

## HOSPITAL COST REPORT

Patient Name: Garcia, B  
DOS: 06/08/xx  
Total Charges \$6,676.99

Provider: Winthrop University Hospital

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### HOSPITAL COST REPORT

Forty-one states (and the District of Columbia)<sup>1</sup> have enacted some version of a hospital lien statute, attaching to proceeds recovered from a tortfeasor liable for the injuries giving rise to the hospital care at issue, normally in the amount of “reasonable charges” for care rendered.

“Reasonable charges” are not defined in most hospital lien statutes, creating a question of fact as to the amount owed pursuant to a statutory hospital lien for “reasonable charges.” This Hospital Cost Report will assist in negotiating for reasonable hospital charges.

The simplest definition of a reasonable charge is a charge which allows the hospital a reasonable profit above its costs. Determining a hospital’s “cost of care” is invaluable to determining reasonable hospital charges. As further described herein, hospitals submit sworn, detailed documentation of their costs annually to the federal government as part of their Medicare reimbursement requirements. Data compiled from these “Hospital Cost Reports” can be used to accurately estimate the hospital’s cost of care.

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<sup>1</sup> See Ala. Code § 35-11-370; Alaska Stat. § 34.35.450; Ariz. Rev. Stat. Ann. § 33-931; Ark. Code Ann. § 18-46-101; Cal. Civ. Code § 3045.1; Colo. Rev. Stat. Ann. § 38-27-101; Conn. Gen. Stat. Ann. § 49-73; Del. Code Ann. tit. 25, § 4301; D.C. Code § 40-201; Ga. Code Ann. § 44-14-470; Haw. Rev. Stat. § 507-4; Idaho Code Ann. § 45-701; 770 Ill. Comp. Stat. Ann. 23/1; Ind. Code Ann. § 32-33-4-1; Iowa Code Ann. § 582; Kan. Stat. Ann. § 65-406; La. Rev. Stat. Ann. § 9:4751; Me. Rev. Stat. tit. 10, § 3411; Md. Code Ann., Com. Law § 16-601; Mass. Gen. Laws Ann. ch. 111, § 70a; Minn. Stat. § 514.68; Mo. Ann. Stat. § 430.230; Neb. Rev. Stat. Ann. §§52-401 & 52-402; Nev. Rev. Stat. Ann. § 108.590; N.H. Rev. Stat. Ann. § 448-A:1; N.J. Stat. Ann § 2a:44-35; N.M. Stat. Ann. § 48-8-1; N.Y. Lien Law § 189; N.C. Gen. Stat. Ann. § 44-49; N.D. Cent. Code Ann. § 35-18-01; Okla. Stat. Ann. tit. 42 §§43 & 44; Or. Rev. Stat. Ann. § 87.555; R.I. Gen. Laws Ann. §§9-3-4 to 9-3-8; S.D. Codified Laws § 44-12-1; Tenn. Code Ann. § 29-22-101; Tex. Prop. Code Ann. § 55.001; Utah Code Ann. § 38-7-1; Vt. Stat. Ann. tit. 18, § 2253; Va. Code Ann. § 8.01-66.2; Wash. Rev. Code Ann. § 60.44.010; Wis. Stat. Ann. § 779.80.

The following findings identify the hospital’s cost of care and describe additional areas of legal concern indicating potential exposure to the facility which should all be brought to the facility’s attention during negotiations. If litigated, the following issues may be separately alleged, with details and supporting documentation sought in discovery.

**A. Corrected Claim; Removal of Non-Billable Goods and Services**

1. **Included in Acuity Scoring.** The following charges represent items which should be properly included in the Emergency Room Acuity Scoring, as these items are indicators allowing the facility to charge for higher ER levels.

Services/Supplies Description	Charge/Unit	Units	Total	Comments
Ther proph dx inj im	\$ 1,089.00	1	\$ 1,089.00	Patient care services comprise the acuity level allowing the facility to charge for the higher ER Levels, This item should be included in the cost of the ER Acuity Scoring.
			<b>\$ 1,089.00</b>	

**B. Reasonable Value of Corrected Claim**

1. **Cost of Care.** The weightiest factor in determining the reasonable value of hospital goods and services is an analysis of the cost of care. A reasonable mark up above cost, i.e. a reasonable “profit,” is the touchstone of a reasonable charge. A hospital’s internal costs are discoverable, admissible, and the concept of cost and profit is easily understood by jurors. Hospitals report their costs, by department/revenue center, to the Federal Government annually in a sworn report. The self-reported costs are as follows:

Description	Billed Charges	Cost
Emergency level III	\$ 2,181.00	\$ 362.70
Venous doppler le extrem bilat	\$ 2,771.00	\$ 640.93
Ketorolac 30mg IV/IM	\$ 49.48	\$ 10.19
	<b>\$ 5,001.48</b>	<b>\$ 1,013.83</b>

\*Note: NYS Hospitals are required to collect the HCRA surcharge (NYS surcharge) to pay to the NYS Department of Health. The tax is 9.63% of the services.

**C. Conclusion and Opinion**

1. **Reasonableness of Billable Charges.** Reasonable value is a pure issue of fact, determinable only by the fact finder. Cost of care and the other billing issues discussed

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herein, are relevant. There are approximately \$1,089.00 in non-billable charges appearing on the attached IB and the cost of care for billable services was approximately \$1,013.83.

- a. **NYS Surcharge.** NYS Hospitals are required to collect a HCRA surcharge (NYS surcharge) to pay to the NYS Department of Health. The tax is 9.63% of the amount collected for patient services. This tax should be applied to the “reasonable value” of care, after non-billable services are removed, and after charges are repriced to the reasonable value of care.
2. **Opinion of Reasonable Value.** The reasonable value of hospital care can be said to be the costs of rendering that care, plus a reasonable profit (plus the NYS Surcharge). Experts have opined that the reasonable profit which should be afforded to hospitals for the care they render is between 25% and 40%. By adding a *generous* profit margin of 50%, and adding the NYS Surcharge, the reasonable value of the care rendered to the above patient is approximately \$1,520.75 ( $\$1,013.83 + 50\% = \$1,520.75$ ). **When the surcharge of 9.63% is added, the reasonable amount due is estimated to be \$1,667.20 ( $\$1520.75 + 146.45 = \$1,667.20$ )**