

BURDA ON HEALTHCARE

Hospital Spotting: How New Price Transparency Regs Spawned a New Cottage Industry

By David Burda
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A conversation overheard at an evening reception during a recent healthcare industry conference:

Attendee one: "So, what do you do?"

Attendee two: "I research and report hospital compliance with the new price transparency regs."

Attendee one: "Me, too!"

OK, that didn't really happen, but it could have and likely will happen at a major healthcare event soon.

That's because the new hospital price transparency regulations, which took on Jan. 1, have spawned a new cottage industry in healthcare, and that's researching, monitoring, reporting and publishing how well hospitals are complying with the new regs.



It's simple. All you have to do is go to a hospital's publicly available website and see if you can easily find a consumer-friendly list of standard charges for a limited set of shoppable medical services or easily find the following seven data elements, which I copied and pasted below directly from the [Federal Register](#), in a machine-readable format to view, download or export.

1. **Description of each item or service** provided by the hospital.
2. **Gross charge that applies to each individual item or service** when provided in, as applicable, the hospital inpatient setting and outpatient department setting.
3. **Payer-specific negotiated charge that applies to each item or service** when provided in, as applicable, the hospital inpatient setting and outpatient department setting. Each payer-specific negotiated charge must be clearly associated with the name of the third-party payer and plan.
4. **De-identified minimum negotiated charge that applies to each item or service** when provided in, as applicable, the hospital inpatient setting and outpatient department setting.
5. **De-identified maximum negotiated charge that applies to each item or service** when provided in, as applicable, the hospital inpatient setting and outpatient department setting.
6. **Discounted cash price that applies to each item or service** when provided in, as applicable, the hospital inpatient setting and outpatient department setting.
7. **Any code used by the hospital for purposes of accounting or billing for the item or service**, including, but not limited to, the Current Procedural Terminology (CPT) code, the Healthcare Common Procedure Coding System (HCPCS) code, the Diagnosis Related Group (DRG), the National Drug Code (NDC), or other common payer identifier.

If it's not on the website, you can't easily find it, you can't download it, it's not consumer-friendly or if any of the data elements are missing, that hospital is out of compliance. *Gotcha!*

In the six months since the new regs took effect, we've been entertained by a flood of reports, surveys and published research all demonstrating how poorly hospitals are following the new requirements. Most are either violating the letter of the law or the spirit of the law. Here's a sampling.

- In February, **Guidehouse** released the results of its analysis of the websites of more than 1,000 hospitals in 27 states. You can download the analysis [here](#). Guidehouse found that 52 percent of hospitals didn't comply with the machine-readable requirement, and 40 percent didn't comply with the consumer-friendly requirement.
- In March, researchers from the **Hilltop Institute** published a study in *Health Affairs* on compliance with the new regs by the country's 100 largest hospitals. You can download the study [here](#). The researchers found that 65 of the 100 hospitals were "unambiguously noncompliant" with the transparency requirements. Fifty-three of the 65 didn't include payer-specific negotiated rates and the other 12 didn't have any searchable or downloadable files.
- Also, in March, the **Texas Public Policy Foundation** released its first **Hospital Price Transparency Compliance Index**, which you can download [here](#). The index offers a state-by-state ranking of hospital compliance with the new regs. Compliance ranged from a high of 100 percent in Rhode Island to just 16 percent in Maine.
- In April, the **Health Care Cost Institute** published the results of its "cursory" look at hospital compliance with the new transparency regs by 222 hospitals operated by 16 different health systems. You can download the cursory look [here](#). The HCCI found that about 48 percent of the hospitals didn't publish their negotiated rates with payers in any manner or format.
- Also, in April, the **Kaiser Family Foundation** released an analysis of hospital compliance with the new price transparency regs by the two largest hospitals in each state and the District of Columbia. You can download the analysis [here](#). Eighty of the 102 hospitals in the study pool gave consumers gross charges in a consumer-friendly format. But only three gave consumers payer-negotiated rates in a consumer-friendly format.
- In May, researchers from the **University of Texas Southwestern Medical School, Johns Hopkins University, William Carey College of Osteopathic Medicine and Southern Methodist University** published a research letter in *JAMA Network Open* about what they found after looking at the websites of 5,288 hospitals just prior to the new transparency regulations taking effect. (Remember, hospitals knew for two years that this was coming.) You can download the study [here](#). They found that 52 percent of the hospitals didn't have a charge master in a machine-readable format on their website, and those that did made consumers click as many as eight times to find it from their homepage.



- In June, researchers from **Harvard, Yale and Brigham and Women's Hospital** in Boston published a research letter in *JAMA Internal Medicine* on their compliance study of 100 randomly selected hospitals and 100 hospitals with the highest gross revenues in 2017. You can download the study [here](#). Of the 100 randomly selected hospitals, 83 were out of compliance with at least one of the major requirements of the price transparency regs. Of the 100 hospitals with the highest gross revenues, 75 were out of compliance with at least one of the big regulatory to-dos.
- And in July, **Patient Rights Advocacy** released its first **Semi-Annual Hospital Price Transparency Compliance Report**. You can download the 25-page report [here](#). Of 500 hospitals randomly selected by the patient advocacy group, just 5.6 percent were fully compliant with the new regulations, the report said. About 40 percent did not publish any discounted cash prices.

Two things are pretty clear to me from this lengthy reading list.

First, most hospitals have a long way to go before being in full compliance with all the provisions of the new price transparency regulations. It's why the Biden administration has proposed increasing the daily noncompliance fines from \$300 to \$5,500 for hospitals with more than 30 beds.

Second, health services researchers, patient advocacy groups, foundations, business coalitions, national media outlets, local newspapers and others are not going to stop researching, monitoring, reporting and publishing data on hospital compliance with the new regulations any time soon. Like I said at the top, it's a new cottage industry.



The only way hospitals and health systems are going to put this new cottage industry out of business is by fully embracing the new regulations, complying with both the letter and spirit of the regulations and accepting and allowing healthcare consumerism into their hearts.

If not, brace yourselves for a raft of “a year after the new hospital price transparency took effect” stories in January.

Thanks for reading.

AUTHOR



Dave Burda began covering healthcare in 1983 and hasn't stopped since. Dave writes his own column, “Burda on Health,” for us, contributes to the weekly 4Sight Health blog and manages our weekly e-newsletter, 4sight Friday. Dave believes that healthcare is a business like any other business, and customers—patients—are king. If you do what's right for patients, good business results will follow.

Dave's personnel experiences with the healthcare system both as a patient and family caregiver have shaped his point of view. It's also been shaped by covering the industry for 35 years as a reporter and editor. He worked at Modern Healthcare for 25 years, the last 11 as editor.

Prior to Modern Healthcare, he did stints at the American Medical Record Association (now AHIMA) and the American Hospital Association. After Modern Healthcare, he wrote a monthly column for Twin Cities Business explaining healthcare trends to a business audience, and he developed and executed content marketing plans for leading healthcare corporations as the editorial director for healthcare strategies at MSP Communications.

When he's not reading and writing about healthcare, Dave spends his time riding the trails of DuPage County, IL, on his bike, tending his vegetable garden and daydreaming about being a lobster fisherman in Maine. He lives in Wheaton, IL, with his lovely wife of 35 years and his three children, none of whom want to be journalists or lobster fishermen.

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