



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

SB2579

Introduced 2/4/2004, by Barack Obama - Iris Y. Martinez -
Jeffrey M. Schoenberg - Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

New Act
210 ILCS 85/7

from Ch. 111 1/2, par. 148

Creates the Hospital Discriminatory Pricing Reform Act and amends the Hospital Licensing Act. Requires every hospital to develop an "assistance to the uninsured" policy specifying how the hospital will determine the financial liability for services rendered to uninsured patients. Requires that the policy address charity care. Requires notice of the policy to patients. Limits debt collection activities by a hospital. Provides that a violation of the Hospital Discriminatory Pricing Reform Act may subject a hospital to suspension or revocation of its license. Also provides for civil penalties and for a private right of action. Effective immediately.

LRB093 16098 DRJ 41726 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning health facilities.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Hospital Discriminatory Pricing Reform Act.

6 Section 5. Definitions. In this Act:

7 "Chargemaster" means a list of charges for all procedures,
8 services, and supplies.

9 "Cost of providing services" means a hospital's published
10 charges at the time of billing of an uninsured patient,
11 multiplied by the hospital's most recent relationship of costs
12 to charges as taken from the Medicaid cost report.

13 "Department" means the Illinois Department of Public
14 Health.

15 "Federal poverty level" means the poverty guidelines
16 updated periodically in the Federal Register by the United
17 States Department of Health and Human Services under authority
18 of subsection (2) of Section 9902 of Title 42 of the United
19 States Code.

20 "Financially qualified uninsured patient" means a patient
21 who is uninsured and whose family income is less than 300% of
22 the federal poverty level.

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

25 "Medically necessary service" means a service that is
26 reasonably expected to prevent, diagnose, prevent the
27 worsening of, alleviate, correct, or cure a condition that
28 endangers life, causes suffering or pain, causes physical
29 deformity or malfunction, threatens to cause or to aggravate a
30 handicap, or results in illness or infirmity. Medically
31 necessary services include inpatient and outpatient services
32 as mandated under Title XIX of the Federal Social Security Act.

1 Medically necessary services do not include any of the
2 following:

3 (1) Non-medical services, such as social, educational,
4 and vocational services.

5 (2) Cosmetic surgery.

6 "Underinsured" patient means a patient whose deductibles
7 or co-payments, or medical or hospital bills after payment by
8 third-party payers, exceed the patient's ability to pay,
9 determined in accordance with a hospital's charity care policy.

10 "Uninsured allowance" means, with respect to medically
11 necessary services rendered to a financially qualified
12 uninsured patient, an allowance that is applied after the
13 hospital's charges are imposed on the patient, due to the
14 patient's determined financial inability to pay the charges.

15 "Uninsured patient" means a patient who does not have
16 third-party coverage from a health insurer, health care service
17 plan, Medicare, or Medicaid and whose injury is not a
18 compensable injury for purposes of workers' compensation,
19 automobile insurance, or other insurance as determined and
20 documented by the hospital. Uninsured patients may include
21 charity care patients.

22 Section 10. Assistance-to-the-uninsured policy. Every
23 hospital must develop an assistance-to-the-uninsured policy
24 specifying how the hospital will determine the financial
25 liability for services rendered to uninsured patients,
26 including financially qualified uninsured patients.

27 Every hospital must specify in its policy how the hospital
28 will determine and apply uninsured allowances for services
29 provided to financially qualified uninsured patients. An
30 uninsured allowance, at a minimum, must be equal to the
31 difference between the charge for medically necessary services
32 set forth in the hospital's established charge schedule and the
33 cost of providing services.

34 Uninsured allowances may be applied by the hospital to
35 uninsured patients who do not meet the standards for

1 financially qualified uninsured patients.

2 Section 15. Charity care. Each hospital must include in its
3 assistance-to-the-uninsured policy a section addressing
4 charity care patients. The charity care section of the policy
5 must specify the financial criteria and the procedure used by
6 the hospital to determine whether an uninsured or underinsured
7 patient is eligible for charity care. The charity section of
8 the policy must provide for discounts for uninsured and
9 underinsured patients whose income is less than 400% of the
10 federal poverty guidelines. The policy must include all of the
11 following:

- 12 (1) Financial eligibility criteria.
- 13 (2) Financial information required of the patient.
- 14 (3) A review process for charity care decisions.
- 15 (4) An appeals process for charity care decisions.

16 Section 20. Notice of policy.

17 (a) Every hospital must provide each of its patients with
18 oral and written notice of the hospital's
19 assistance-to-the-uninsured policy at the time of admission
20 and discharge. The notice must also be provided to patients who
21 receive emergency or outpatient care and who may be billed for
22 that care but who were not admitted. The notice must be in the
23 language spoken by the patient. All written correspondence to
24 the patient required by this Act must also be language
25 appropriate.

26 (b) Notice of the hospital's assistance-to-the-uninsured
27 policy must be clearly and conspicuously posted in locations
28 that are visible to the public, including, but not limited to,
29 all of the following:

- 30 (1) The emergency department, if any.
- 31 (2) The billing office.
- 32 (3) The Admissions office.
- 33 (4) Other locations that may be determined by the
34 Department, to ensure that patients are informed of the

1 policy.

2 (c) Every hospital must publicly post, in the waiting area
3 of the emergency department (if any), the billing office, the
4 admissions office, and other locations that may be determined
5 by the Department, the most recent charges for the 10
6 most-utilized outpatient services.

7 (d) Every hospital must make available to any member of the
8 public a copy of its current chargemaster.

9 Section 25. Application forms. Every hospital must make
10 available, upon request by any member of the public, a copy of
11 the uninsured-patient application used by the hospital,
12 including the charity care section of that application. The
13 Department, in consultation with interested parties, may also
14 develop a uniform uninsured-patient application to be used by
15 all hospitals. In developing the application, the Department
16 shall consider whether the application used for the medical
17 assistance program under Article V of the Illinois Public Aid
18 Code can be used as or incorporated in the uniform
19 uninsured-patient application.

20 Section 30. Billing.

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

27 (1) Private health insurance.

28 (2) Medicare.

29 (3) Medicaid, FamilyCare, KidCare, or other
30 State-funded or county-funded programs designed to provide
31 health coverage.

32 (b) If a hospital bills a patient, then as a part of that
33 billing the hospital must provide the patient with a clear and
34 conspicuous notice that includes all of the following:

1 (1) An itemized statement of charges for services
2 rendered by the hospital.

3 (2) A request that the patient inform the hospital if
4 the patient has health insurance coverage, Medicare,
5 Medicaid, or other coverage.

6 (3) A statement that if the patient does not have
7 health insurance coverage, he or she may be eligible for
8 Medicare, Medicaid, FamilyCare, KidCare, charity care, or
9 an uninsured allowance.

10 (4) A statement indicating how patients may obtain
11 applications for Medicare, Medicaid, FamilyCare, KidCare,
12 charity care, or an uninsured allowance and that the
13 hospital will provide these applications on request.

14 (c) Every hospital must make available to patients
15 information regarding uninsured and charity care applications,
16 including the following:

17 (1) The hospital contact for resources for additional
18 information regarding charity care.

19 (2) A statement indicating how patients may obtain an
20 uninsured application from the hospital, including an
21 application for a financially qualified uninsured patient.
22 The statement must provide information about the family
23 income requirements for financially qualified uninsured
24 patients as provided in Section 15 and this Section.

25 Section 35. Debt collection activities.

26 (a) In order to facilitate payment by public or private
27 third-party payers, for at least 180 days after a patient's
28 discharge, a hospital or its assignee or billing service is
29 limited to the following debt collection activities:

30 (1) Sending a bill to the patient in accordance with
31 existing law.

32 (2) Attempting to negotiate a payment plan in
33 accordance with subsection (c).

34 (3) Attempting to collect payment from any responsible
35 third-party payer, either public or private.

1 (4) Providing any information that may assist the
2 patient in obtaining coverage through the Medicaid
3 program, FamilyCare or KidCare, or any other public program
4 for which the patient may be eligible.

5 (5) Attempting to make a final determination as to
6 whether the patient may be considered an uninsured patient
7 under the hospital's assistance-to-the-uninsured policy or
8 is eligible for charity care under the hospital's charity
9 care policy.

10 (b) The period described in subsection (a) shall be
11 extended if the patient has a pending appeal for coverage of
12 the services. For purposes of this subsection, "pending appeal"
13 includes any of the following:

14 (1) A grievance against a health care service plan.

15 (2) An independent medical review.

16 (3) A fair hearing for a review of a Medicaid claim.

17 (4) An appeal regarding Medicare coverage consistent
18 with federal law and regulations.

19 (5) An appeal of a workers' compensation judgment.

20 (c) A hospital or its assignee or billing service must use
21 reasonable efforts to negotiate a payment plan. For purposes of
22 this subsection, "reasonable efforts to negotiate a payment
23 plan" means 2 efforts to contact the patient by telephone and 2
24 efforts to contact the patient by mail.

25 Section 40. Notice before collection.

26 (a) Before commencing collection activities against a
27 patient, a hospital, any assignee of the hospital, or any other
28 owner of the patient debt, including a collection agency, must
29 provide the patient with a clear and conspicuous written notice
30 containing both of the following:

31 (1) A plain-language summary of the patient's rights
32 under this Act and the federal Fair Debt Collection
33 Practices Act, Subchapter V (commencing with Section 1692)
34 of Chapter 41 of Title 15 of the United States Code.

35 (2) Information about nonprofit credit counseling

1 services in the area.

2 (b) Every collection agent engaged in collecting a debt
3 from a patient arising from services provided at a hospital
4 must provide written notice as to (i) whether the hospital
5 deems the patient an insured patient, an uninsured patient, or
6 a financially qualified uninsured patient and (ii) the reasons
7 for the determination.

8 (c) The notice required by subsection (b) of Section 30
9 must also accompany any document indicating that the
10 commencement of collection activities may occur.

11 Section 45. Availability of policy. Every hospital, upon
12 request, must provide any member of the public and the
13 Department with a copy of its assistance-to-the-uninsured
14 policy, eligibility procedures, review process, and procedure
15 for determining uninsured pricing.

16 Section 50. Debt collection activities report.

17 (a) Every hospital must annually prepare a debt collection
18 and charity care report that includes whether the hospital uses
19 a collection agent to assist with debt collection, the name of
20 any collection agent used, the hospital's processes and
21 policies for assigning a debt to a collection agent and for
22 compensating the collection agent for services rendered, and
23 the recovery rate on accounts assigned to collection agents
24 (exclusive of Medicare accounts) in the most recent hospital
25 fiscal year. The report must include the following information
26 reported separately for Medicare patients, Medicaid patients,
27 patients with commercial insurance, patients enrolled in a
28 health care plan provided or arranged for by a health
29 maintenance organization, and self-pay patients:

- 30 (1) Number of accounts referred to a collection agency.
31 (2) Number of accounts sold to a collection agency.
32 (3) Number of accounts pursued through court action.
33 (4) Number of charity care applications received.
34 (5) Number of charity care applications approved.

1 (b) A hospital must provide copies of its debt collection
2 and charity care report to any member of the public and the
3 Department upon request.

4 Section 55. Violations; penalties.

5 (a) A determination that a hospital has violated a
6 provision of this Act may result in the suspension or
7 revocation of the hospital's license under the Hospital
8 Licensing Act.

9 (b) A hospital that fails to post a notice required under
10 this Act is subject to a civil penalty of \$500 per day for each
11 day that the required notice is not posted. A hospital that
12 fails to provide notification required under this Act is
13 subject to a civil penalty of \$500 per incident.

14 (c) A hospital that violates Section 35 is subject to a
15 civil penalty of \$15,000 per violation.

16 (d) A hospital that fails to provide information to the
17 public as required under this Act in a timely manner is subject
18 to a civil penalty of \$500 for each incident.

19 (e) A person or hospital that fails to report or falsifies
20 information required to be reported under this Act, or that
21 coerces, threatens, intimidates, or otherwise influences
22 another person to fail to report or to falsify such
23 information, is subject to a civil penalty of up to \$15,000 for
24 each such incident.

25 (f) The Department may impose a civil penalty authorized
26 under this Section after giving written notice of the alleged
27 violation to the hospital or other person and after an
28 administrative hearing at which the hospital or other person
29 has an opportunity to present oral or written evidence. The
30 Attorney General may bring an action in the circuit court to
31 enforce collection of a civil penalty imposed under this
32 Section.

33 Section 60. Private right of action. A patient who is
34 adversely affected by a hospital's violation of this Act may

1 bring an action in a court of competent jurisdiction for such
2 legal or equitable relief as may be appropriate to effectuate
3 the purposes of this Act.

4 Section 90. The Hospital Licensing Act is amended by
5 changing Section 7 as follows:

6 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

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

16 (b) Such notice shall be effected by registered mail or by
17 personal service setting forth the particular reasons for the
18 proposed action and fixing a date, not less than 15 days from
19 the date of such mailing or service, at which time the
20 applicant or licensee shall be given an opportunity for a
21 hearing. Such hearing shall be conducted by the Director or by
22 an employee of the Department designated in writing by the
23 Director as Hearing Officer to conduct the hearing. On the
24 basis of any such hearing, or upon default of the applicant or
25 licensee, the Director shall make a determination specifying
26 his findings and conclusions. In case of a denial to an
27 applicant of a permit to establish a hospital, such
28 determination shall specify the subsection of Section 6 under
29 which the permit was denied and shall contain findings of fact
30 forming the basis of such denial. A copy of such determination
31 shall be sent by registered mail or served personally upon the
32 applicant or licensee. The decision denying, suspending, or
33 revoking a permit or a license shall become final 35 days after
34 it is so mailed or served, unless the applicant or licensee,

1 within such 35 day period, petitions for review pursuant to
2 Section 13.

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

15 (d) The Director or Hearing Officer shall upon his own
16 motion, or on the written request of any party to the
17 proceeding, issue subpoenas requiring the attendance and the
18 giving of testimony by witnesses, and subpoenas duces tecum
19 requiring the production of books, papers, records, or
20 memoranda. All subpoenas and subpoenas duces tecum issued under
21 the terms of this Act may be served by any person of full age.
22 The fees of witnesses for attendance and travel shall be the
23 same as the fees of witnesses before the Circuit Court of this
24 State, such fees to be paid when the witness is excused from
25 further attendance. When the witness is subpoenaed at the
26 instance of the Director, or Hearing Officer, such fees shall
27 be paid in the same manner as other expenses of the Department,
28 and when the witness is subpoenaed at the instance of any other
29 party to any such proceeding the Department may require that
30 the cost of service of the subpoena or subpoena duces tecum and
31 the fee of the witness be borne by the party at whose instance
32 the witness is summoned. In such case, the Department in its
33 discretion, may require a deposit to cover the cost of such
34 service and witness fees. A subpoena or subpoena duces tecum
35 issued as aforesaid shall be served in the same manner as a
36 subpoena issued out of a court.

1 (e) Any Circuit Court of this State upon the application of
2 the Director, or upon the application of any other party to the
3 proceeding, may, in its discretion, compel the attendance of
4 witnesses, the production of books, papers, records, or
5 memoranda and the giving of testimony before the Director or
6 Hearing Officer conducting an investigation or holding a
7 hearing authorized by this Act, by an attachment for contempt,
8 or otherwise, in the same manner as production of evidence may
9 be compelled before the court.

10 (f) The Director or Hearing Officer, or any party in an
11 investigation or hearing before the Department, may cause the
12 depositions of witnesses within the State to be taken in the
13 manner prescribed by law for like depositions in civil actions
14 in courts of this State, and to that end compel the attendance
15 of witnesses and the production of books, papers, records, or
16 memoranda.

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.