

2013 -- H 5309

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LC00904
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO TAXATION - THE OUTPATIENT HEALTH CARE FACILITY
SURCHARGE

Introduced By: Representatives Giarrusso, McLaughlin, Carnevale, Ackerman, and Costa

Date Introduced: February 07, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-64 of the General Laws entitled "The Outpatient Health Care
2 Facility Surcharge" is hereby repealed in its entirety.

3 ~~CHAPTER 44-64~~

4 ~~The Outpatient Health Care Facility Surcharge~~

5 ~~44-64-1. Short title. -- This chapter shall be known as "The Outpatient Health Care~~
6 ~~Facility Surcharge Act."~~

7 ~~44-64-2. Definitions. -- The following words and phrases as used in this chapter have the~~
8 ~~following meaning:~~

9 ~~(1) "Administrator" means the tax administrator within the department of revenue.~~

10 ~~(2) "Gross patient revenue" means the gross amount received on a cash basis by the~~
11 ~~provider from all patient care and other gross operating income. However, charitable~~
12 ~~contributions, fund raising proceeds, and endowment support shall not be considered "gross~~
13 ~~patient revenue."~~

14 ~~(3) "Net patient services revenue" means the charges related to patient care services less~~
15 ~~(i) charges attributable to charity care, (ii) bad debt expenses, and (iii) contractual allowances.~~

16 ~~(4) "Person" means any individual, corporation, company, association, partnership, joint~~
17 ~~stock association, and the legal successor thereof.~~

18 ~~(5) "Provider" means a licensed facility or operator, including a government facility or~~

1 operator, subject to a surcharge under this chapter.

2 ~~(6) "Surcharge" means the assessment that is imposed upon net patient revenue pursuant~~
3 ~~to this chapter.~~

4 ~~**44-64-3. Imposition of surcharge -- Outpatient health care facility.**~~ (a) For the
5 purposes of this section, an "outpatient health care facility" means a person or governmental unit
6 that is licensed to establish, maintain, and operate a free-standing ambulatory surgery center or a
7 physician ambulatory surgery center or a podiatry ambulatory surgery center, in accordance with
8 chapter 17 of title 23.

9 ~~(b) A surcharge at a rate of two percent (2.0%) shall be imposed upon the net patient~~
10 ~~services revenue received each month by every outpatient health care facility. Every provider~~
11 ~~shall pay the monthly surcharge no later than the twenty-fifth (25th) day of the month following~~
12 ~~the month that the gross patient revenue is received. This surcharge shall be in addition to any~~
13 ~~other authorized fees that have been assessed upon outpatient facilities.~~

14 ~~**44-64-4. Returns.**~~ (a) Every provider shall, on or before the twenty-fifth (25th) day of
15 the month following the month that the gross patient revenue is received, make a return to the tax
16 administrator.

17 ~~(b) The tax administrator is authorized to adopt rules relative to the form of the return~~
18 ~~and the data it must contain for the correct computation of gross patient revenue and the~~
19 ~~surcharge. All returns shall be signed by the provider or its authorized representative, subject to~~
20 ~~the penalties of perjury. If a return shows an overpayment of the surcharge due, the tax~~
21 ~~administrator shall refund or credit the overpayment to the provider.~~

22 ~~(c) The tax administrator, for good cause shown, may extend the time within which a~~
23 ~~provider is required to file a return. If the return is filed during the period of extension, no penalty~~
24 ~~or late filing charge may be imposed for failure to file the return at the time required by this~~
25 ~~chapter, but the provider shall be liable for any interest as prescribed in this chapter. Failure to~~
26 ~~file the return during the period for the extension shall make the extension null and void.~~

27 ~~**44-64-5. Set-off for delinquent payment of surcharge.**~~ If a provider shall fail to pay a
28 surcharge within thirty (30) days of its due date, the tax administrator may request any agency of
29 state government to set off the amount of the delinquency against any payment they might be due
30 the provider from the agency and to remit any such payment to the tax administrator. Upon
31 receipt of a request for set-off from the tax administrator, any agency of state government is
32 authorized and empowered to set off the amount of any delinquency against any payment that is
33 due the provider. The amount of set-off shall be credited against the surcharge due from the
34 provider.

1 ~~**44-64-6. Surcharge on available information -- Interest on delinquencies -- Penalties**~~
2 ~~**--Collection powers.--**~~ If any provider shall fail, within the time required by this chapter, to file
3 a return, or shall file an insufficient or incorrect return, or shall not pay the surcharge imposed by
4 this chapter when it is due, the tax administrator shall make an assessment based upon
5 information that may be available, which assessment shall be payable upon demand and shall
6 bear interest from the date when the surcharge should have been paid at the annual rate set forth
7 in section 44-1-7 of the Rhode Island general laws, as amended. If any part of the surcharge is
8 caused by the negligence or intentional disregard of the provisions of this chapter, a penalty of ten
9 percent (10%) of the amount of the determination shall be added to the surcharge. The tax
10 administrator shall collect the surcharge with interest in the same manner and with the same
11 powers as are prescribed for collection of taxes in this title.

12 ~~**44-64-7. Claims for refund -- Hearing upon denial.--**~~ (a) Any provider, subject to the
13 provisions of this chapter, may file a claim for refund with the tax administrator at any time
14 within two (2) years after the surcharge has been paid. If the tax administrator shall determine
15 that the surcharge has been overpaid, the tax administrator shall make a refund with interest from
16 the date of overpayment.

17 ~~(b) Any provider aggrieved by an action of the tax administrator in determining the~~
18 ~~amount of any surcharge or penalty imposed under the provisions of this chapter may, within~~
19 ~~thirty (30) days after the notice of the action was mailed, apply to the tax administrator, for a~~
20 ~~hearing relative to the surcharge or penalty. The tax administrator shall fix a time and place for~~
21 ~~the hearing and shall so notify the provider.~~

22 ~~**44-64-8. Hearing by tax administrator on application.--**~~ Following hearing, if the tax
23 administrator upholds the assessment of the surcharge, the amount owed shall be assessed
24 together with any penalty or interest thereon.

25 ~~**44-64-9. Appeals.--**~~ Appeals from administrative orders or decisions made pursuant to
26 any provisions of this chapter shall be to the sixth division district court pursuant to chapter 8 of
27 title 8 of the Rhode Island general laws, as amended. The provider's right to appeal under this
28 section shall be expressly made conditional upon prepayment of all surcharges, interest, and
29 penalties, unless the provider moves for and is granted an exemption from the prepayment
30 requirement, pursuant to section 8-8-26 of the Rhode Island general laws, as amended. Following
31 the appeal, if the court determines that the provider is entitled to a refund, the provider shall also
32 be paid interest on the refund at the rate provided in section 44-1-7.1 of the Rhode Island general
33 laws, as amended.

34 ~~**44-64-10. Provider records.--**~~ Every provider shall:

1 ~~(1) Keep records as may be necessary to determine the amount of its liability under this~~
2 ~~chapter;~~

3 ~~(2) Preserve those records for the period of three (3) years following the date of filing of~~
4 ~~any return required by this chapter, or until any litigation or prosecution under this chapter has~~
5 ~~been completed; and~~

6 ~~(3) Make those records available for inspection upon demand by the tax administrator or~~
7 ~~his authorized agents at reasonable times during regular business hours.~~

8 ~~**44-64-11. Method of payment and deposit of surcharge.** (a) Payments required by~~
9 ~~this chapter may be made by electronic transfer of monies to the general treasurer for deposit in~~
10 ~~the general fund.~~

11 ~~(b) The general treasurer is authorized to establish necessary accounts and to take all~~
12 ~~steps necessary to facilitate the electronic transfer of monies. The general treasurer shall provide~~
13 ~~the tax administrator a record of any such monies transferred and deposited.~~

14 ~~**44-64-12. Rules and regulations.** The tax administrator is authorized to promulgate all~~
15 ~~necessary rules, regulations, and procedures, not inconsistent with state law and fiscal procedures,~~
16 ~~for the proper administration of this chapter and in order to carry out the provisions, policy, and~~
17 ~~purposes of this chapter.~~

18 ~~**44-64-13. Severability.** If any provision of this chapter or the application of this~~
19 ~~chapter to any person or circumstances is held invalid, that invalidity shall not affect other~~
20 ~~provisions or applications of the chapter that can be given effect without the invalid provision or~~
21 ~~application, and to this end the provisions of this chapter are declared to be severable.~~

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TAXATION - THE OUTPATIENT HEALTH CARE FACILITY
SURCHARGE

- 1 This act would repeal the outpatient health care facility two percent (2%) surcharge tax.
- 2 This act would take effect upon passage.

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