House Rules Committee
Testimony in Opposition to HB 3076
Submitted by the Oregon Collectors Association

While there are many potentially legitimate issues in this bill the items spelled out below create many unintentional problems that create a huge liability to both first and third party business that are collecting on these accounts. The below examples are based off of the -5 amendments which is the same as the base bill just in a different section.

SECION 4

"(4)(a) If a patient qualifies for an adjustment under the financial assistance policy, the hospital or hospital-affiliated clinic may not charge interest on a debt owed by the patient to the hospital or hospital-affiliated clinic.

- Frequently a patient may qualify for financial assistance after assignment to a debt collector. This could make retroactive charity care application a violation for the debt collector, even though federal 501r rules allow up to 240 days for a patient to apply for financial assistance and halt extraordinary Collection Actions.
- What if charity is granted after a judgment has been granted on an account? The courts have ruled they owe the interest, but now what? We believe this would create a potential violation of the unlawful debt collection practices act.
- What if the health care facility erroneously lists the account with a debt collector as having received no financial assistance – there is no safe harbor for clerical errors and this potentially becomes a violation?
- What if there is assistance granted for only one date of service, but other services were included when assigned to a debt collector – this potentially will create different interest rates for different services by the same patient?

(b) The interest that a health care facility may charge on a debt owed by a patient who does not qualify for a discount under the financial assistance policy may not exceed the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the week preceding the date when the patient was first billed, except that the interest may not be less than two percent per annum or more than five percent per annum.

- Accounts are placed with a third party collector months and years after a date of service – how long and where are these records kept? Trying to find these rates long after the fact opens up new liability to all businesses involved.
- A high-earning patient is potentially getting a low interest "loan" to repay their portion of their debt – this could be as low as 2% are year no matter how much money the patient makes a year.
- Often patients have more than one account sent to a debt collector for an event involving health care services. They may have some bills at a variety of interest rates that could be reduced to a judgment, but post-judgment interest will be confusing and almost impossible to track accurately. Some debt collectors may need to file multiple lawsuits to collect on these

multiple debtors. This will create more expense for these patients as they potentially have to deal with more than one judicial proceeding.

- We have found that not all health care facilities track the first bill date. It simply is not and has not been in the software previously. This creates not only liability for hospitals but for third party debt collectors, who do not have the ability to look this date up.
- Debt collectors and health care providers do not have systems sophisticated enough to track many bills at multiple interest rates. This would require wholesale upgrades in the industry.

"(5) A health care provider that has billed a patient or a person to whom a hospital or hospital-affiliated clinic has referred or transferred an unpaid charge for collection of the charge:
"(a) Must provide detailed receipts of all payments made on the charge to permit payers to keep track of payments and provide proof that a payment has been paid or discharged.

- There has already been significant legislation on "plain language billing" at the state and federal levels, and health care providers have complied. This is a new additional document that is already provided under other requirements, or when a patient asks for it by either the health care facility or debt collector. This seems to only open us up for more potential lawsuits filed against us for something that is already done.
- By definition, a health care provider tracks all payments received – if not what are they doing? If for some reason they don't, we, as a third party collector should not be liable for their mistake.

(b) May not attempt to collect a medical or nursing home charge owed by a patient from the patient's spouse, children or other family members who are not financially responsible.

- Is this removing spouse responsibility from a medical debt, changing ORS 108?
- ORS 108 and other laws already cover who is and is not responsible for medical bill. Why would we change the family medical expense statute without actually changing ORS 108.

"(6) Violation of this section is an unlawful collection practice under ORS 646.639.

- Many of these provisions open up a third party debt collector to new liabilities and potential lawsuits based on things that are completely out of their control. If this provision stays in the legislation it should include the word "knowingly"
- It is important to remember that this act is a strict liability statute and has no defense for clerical errors or simple mistakes.
- A violation of this act is also a violation of the Unlawful Trade Practice Act.