicaid Services (CMS), or, when a hospital does not offer all 70 CMS-specified shoppable services, the hospital must list the CMS-specified shoppable services it does provide.<sup>8</sup>

When a hospital determines which shoppable service a hospital will include in the list, the hospital must consider how frequently the hospital provides the service and the facility's billing rate for that service.<sup>9</sup> The hospital must then prioritize selecting the hospital services that are most frequently provided by the hospital for those listed in the shoppable services list.<sup>10</sup>

The hospital must ensure the shoppable services list:<sup>11</sup>

- Includes a plain-language description of each shoppable service;
- Includes the following for each shoppable service and any ancillary service:

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<sup>8</sup> HSC §327.004(a).

<sup>9</sup> HSC §327.004(b)(1).

<sup>10</sup> HSC §327.004(b)(2).

<sup>11</sup> HSC §327.004(d).

- Payor-specific negotiated charge;
- Discounted cash price;
  - **Note:** When the hospital does not offer a discounted cash price for one or more of the shoppable or ancillary services on the list, the hospital must instead list the gross charge for the shoppable service or ancillary service, as applicable;
- De-identified minimum negotiated charge;
- De-identified maximum negotiated charge; and
- Any code used by the facility for purposes of accounting or billing, including the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG) code, the National Drug Code (NDC), or other common identifier; and
- When applicable:
  - States each location where the hospital provides the shoppable service and whether the standard charges included in the list apply at that location when the hospital provides the service in an inpatient setting, an outpatient department setting, or in both of those settings, as applicable; and
  - Indicates whether one or more of the shoppable services specified by CMS is not provided by the facility.

The hospital may meet the shoppable services list requirement by maintaining an internet-based price estimator tool that:

- Provides a cost estimate for each shoppable service and any ancillary service included on the list maintained by the facility under Subsection (a);
- Allows a person to obtain an estimate of the amount the person will be obligated to pay the facility if the person elects to use the facility to provide the service; and

- Is prominently displayed on the facility's publicly accessible Internet website and accessible to the public without charge and without having to register or establish a user account or password.<sup>12</sup>

### **2.3 Chargemaster and Shoppable Services List Online Posting and Accessibility Requirements**

The hospital must post the list of standard charges in a single digital file<sup>13</sup> on the home page of the hospital's website or make it available through a dedicated link that is prominently displayed on the home page of the hospital's website,<sup>14</sup> and the list must be available:<sup>15</sup>

- Free of charge;
- Without having to establish a user account or password;
- Without having to submit personal identifying information; and
- Without having to overcome any other barrier, including entering a code to access the list;

The hospital must ensure each list maintained on the hospital's website:

- Is accessible to a common internet search engine;<sup>16</sup>
- Is formatted in a manner prescribed by HHSC;<sup>17</sup>
- Is digitally searchable;<sup>18</sup> and
- Uses the following naming convention specified by CMS:
  - <ein>\_<facility-name>\_standardcharges.[json|xml|csv].<sup>19</sup>

SB 1137 requires a hospital to update each list at least once yearly and indicate in the list the most recent revision date.<sup>20</sup>

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<sup>12</sup> HSC §327.004(f).

<sup>13</sup> HSC §327.003(d).

<sup>14</sup> HSC §327.003(e).

<sup>15</sup> HSC §327.003(f)(1) and §327.004(e)(2).

<sup>16</sup> HSC §327.003(f)(2) and §327.004(e)(5).

<sup>17</sup> HSC §327.003(f)(3) and §327.004(e)(6).

<sup>18</sup> HSC §327.003(f)(4) and §327.004(e)(3).

<sup>19</sup> HSC §327.003(f)(5).

<sup>20</sup> HSC §327.003(h) and §327.004(e)(4).

For a list of required items for the list of standard services and shoppable services list, please refer to the [Hospital Price Transparency \(SB 1137\) Required Information document](#) HHSC published online on May 6, 2022.

## **2.4 Hospital Chargemaster and Shoppable Services Reporting Requirements**

SB 1137 requires the hospital to format the list in a manner prescribed by HHSC.<sup>21</sup>

Accordingly, HHSC requires hospitals to use the same format to comply with HSC Chapter 327 that they use to comply with federal law and the CMS hospital price transparency rules at [Code of Federal Regulations Title 45, Subtitle A, Subchapter E, Part 180](#).

A hospital must report the required lists to HHSC by sending an email to [Hospital Price Transparency@hhs.texas.gov](mailto:Hospital Price Transparency@hhs.texas.gov) that includes a link to the lists on the hospital's website.

Hospitals must email HHSC the links to the chargemaster and shoppable services lists at least annually and every time the hospital updates the lists in accordance with [HSC §327.005](#).

The email sent to the Hospital Price Transparency mailbox must include the following information:

- Legal entity name, DBA, and facility name;
- Address, city, state and ZIP code;
- Each hospital location's license number;
- CMS Certification Number (CCN);
- Number of shoppable services included in the list, including and identifying the 70 services prescribed by CMS;
- Contact information, including name, email, and phone number, for the hospital contact responsible for compliance;

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<sup>21</sup> HSC §327.003(f)(3) and §327.004(e)(6).

The hospital must also include the following links for each facility location in the email sent to the [Hospital Price Transparency mailbox](#):

- Chargemaster;
- Price estimator;
- Homepage; and
- License number.

## 2.5 Monitoring Compliance

HHSC monitors each hospital's compliance with HSC Chapter 327's requirements by:

- Evaluating complaints regarding noncompliance with HSC Chapter 327;<sup>22</sup>
- Reviewing any analysis prepared regarding noncompliance with HSC Chapter 327;<sup>23</sup>
- Auditing the websites of facilities for compliance with HSC Chapter 327;<sup>24</sup> and
- Confirming that each hospital submitted the lists required under [HSC 327.005](#).<sup>25</sup>

When HHSC determines a hospital is noncompliant with any of HSC Chapter 327's provisions, HHSC will issue a Statement of Deficiency (SOD) and require a Plan of Correction (POC) from the hospital. In addition to other documentation required by HHSC to be included in the POC, the hospital must include the total gross revenue for the year preceding the date of the cited deficiency.

## 2.6 Enforcement

Under [§HSC 327.006](#), HHSC may take any of the following actions, without regard to the order of the actions, if HHSC determines a hospital is non-compliant with HSC Chapter 327:

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<sup>22</sup> HSC §327.006(a)(1).

<sup>23</sup> HSC §327.006(a)(2).

<sup>24</sup> HSC §327.006(a)(3).

<sup>25</sup> HSC §327.006(a)(4).

- Provide a written notice to the hospital clearly explaining the manner in which the hospital is not in compliance with HSC Chapter 327;<sup>26</sup>
- Request a corrective action plan from the hospital if the hospital materially violated a provision of HSC Chapter 327, as determined under [HSC §327.007](#); and<sup>27</sup>
- Impose an administrative penalty on the hospital in accordance with [HSC Chapter 241](#) and publicize the penalty on HHSC's website when the hospital fails to:<sup>28</sup>
  - Respond to HHSC's request to submit a corrective action plan; or<sup>29</sup>
  - Comply with the requirements of a corrective action plan submitted to HHSC.<sup>30</sup>

SB 1137 authorizes HHSC to impose an administrative penalty on a hospital for each violation of HSC Chapter 327's requirements. For a hospital with one of the following total gross revenues as reported to the Centers for Medicare and Medicaid Services or to another entity designated by commission rule in the year preceding the year in which a penalty is imposed, the penalty HHSC imposes may not exceed:<sup>31</sup>

- \$10 for each day the hospital violated this chapter, if the hospital's total gross revenue is less than \$10,000,000;<sup>32</sup>
- \$100 for each day the hospital violated this chapter, if the hospital's total gross revenue is \$10,000,000 or more and less than \$100,000,000;<sup>33</sup> and
- \$1,000 for each day the hospital violated this chapter, if the hospital's total gross revenue is \$100,000,000 or more.<sup>34</sup>

As required under [HSC §327.008\(d\)](#), each day a violation continues is considered a separate violation.

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<sup>26</sup> HSC §327.006(b)(1).

<sup>27</sup> HSC §327.006(b)(2).

<sup>28</sup> HSC §327.006(b)(3).

<sup>29</sup> HSC §327.006(b)(3)(A).

<sup>30</sup> HSC §327.006(b)(3)(B) and HSC §327.008(a)(1).

<sup>31</sup> HSC §327.008(c).

<sup>32</sup> HSC §327.008(c)(1).

<sup>33</sup> HSC §327.008(c)(2).

<sup>34</sup> HSC §327.008(c)(3).

### 3.0 Background/History

SB 1137 requires general and special hospital facilities to comply with the itemized posting, reporting requirements and administrative penalties under [Texas Health and Safety Code \(HSC\), Chapter 327](#).

### 4.0 Resources

View SB 1137 (87th Legislature, Regular Session, 2021) at:  
<https://capitol.texas.gov/tlodocs/87R/billtext/html/SB01137F.htm>.

View Texas Health and Safety Code Chapter 327 at:  
<https://statutes.capitol.texas.gov/docs/HS/htm/HS.327.htm>.

View Code of Federal Regulations Title 45, Subtitle A, Subchapter E, Part 180 at: <https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-E/part-180>.

View the Hospital Price Transparency (SB 1137) Required Information document at:  
<https://www.hhs.texas.gov/sites/default/files/documents/hospital-price-transparency-sb1137.pdf>.

To receive future updates, sign up for GovDelivery at:  
<https://service.govdelivery.com/accounts/TXHHSC/subscriber/new>.

### 5.0 Contact Information

If you have any questions about this letter, please contact the Policies and Rules unit by email at: [HCR\\_PRU@hhs.texas.gov](mailto:HCR_PRU@hhs.texas.gov).