

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

26 "Financially qualified uninsured patient" means a patient
27 who is uninsured, whose family income is less than 200% of the
28 federal poverty level, and who satisfies the requirements under
29 a hospital's charity assistance policy under Section 20 of this
30 Act.

31 "Hospital" means any facility that is required to be

1 licensed under the Hospital Licensing Act.

2 "Medically necessary service" means any inpatient or
3 outpatient hospital service that is covered by and considered
4 to be medically necessary under Title XVIII of the federal
5 Social Security Act. Medically necessary services do not
6 include any of the following:

7 (1) Non-medical services such as social, educational,
8 and vocational services.

9 (2) Cosmetic surgery.

10 "Uninsured discount" means, with respect to medically
11 necessary services rendered to a financially qualified
12 uninsured patient, a discount 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 has been an
16 Illinois resident for at least one year, who does not have
17 third-party coverage from a health insurer, a health care
18 service plan, Medicare, or Medicaid, and whose injury is not
19 compensable for purposes of workers' compensation, automobile
20 insurance, or other insurance as determined and documented by
21 the hospital. The term does not include any patient who had an
22 opportunity to obtain third-party coverage through his or her
23 employer but did not obtain such coverage.

24 Section 15. Charity assistance policy. Every hospital
25 must adopt a charity assistance policy specifying how the
26 hospital will determine the financial liability for medically
27 necessary services rendered to financially qualified uninsured
28 patients. Every hospital must specify in its policy how the
29 hospital will determine and apply uninsured discounts for
30 services provided to financially qualified uninsured patients.
31 The policy must include:

32 (1) Financial eligibility criteria.

33 (2) Responsibilities and information required of the
34 uninsured patient.

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

1 (4) A description of how the hospital will consider
2 assets available to the uninsured patient in determining
3 whether the uninsured patient qualifies for an uninsured
4 discount. The following are to be considered exempt and
5 shall not be considered in determining whether the
6 uninsured patient qualifies for an uninsured discount:

7 (A) Homestead property.

8 (B) \$2,000 for the uninsured patient, or \$3,000 for
9 the uninsured patient and one dependant residing
10 together.

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

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

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

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

19 If the uninsured patient satisfies the requirements
20 established by the hospital to qualify for an uninsured
21 discount and the family income of the uninsured patient is
22 equal to or less than the federal poverty level, the uninsured
23 discount shall be 100% of the charges for the medically
24 necessary services provided to the uninsured patient.

25 If the uninsured patient satisfies the requirements
26 established by the hospital to qualify for an uninsured
27 discount and the family income of the uninsured patient is
28 greater than 100% of the federal poverty level, but less than
29 200% of the federal poverty level, the uninsured discount shall
30 be at least equal to the difference between the charge for
31 medically necessary services and the cost of providing
32 services.

33 Section 20. Patient responsibilities.

34 (a) A hospital's charity assistance policy may require the
35 cooperation of the uninsured patient, as a condition of

1 receiving assistance. That cooperation may include, but need
2 not be limited to, the following:

3 (1) The uninsured patient must cooperate with the
4 hospital in providing information on third-party coverage.
5 If the hospital finds that there is a reasonable basis to
6 believe that the patient may qualify for such assistance,
7 the patient must cooperate in applying for third-party
8 coverage that may be available to pay for the uninsured
9 patient's medically necessary care, including coverage
10 from a health insurer, a health care service plan,
11 Medicare, Medicaid, KidCare, FamilyCare, automobile
12 insurance, worker's compensation, or other insurance.

13 (2) The uninsured patient must provide the hospital
14 with financial and other information requested by the
15 hospital to determine eligibility for charity assistance
16 through the hospital.

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

19 (4) The uninsured patient who has a payment obligation
20 to the hospital must cooperate with the hospital to
21 establish and comply with a payment plan. The uninsured
22 patient who enters into a payment plan with the hospital
23 shall promptly inform the hospital of any change in
24 circumstances that will impair his or her ability to comply
25 with the payment plan.

26 (b) An uninsured patient who fails to satisfy his or her
27 responsibilities under subsection (a) may be billed by the
28 hospital and is subject to collection activities consistent
29 with the hospital's billing and collection policies and
30 practices for patients who do not qualify for assistance under
31 its charity assistance policy.

32 (c) A financially qualified uninsured patient who fails to
33 comply with a payment plan may be billed by the hospital and is
34 subject to collection activities consistent with the
35 hospital's billing and collection policies and practices for
36 the portion of the bill remaining after the uninsured discount

1 has been applied.

2 Section 25. Notice of policy.

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

7 (1) The emergency department, if any.

8 (2) The billing office.

9 (3) The admissions office.

10 (b) Notice of the hospital's charity assistance policy must
11 be available in brochures that are available to the public in
12 the hospital.

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

15 (1) A request that the patient inform the hospital if
16 the patient has health insurance coverage, Medicare,
17 Medicaid, or other insurance.

18 (2) A statement that if the patient does not have
19 health insurance he or she may be eligible for Medicare,
20 Medicaid, FamilyCare, KidCare, or the hospital's charity
21 assistance program.

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

26 (4) The hospital contact and phone number for financial
27 assistance programs.

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

32 Section 30. Application forms. Every hospital must make
33 available, upon request by a member of the public, a copy of
34 the application used by the hospital to determine a patient's

1 eligibility for charity assistance.

2 Section 35. Billing.

3 (a) Every hospital must make reasonable efforts to obtain
4 from a patient or his or her representative information about
5 whether private or public health insurance or sponsorship may
6 fully or partially cover the charges for care rendered by the
7 hospital to the patient, including, but not limited to, any of
8 the following:

9 (1) Private health insurance.

10 (2) Medicare.

11 (3) Medicaid, FamilyCare, KidCare, or other
12 state-funded or county-funded programs designed to provide
13 health coverage.

14 (b) If a hospital bills a patient, then upon request from
15 the patient the hospital must provide an itemized statement of
16 charges for services rendered by the hospital within 70 days
17 after receiving the request.

18 Section 40. Debt collection activities.

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

23 (b) If an uninsured patient complies with a payment plan
24 that has been agreed to by the hospital, the hospital shall not
25 otherwise pursue collection action against the uninsured
26 patient.

27 (c) If an uninsured patient informs the hospital that he or
28 she has applied for health care coverage in compliance with
29 subsection (a) of Section 20 of this Act, the hospital or its
30 assignee or billing service shall not pursue any collection
31 action against the uninsured patient until a decision has been
32 made on the application for health care coverage or until there
33 is no longer a reasonable basis to believe the patient may
34 qualify for such coverage, whichever is sooner.

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

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

10 Section 50. Enforcement.

11 (a) The Department shall develop and implement a complaint
12 system through which the Department may receive complaints of
13 violations of this Act. The Department shall establish a
14 complaint system or utilize an existing Department complaint
15 system. The complaint system shall include (i) a complaint
16 verification process by which the Department determines the
17 validity of a complaint and (ii) an opportunity for a hospital
18 to resolve the complaint through an informal dispute resolution
19 process.

20 If the complaint is not resolved informally, then the
21 Department shall serve a notice of violation of this Act on the
22 hospital. The notice of violation shall be in writing and shall
23 specify the nature of the violation and the statutory provision
24 alleged to have been violated. The notice shall inform the
25 hospital of the action the Department may take under this Act,
26 the amount of any financial penalty to be imposed, and the
27 opportunity for the hospital to enter into a plan of
28 correction. The notice shall also inform the hospital of its
29 right to a hearing to contest the alleged violation under the
30 Illinois Administrative Procedure Act.

31 (b) If the Department finds that a hospital is in violation
32 of this Act, the hospital may submit to the Department, for the
33 Department's approval, a plan of correction. If a hospital
34 violates an approved plan of correction within 6 months of its

1 submission, the Department may impose a monetary civil penalty
2 on the hospital. For a first violation of an approved plan of
3 correction, the Department may impose a penalty of up to \$100.
4 For a second or subsequent violation of an approved plan of
5 correction, the Department may impose a penalty of up to \$250.
6 The total penalties imposed under this Act against a hospital
7 in 12 month period may not exceed \$5,000.

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

10 (1) Written notice of the alleged violation.

11 (2) Written notice of the hospital's right to request
12 an administrative hearing on the question of the alleged
13 violation.

14 (3) An opportunity to present evidence, orally or in
15 writing or both, on the question of the alleged violation
16 before an impartial hearing examiner appointed by the
17 Director.

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

22 The Attorney General may bring an action in the circuit
23 court to enforce the collection of a monetary penalty imposed
24 under this Section.

25 Moneys in payment of penalties imposed under this Act shall
26 be paid to the Department and deposited into the Nursing
27 Dedicated and Professional Fund.

28 (c) If the Department has a reasonable basis to believe
29 that a hospital has engaged in a pattern of violations of this
30 Act or has failed to adopt policies and procedures to comply
31 with this Act, the Department may issue a written certification
32 of the basis for that belief to the Attorney General. Upon
33 receiving such written certification, the Attorney General
34 may:

35 (1) Require the hospital to file a statement or report
36 in writing as to all information relevant to the alleged

1 violations.

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

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

6 (4) Bring an action in the name of the People of the
7 State against such hospital to restrain by preliminary or
8 permanent injunction the use of policies or practices that
9 violate this Act.

10 Section 55. Illinois Administrative Procedure Act. The
11 Illinois Administrative Procedure Act shall apply to all
12 administrative rules and procedures adopted by the Department
13 under this Act.

14 Section 60. Administrative Review Law. The Administrative
15 Review Law shall apply to and govern all proceedings for
16 judicial review of final administrative decisions of the
17 Department under this Act.

18 Section 65. Exemptions. The Department may grant an
19 exemption from this Act to a hospital that demonstrates that
20 compliance with the Act will, more likely than not, impose an
21 undue burden on the hospital. Factors to be considered by the
22 Department in deciding whether to grant an exemption include,
23 but are not limited to: the financial condition of the
24 hospital; the impact that compliance will have on the cost of
25 services provided by the hospital; the impact that compliance
26 will have on the quality of services provided by the hospital;
27 and the impact that compliance will have on the community's
28 access to health care services.

29 Section 70. Limitations. Nothing in this Act shall be used
30 by any private or public third-party payer as a basis for
31 reducing the third-party payer's rates or policies. Discounts
32 authorized under this Act shall not be used by any private or

1 public third-party payer to determine a hospital's usual and
2 customary charges for any health care service. Nothing in this
3 Act shall be construed as imposing an obligation on a hospital
4 to provide any particular service or treatment to an uninsured
5 patient. Nothing in this Act shall prohibit hospitals from
6 providing discounts to patients who do not meet the criteria of
7 a financially qualified uninsured patient under this Act.
8 Nothing in this Act shall be construed as imposing an
9 obligation on a hospital to file a lawsuit to collect payment
10 on a patient's bill.

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

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

19 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

20 Sec. 7. (a) The Director after notice and opportunity for
21 hearing to the applicant or licensee may deny, suspend, or
22 revoke a permit to establish a hospital or deny, suspend, or
23 revoke a license to open, conduct, operate, and maintain a
24 hospital in any case in which he finds that there has been a
25 substantial failure to comply with the provisions of this Act,
26 ~~or~~ the Hospital Report Card Act, or the Hospital Charity
27 Assistance Act, or the standards, rules, and regulations
28 established by virtue of any either of those Acts.

29 (b) Such notice shall be effected by registered mail or by
30 personal service setting forth the particular reasons for the
31 proposed action and fixing a date, not less than 15 days from
32 the date of such mailing or service, at which time the
33 applicant or licensee shall be given an opportunity for a

1 hearing. Such hearing shall be conducted by the Director or by
2 an employee of the Department designated in writing by the
3 Director as Hearing Officer to conduct the hearing. On the
4 basis of any such hearing, or upon default of the applicant or
5 licensee, the Director shall make a determination specifying
6 his findings and conclusions. In case of a denial to an
7 applicant of a permit to establish a hospital, such
8 determination shall specify the subsection of Section 6 under
9 which the permit was denied and shall contain findings of fact
10 forming the basis of such denial. A copy of such determination
11 shall be sent by registered mail or served personally upon the
12 applicant or licensee. The decision denying, suspending, or
13 revoking a permit or a license shall become final 35 days after
14 it is so mailed or served, unless the applicant or licensee,
15 within such 35 day period, petitions for review pursuant to
16 Section 13.

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

29 (d) The Director or Hearing Officer shall upon his own
30 motion, or on the written request of any party to the
31 proceeding, issue subpoenas requiring the attendance and the
32 giving of testimony by witnesses, and subpoenas duces tecum
33 requiring the production of books, papers, records, or
34 memoranda. All subpoenas and subpoenas duces tecum issued under
35 the terms of this Act may be served by any person of full age.
36 The fees of witnesses for attendance and travel shall be the

1 same as the fees of witnesses before the Circuit Court of this
2 State, such fees to be paid when the witness is excused from
3 further attendance. When the witness is subpoenaed at the
4 instance of the Director, or Hearing Officer, such fees shall
5 be paid in the same manner as other expenses of the Department,
6 and when the witness is subpoenaed at the instance of any other
7 party to any such proceeding the Department may require that
8 the cost of service of the subpoena or subpoena duces tecum and
9 the fee of the witness be borne by the party at whose instance
10 the witness is summoned. In such case, the Department in its
11 discretion, may require a deposit to cover the cost of such
12 service and witness fees. A subpoena or subpoena duces tecum
13 issued as aforesaid shall be served in the same manner as a
14 subpoena issued out of a court.

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

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

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

32 Section 99. Effective date. This Act takes effect upon
33 becoming law.