



Sen. Barack Obama

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LRB093 16098 DRJ 48903 a

1 AMENDMENT TO SENATE BILL 2579

2 AMENDMENT NO. _____. Amend Senate Bill 2579 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Hospital Charity Assistance Act.

6 Section 5. Applicability.

7 (a) This Act does not apply to a hospital that does not
8 charge for its services.

9 (b) The obligations of hospitals under this Act shall apply
10 to services provided on or after the first day of the first
11 month that begins at least 180 days after the effective date of
12 this Act.

13 Section 10. Definitions. In this Act:

14 "Cost of providing services" means a hospital's published
15 charges at the time of billing of an uninsured patient,
16 multiplied by the hospital's most recent relationship of costs
17 to charges taken from the most recently audited Medicare cost
18 report.

19 "Department" means the Illinois Department of Public
20 Health.

21 "Federal poverty level" means the poverty guidelines
22 updated periodically in the Federal Register by the United
23 States Department of Health and Human Services under authority

1 of subsection (2) of Section 9902 of Title 42 of the United
2 States Code.

3 "Financially qualified uninsured patient" means a patient
4 who is uninsured, whose family income is less than 200% of the
5 federal poverty level, and who satisfies the requirements under
6 a hospital's charity assistance policy under Section 20 of this
7 Act.

8 "Hospital" means any facility that is required to be
9 licensed under the Hospital Licensing Act.

10 "Medically necessary service" means any inpatient or
11 outpatient hospital service that is covered by and considered
12 to be medically necessary under Title XVIII of the federal
13 Social Security Act. Medically necessary services do not
14 include any of the following:

15 (1) Non-medical services such as social, educational,
16 and vocational services.

17 (2) Cosmetic surgery.

18 "Uninsured discount" means, with respect to medically
19 necessary services rendered to a financially qualified
20 uninsured patient, a discount that is applied after the
21 hospital's charges are imposed on the patient, due to the
22 patient's determined financial inability to pay the charges.

23 "Uninsured patient" means a patient who has been an
24 Illinois resident for at least one year, who does not have
25 third-party coverage from a health insurer, a health care
26 service plan, Medicare, or Medicaid, and whose injury is not
27 compensable for purposes of workers' compensation, automobile
28 insurance, or other insurance as determined and documented by
29 the hospital. The term does not include any patient who had an
30 opportunity to obtain third-party coverage through his or her
31 employer but did not obtain such coverage.

32 Section 15. Charity assistance policy. Every hospital
33 must adopt a charity assistance policy specifying how the

1 hospital will determine the financial liability for medically
2 necessary services rendered to financially qualified uninsured
3 patients. Every hospital must specify in its policy how the
4 hospital will determine and apply uninsured discounts for
5 services provided to financially qualified uninsured patients.
6 The policy must include:

7 (1) Financial eligibility criteria.

8 (2) Responsibilities and information required of the
9 uninsured patient.

10 (3) A summary of the decision-making process.

11 (4) A description of how the hospital will consider
12 assets available to the uninsured patient in determining
13 whether the uninsured patient qualifies for an uninsured
14 discount. The following are to be considered exempt and
15 shall not be considered in determining whether the
16 uninsured patient qualifies for an uninsured discount:

17 (A) Homestead property.

18 (B) \$2,000 for the uninsured patient, or \$3,000 for
19 the uninsured patient and one dependant residing
20 together.

21 (C) \$50 for each additional dependant residing in
22 the same household.

23 (D) Personal effects and household goods that have
24 a total value of less than \$2,000.

25 (E) A wedding and engagement ring and items
26 required due to medical or physical condition.

27 (F) One automobile with fair market value of \$4,500
28 or less.

29 If the uninsured patient satisfies the requirements
30 established by the hospital to qualify for an uninsured
31 discount and the family income of the uninsured patient is
32 equal to or less than the federal poverty level, the uninsured
33 discount shall be 100% of the charges for the medically
34 necessary services provided to the uninsured patient.

1 If the uninsured patient satisfies the requirements
2 established by the hospital to qualify for an uninsured
3 discount and the family income of the uninsured patient is
4 greater than 100% of the federal poverty level, but less than
5 200% of the federal poverty level, the uninsured discount shall
6 be at least equal to the difference between the charge for
7 medically necessary services and the cost of providing
8 services.

9 Section 20. Patient responsibilities.

10 (a) A hospital's charity assistance policy may require the
11 cooperation of the uninsured patient, as a condition of
12 receiving assistance. That cooperation may include, but need
13 not be limited to, the following:

14 (1) The uninsured patient must cooperate with the
15 hospital in providing information on third-party coverage.
16 If the hospital finds that there is a reasonable basis to
17 believe that the patient may qualify for such assistance,
18 the patient must cooperate in applying for third-party
19 coverage that may be available to pay for the uninsured
20 patient's medically necessary care, including coverage
21 from a health insurer, a health care service plan,
22 Medicare, Medicaid, KidCare, FamilyCare, automobile
23 insurance, worker's compensation, or other insurance.

24 (2) The uninsured patient must provide the hospital
25 with financial and other information requested by the
26 hospital to determine eligibility for charity assistance
27 through the hospital.

28 (3) The uninsured patient or a person acting on his or
29 her behalf must request assistance from the hospital.

30 (4) The uninsured patient who has a payment obligation
31 to the hospital must cooperate with the hospital to
32 establish and comply with a payment plan. The uninsured
33 patient who enters into a payment plan with the hospital

1 shall promptly inform the hospital of any change in
2 circumstances that will impair his or her ability to comply
3 with the payment plan.

4 (b) An uninsured patient who fails to satisfy his or her
5 responsibilities under subsection (a) may be billed by the
6 hospital and is subject to collection activities consistent
7 with the hospital's billing and collection policies and
8 practices for patients who do not qualify for assistance under
9 its charity assistance policy.

10 (c) A financially qualified uninsured patient who fails to
11 comply with a payment plan may be billed by the hospital and is
12 subject to collection activities consistent with the
13 hospital's billing and collection policies and practices for
14 the portion of the bill remaining after the uninsured discount
15 has been applied.

16 Section 25. Notice of policy.

17 (a) Notice of the hospital's charity assistance policy must
18 be clearly and conspicuously posted in locations that are
19 visible to the public, including, but not limited to, all of
20 the following:

- 21 (1) The emergency department, if any.
- 22 (2) The billing office.
- 23 (3) The admissions office.

24 (b) Notice of the hospital's charity assistance policy must
25 be available in brochures that are available to the public in
26 the hospital.

27 (c) The following information must be included on or with
28 the bill sent to an uninsured patient:

29 (1) A request that the patient inform the hospital if
30 the patient has health insurance coverage, Medicare,
31 Medicaid, or other insurance.

32 (2) A statement that if the patient does not have
33 health insurance he or she may be eligible for Medicare,

1 Medicaid, FamilyCare, KidCare, or the hospital's charity
2 assistance program.

3 (3) A statement indicating how the patient may obtain
4 information on how to apply for Medicare, Medicaid,
5 FamilyCare, KidCare, and the hospital's charity assistance
6 program.

7 (4) The hospital contact and phone number for financial
8 assistance programs.

9 (d) The written notices required under this Section shall
10 be available in English and any other language that is the
11 primary language of at least 5% of the patients served by the
12 hospital annually.

13 Section 30. Application forms. Every hospital must make
14 available, upon request by a member of the public, a copy of
15 the application used by the hospital to determine a patient's
16 eligibility for charity assistance.

17 Section 35. Billing.

18 (a) Every hospital must make reasonable efforts to obtain
19 from a patient or his or her representative information about
20 whether private or public health insurance or sponsorship may
21 fully or partially cover the charges for care rendered by the
22 hospital to the patient, including, but not limited to, any of
23 the following:

24 (1) Private health insurance.

25 (2) Medicare.

26 (3) Medicaid, FamilyCare, KidCare, or other
27 state-funded or county-funded programs designed to provide
28 health coverage.

29 (b) If a hospital bills a patient, then upon request from
30 the patient the hospital must provide an itemized statement of
31 charges for services rendered by the hospital within 70 days
32 after receiving the request.

1 Section 40. Debt collection activities.

2 (a) For at least 70 days after an uninsured patient's
3 discharge from a hospital, the hospital or its assignee or
4 billing service shall not file a lawsuit to collect payment on
5 the patient's bill.

6 (b) If an uninsured patient complies with a payment plan
7 that has been agreed to by the hospital, the hospital shall not
8 otherwise pursue collection action against the uninsured
9 patient.

10 (c) If an uninsured patient informs the hospital that he or
11 she has applied for health care coverage in compliance with
12 subsection (a) of Section 20 of this Act, the hospital or its
13 assignee or billing service shall not pursue any collection
14 action against the uninsured patient until a decision has been
15 made on the application for health care coverage or until there
16 is no longer a reasonable basis to believe the patient may
17 qualify for such coverage, whichever is sooner.

18 (d) If an uninsured patient has requested charity
19 assistance from a hospital and is cooperating with the hospital
20 under Section 20 of this Act, the hospital or its assignee or
21 billing service shall not pursue any collection action against
22 the uninsured patient until a determination is made on the
23 uninsured patient's eligibility for charity assistance.

24 Section 45. Availability of policy. Every hospital, upon
25 request, must provide any member of the public and the
26 Department with a copy of its charity assistance policy.

27 Section 50. Enforcement.

28 (a) The Department shall develop and implement a complaint
29 system through which the Department may receive complaints of
30 violations of this Act. The Department shall establish a
31 complaint system or utilize an existing Department complaint

1 system. The complaint system shall include (i) a complaint
2 verification process by which the Department determines the
3 validity of a complaint and (ii) an opportunity for a hospital
4 to resolve the complaint through an informal dispute resolution
5 process.

6 If the complaint is not resolved informally, then the
7 Department shall serve a notice of violation of this Act on the
8 hospital. The notice of violation shall be in writing and shall
9 specify the nature of the violation and the statutory provision
10 alleged to have been violated. The notice shall inform the
11 hospital of the action the Department may take under this Act,
12 the amount of any financial penalty to be imposed, and the
13 opportunity for the hospital to enter into a plan of
14 correction. The notice shall also inform the hospital of its
15 right to a hearing to contest the alleged violation under the
16 Illinois Administrative Procedure Act.

17 (b) If the Department finds that a hospital is in violation
18 of this Act, the hospital may submit to the Department, for the
19 Department's approval, a plan of correction. If a hospital
20 violates an approved plan of correction within 6 months of its
21 submission, the Department may impose a monetary civil penalty
22 on the hospital. For a first violation of an approved plan of
23 correction, the Department may impose a penalty of up to \$100.
24 For a second or subsequent violation of an approved plan of
25 correction, the Department may impose a penalty of up to \$250.
26 The total penalties imposed under this Act against a hospital
27 in 12 month period may not exceed \$5,000.

28 The Department may impose a civil penalty under this
29 Section only after it provides the following to the hospital:

30 (1) Written notice of the alleged violation.

31 (2) Written notice of the hospital's right to request
32 an administrative hearing on the question of the alleged
33 violation.

34 (3) An opportunity to present evidence, orally or in

1 writing or both, on the question of the alleged violation
2 before an impartial hearing examiner appointed by the
3 Director.

4 (4) A written decision from the Director of Public
5 Health, based on the evidence introduced at the hearing and
6 the hearing examiner's recommendations, finding that the
7 hospital violated this Act and imposing the civil penalty.

8 The Attorney General may bring an action in the circuit
9 court to enforce the collection of a monetary penalty imposed
10 under this Section.

11 Moneys in payment of penalties imposed under this Act shall
12 be paid to the Department and deposited into the Nursing
13 Dedicated and Professional Fund.

14 (c) If the Department has a reasonable basis to believe
15 that a hospital has engaged in a pattern of violations of this
16 Act or has failed to adopt policies and procedures to comply
17 with this Act, the Department may issue a written certification
18 of the basis for that belief to the Attorney General. Upon
19 receiving such written certification, the Attorney General
20 may:

21 (1) Require the hospital to file a statement or report
22 in writing as to all information relevant to the alleged
23 violations.

24 (2) Examine under oath any person in connection with
25 the alleged violations.

26 (3) Examine any record, book, document, account or
27 paper necessary to investigate such alleged violations.

28 (4) Bring an action in the name of the People of the
29 State against such hospital to restrain by preliminary or
30 permanent injunction the use of policies or practices that
31 violate this Act.

32 Section 55. Illinois Administrative Procedure Act. The
33 Illinois Administrative Procedure Act shall apply to all

1 administrative rules and procedures adopted by the Department
2 under this Act.

3 Section 60. Administrative Review Law. The Administrative
4 Review Law shall apply to and govern all proceedings for
5 judicial review of final administrative decisions of the
6 Department under this Act.

7 Section 65. Exemptions. The Department may grant an
8 exemption from this Act to a hospital that demonstrates that
9 compliance with the Act will, more likely than not, impose an
10 undue burden on the hospital. Factors to be considered by the
11 Department in deciding whether to grant an exemption include,
12 but are not limited to: the financial condition of the
13 hospital; the impact that compliance will have on the cost of
14 services provided by the hospital; the impact that compliance
15 will have on the quality of services provided by the hospital;
16 and the impact that compliance will have on the community's
17 access to health care services.

18 Section 70. Limitations. Nothing in this Act shall be used
19 by any private or public third-party payer as a basis for
20 reducing the third-party payer's rates or policies. Discounts
21 authorized under this Act shall not be used by any private or
22 public third-party payer to determine a hospital's usual and
23 customary charges for any health care service. Nothing in this
24 Act shall be construed as imposing an obligation on a hospital
25 to provide any particular service or treatment to an uninsured
26 patient. Nothing in this Act shall prohibit hospitals from
27 providing discounts to patients who do not meet the criteria of
28 a financially qualified uninsured patient under this Act.
29 Nothing in this Act shall be construed as imposing an
30 obligation on a hospital to file a lawsuit to collect payment
31 on a patient's bill.

1 Section 75. Home rule. A home rule unit may not regulate
2 hospitals in a manner inconsistent with the provisions of this
3 Act. This Section is a limitation under subsection (i) of
4 Section 6 of Article VII of the Illinois Constitution on the
5 concurrent exercise by home rule units of powers and functions
6 exercised by the State.

7 Section 95. The Hospital Licensing Act is amended by
8 changing Section 7 as follows:

9 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

10 Sec. 7. (a) The Director after notice and opportunity for
11 hearing to the applicant or licensee may deny, suspend, or
12 revoke a permit to establish a hospital or deny, suspend, or
13 revoke a license to open, conduct, operate, and maintain a
14 hospital in any case in which he finds that there has been a
15 substantial failure to comply with the provisions of this Act,
16 ~~or~~ the Hospital Report Card Act, or the Hospital Charity
17 Assistance Act, or the standards, rules, and regulations
18 established by virtue of any ~~either~~ of those Acts.

19 (b) Such notice shall be effected by registered mail or by
20 personal service setting forth the particular reasons for the
21 proposed action and fixing a date, not less than 15 days from
22 the date of such mailing or service, at which time the
23 applicant or licensee shall be given an opportunity for a
24 hearing. Such hearing shall be conducted by the Director or by
25 an employee of the Department designated in writing by the
26 Director as Hearing Officer to conduct the hearing. On the
27 basis of any such hearing, or upon default of the applicant or
28 licensee, the Director shall make a determination specifying
29 his findings and conclusions. In case of a denial to an
30 applicant of a permit to establish a hospital, such
31 determination shall specify the subsection of Section 6 under

1 which the permit was denied and shall contain findings of fact
2 forming the basis of such denial. A copy of such determination
3 shall be sent by registered mail or served personally upon the
4 applicant or licensee. The decision denying, suspending, or
5 revoking a permit or a license shall become final 35 days after
6 it is so mailed or served, unless the applicant or licensee,
7 within such 35 day period, petitions for review pursuant to
8 Section 13.

9 (c) The procedure governing hearings authorized by this
10 Section shall be in accordance with rules promulgated by the
11 Department and approved by the Hospital Licensing Board. A full
12 and complete record shall be kept of all proceedings, including
13 the notice of hearing, complaint, and all other documents in
14 the nature of pleadings, written motions filed in the
15 proceedings, and the report and orders of the Director and
16 Hearing Officer. All testimony shall be reported but need not
17 be transcribed unless the decision is appealed pursuant to
18 Section 13. A copy or copies of the transcript may be obtained
19 by any interested party on payment of the cost of preparing
20 such copy or copies.

21 (d) The Director or Hearing Officer shall upon his own
22 motion, or on the written request of any party to the
23 proceeding, issue subpoenas requiring the attendance and the
24 giving of testimony by witnesses, and subpoenas duces tecum
25 requiring the production of books, papers, records, or
26 memoranda. All subpoenas and subpoenas duces tecum issued under
27 the terms of this Act may be served by any person of full age.
28 The fees of witnesses for attendance and travel shall be the
29 same as the fees of witnesses before the Circuit Court of this
30 State, such fees to be paid when the witness is excused from
31 further attendance. When the witness is subpoenaed at the
32 instance of the Director, or Hearing Officer, such fees shall
33 be paid in the same manner as other expenses of the Department,
34 and when the witness is subpoenaed at the instance of any other

1 party to any such proceeding the Department may require that
2 the cost of service of the subpoena or subpoena duces tecum and
3 the fee of the witness be borne by the party at whose instance
4 the witness is summoned. In such case, the Department in its
5 discretion, may require a deposit to cover the cost of such
6 service and witness fees. A subpoena or subpoena duces tecum
7 issued as aforesaid shall be served in the same manner as a
8 subpoena issued out of a court.

9 (e) Any Circuit Court of this State upon the application of
10 the Director, or upon the application of any other party to the
11 proceeding, may, in its discretion, compel the attendance of
12 witnesses, the production of books, papers, records, or
13 memoranda and the giving of testimony before the Director or
14 Hearing Officer conducting an investigation or holding a
15 hearing authorized by this Act, by an attachment for contempt,
16 or otherwise, in the same manner as production of evidence may
17 be compelled before the court.

18 (f) The Director or Hearing Officer, or any party in an
19 investigation or hearing before the Department, may cause the
20 depositions of witnesses within the State to be taken in the
21 manner prescribed by law for like depositions in civil actions
22 in courts of this State, and to that end compel the attendance
23 of witnesses and the production of books, papers, records, or
24 memoranda.

25 (Source: P.A. 93-563, eff. 1-1-04.)

26 Section 99. Effective date. This Act takes effect upon
27 becoming law."