

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE



Office of Consumer Protection

October 13, 2021

Dear Hospital Administrator,

The District of Columbia Office of the Attorney General (“OAG”) is committed to ensuring that consumers seeking medical treatment have accurate and complete information about the services they require. As one example, after learning of serious inaccuracies in mental health directories, in 2018, OAG entered into settlements with several health insurance companies to ensure that consumers have accurate information about mental health care providers.¹ We know that price transparency is a serious concern for consumers. Consumers seeking medical treatment often have little, if any, information about the price of services they are told they require. This lack of price transparency not only creates anxiety for consumers, who are already facing stressful medical situations, but it also has been shown to increase health costs generally.²

On January 1, 2021, federal hospital pricing transparency regulations went into effect. Those regulations require that hospitals make publicly available a machine-readable file containing a list of prices for all items and services as well as a consumer-friendly list with prices for shoppable services. 45 C.F.R. § 180.40. For each item or service, both lists must include the hospital’s chargemaster price, its cash-discount price, all payer-negotiated prices, and the minimum and maximum payer-negotiated prices. *Id.* § 180.20. In lieu of a consumer-friendly list of shoppable services, a hospital may instead make available an online cost-estimator tool. *Id.* § 180.60(a)(2).

The federal regulations require that this information be “displayed in a prominent manner” on the hospital’s website and that it be “easily accessible, without barriers.” *Id.* § 180.50(d). To this end, the information must be available free-of-charge, without requiring the registration of a user account, and—except as necessary to compute a price in the event the hospital uses a cost-estimator tool—without collecting personally identifiable information (PII). *Id.*; *see also id.* § 180.60(a)(2), (b). It also must be updated at least annually. *Id.* § 180.50(e), 180.60(e).

¹ See <https://oag.dc.gov/release/attorney-general-racine-announces-insurers-will>

² See Alex Kacik, *Hospital Price Growth Driving Healthcare Spending*, MODERN HEALTHCARE (Feb. 4, 2019),

<https://www.modernhealthcare.com/article/20190204/NEWS/190209984/hospital-price-growth-driving-healthcare-spending>.

OAG enforces the District’s Consumer Protection Procedures Act (“CPPA”), D.C. Code §§ 28-3901, *et seq.* Under the CPPA, it is illegal to violate other laws or regulations in the context of consumer transactions. Therefore, your compliance with these regulations is of significant interest to our office. Unfortunately, media reports have already indicated that a number of hospitals—including some hospitals and hospital systems in the District of Columbia—are not in full compliance.³

In order to independently assess whether District of Columbia’s hospitals are complying with the federal regulations, we ask that you provide us with the following information:

1. the URL of the webpage containing the machine-readable list of all items and services described in 45 C.F.R. § 180.50;
2. an explanation as to why (if applicable) a discounted price is either not provided or is listed as “N/A” on the list of items and services described in 45 C.F.R. § 1080.50;
3. the URL of the webpage containing either: (a) the consumer-friendly list of shoppable services described in 45 C.F.R. § 180.60, or (b) the online cost-estimator tool described in the same section;
4. an explanation of why, as to each webpage responsive to requests (1) and (3), you believe the information is “prominently displayed” on the hospital’s website, focusing in particular on ease-of-access to the information from the hospital’s “home” webpage; and
5. whether the hospital employs emergency room doctors who are not in the insurance networks accepted by the hospital itself, and, if so, whether the hospital or those doctors bill patients at out-of-network rates;
 - a. if yes to the above, what if any disclosures are made to patients before entering the emergency room (on the website, etc.) or at the time of entering the emergency room.

Sincerely,

KARL A. RACINE
Attorney General for the District of Columbia

³ See Tom McGinty, Anna Wilde Mathews & Melanie Evans, *Hospitals Hide Pricing Data from Search Results*, WALL ST. J. (Mar. 22, 2021), <https://www.wsj.com/articles/hospitals-hide-pricing-arch-results-11616405402>.