

June 8, 2021

**ILLINOIS HEALTH AND HOSPITAL ASSOCIATION
M E M O R A N D U M**

SUBJECT: Community Benefits Act, Hospital Uninsured Patient Discount Act and Fair Patient Billing Act Legislation

This memo summarizes recent state legislation intended to advance health equity by improving access to care for low-income and uninsured individuals.

[Senate Bill 1840](#), which amends both the Illinois Community Benefits Act and the Hospital Uninsured Patient Discount Act (HUPDA) passed the General Assembly and is awaiting Governor Pritzker's signature to become law. The bill was sponsored by leaders of the legislative Black and Latino Caucuses and was an initiative of Cook County Board President Toni Preckwinkle and Cook County Health. The overall intent of the bill is to advance health equity by increasing access to hospital services for uninsured individuals and increasing transparency with respect to financial assistance provided to uninsured individuals by private hospitals. The bill was also supported by advocates for the uninsured, immigrants' rights advocates, community organizations and SEIU.

Although IHA supports the overall goals of the sponsors of SB 1840, there were numerous concerns with many of the provisions as introduced. IHA engaged in negotiations with the proponents and was able to obtain significant modifications to the bill. Below is an outline of the provisions of the final bill and the attached Appendix summarizes the changes from the introduced vs. final legislation.

The provisions of [SB 1840](#) are effective January 1, 2022, unless otherwise noted.

Community Benefits Act (Changes under SB 1840)

This Act does not impact investor-owned, government, small (less than 100 beds) or rural hospitals.

Definitions

IHA was able to better align definitions with industry standards.

- *New* - "Bad debt" means the current period charge for actual or expected doubtful accounting resulting from the extension of credit. (From AICPA Health Care Entities Audit and Accounting Guide).
- Addition - "Charity care" includes the actual cost of services provided based upon the total cost to charge ratio derived from a nonprofit hospital's most recently filed Medicare cost report Worksheet C and not based upon the charges for the services. "Charity care" does not include bad debt. (From [AG-CBP-I reporting form](#))
- *New* - "Financial assistance" means a discount provided to a patient under the terms and conditions the hospital offers to qualified patients or as required by law.

- *New* - "Net patient revenue" means gross service revenue less provisions for contractual adjustments with third-party payors, courtesy and policy discounts, or other adjustments and deductions, excluding charity care. (From AICPA Guide).

Community Benefit Plan

New - The hospital community benefit plan needs to now include activities the hospital is taking to address health equity, reduce disparities and improve community health. This may include, but is not limited to: efforts to recruit and promote a racially and culturally diverse workforce; efforts to procure goods and services locally and from historically underrepresented communities; training that addresses cultural competency and implicit bias; and partnerships and investments to address social needs, such as food, housing and community safety.

Public Annual Report

Hospitals subject to the Act will now need to place their community benefits report that is submitted annually to the Office of Attorney General (OAG) on their website in the same location where annual reports are posted or on a prominent location on the homepage of the hospital's website. However, the hospitals do **not** need to post audited financials which are part of the report submitted to the OAG. The bill also clarifies that community benefits spending may still be reported at the system level and not at the hospital level.

New - Additional information will need to be added to what a hospital posts:

- Charity cost by hospital (individual hospital if part of a system). Note that this information is already reported by each hospital and publically posted on the [Health Facilities & Services Review Board \(HFSRB\) website](#).
- *New* - Charity care costs associated with services provided in a hospital's emergency department shall be reported as a subset of total charity care costs.
- Net patient revenue by hospital (individual hospital if part of a system). This information is also already reported by hospitals and is on the HFSRB website.
- Financial assistance applications submitted complete and incomplete, number approved and number denied. This information is already submitted annually to the OAG on the Hospital Financial Assistance Report.
- *New* – Five most frequent reasons for financial assistance denials.
- *New* - To the extent that race, ethnicity, sex, or preferred language is collected and available for financial assistance applications, the data related to financial assistance applications shall be reported by race, ethnicity, sex, and preferred language. If this data is not provided by the patient, the hospital shall indicate this in its reports. Public reporting of this information shall begin with the community benefit report filed on or after July 1, 2022. A hospital that files a report without having a full year of demographic data as required by this Act may indicate this in its report.

The OAG will now add to their website that the public may request a copy of a community benefit report and who to contact.

Hospital Uninsured Patient Discount Act (Changes under SB 1840)

All hospitals licensed in Illinois are subject to this Act.

Definitions

New - "Financial assistance" means a discount provided to a patient under the terms and conditions a hospital offers to qualified patients or as required by law.

New - "Free and charitable clinic" means a 501(c)(3) tax-exempt healthcare organization providing health services to low-income uninsured or underinsured individuals that is recognized by either the Illinois Association of Free and Charitable Clinics or the National Association of Free and Charitable Clinics.

Eligibility

Revised for urban hospitals – medically necessary services in excess of \$150 (had been \$300).

Maximum collectible amount

Revised to 20% (had been 25%) of the patient's family income. The availability of the maximum collectible amount shall be included in the hospital's financial assistance information provided to uninsured patients. It allows a patient to certify to the *absence* of assets, which may be an eligibility requirement for the maximum collectible amount.

Financial Assistance Application

The hospital's financial assistance application shall include language that directs the uninsured patient to contact the hospital's financial counseling department with questions or concerns, along with contact information for the financial counseling department, and shall state: "Complaints or concerns with the uninsured patient discount application process or hospital financial assistance process may be reported to the Health Care Bureau of the Illinois Attorney General." A website, phone number, or both provided by the Attorney General shall be included with this statement.

The application needs to now ask for an applicant's race, ethnicity, sex, and preferred language. However, the questions shall be clearly marked as optional responses for the patient and shall note that responses or nonresponses by the patient will not have any impact on the outcome of the application.

Financial Assistance Application Period

Revised to allow 90 days (had been 60 days) from date of discharge or service. Federal Section 501(r), applicable to 501(c)(3) hospitals, already requires up to 240 days.

Financial Assistance for uninsured individuals referred for non-emergency services

Hospitals shall offer uninsured patients who receive community-based primary care provided by a Federally Qualified Health Center (FQHC)/community health center or a free and charitable clinic, are referred by such an entity to the hospital, and seek access to nonemergency hospital-based

health care services, with an opportunity to be screened for and assistance with applying for public health insurance programs if there is a reasonable basis to believe that the uninsured patient may be eligible for a public health insurance program.

An uninsured patient who receives community-based primary care provided by an FQHC/community health center or free and charitable clinic and is referred by such an entity to the hospital for whom there is not a reasonable basis to believe that the uninsured patient may be eligible for a public health insurance program shall be given the opportunity to apply for hospital financial assistance *when hospital services are scheduled*.

Residency Verification

A temporary visitor's driver's license is added to the list of the forms of identification allowed to show residency. (This type of license requires Illinois residency for a minimum of 12 months and proof of identity.)

Office of Attorney General

No later than September 1, 2022, the Attorney General shall provide data on the Attorney General's website regarding enforcement efforts performed under this Act from July 1, 2021 through June 30, 2022. Thereafter, no later than September 1 of each year through September 1, 2027, the Attorney General shall annually provide data on the Attorney General's website regarding enforcement efforts performed under this Act from July 1 through June 30 of each year. The data shall include the following:

- (1) The total number of complaints received.
- (2) The total number of open investigations.
- (3) The number of complaints for which assistance in resolving complaints was provided to constituents throughout the State by the Attorney General without resorting to investigations or actions filed.
- (4) The total number of resolved complaints.
- (5) The total number of actions filed.
- (6) A list of the names of facilities found by a pattern or practice to knowingly violate the Act's discount provisions along with any civil penalties assessed against a listed facility.

Fair Patient Billing Act (Changes under HB 158/P.A. 102-004 and HB 3803)

All hospitals licensed in Illinois are subject to this Act.

[Public Act 102-004](#) (HB 158) was signed into law on April 27, 2021. Section 15-5 amends the Fair Patient Billing Act regarding patient notifications. Currently, hospitals must make available information regarding financial assistance from the hospital in the form of either a brochure, an application for financial assistance, or other written material in the admissions and registration area. This information may now be made available electronically and the emergency room is now an added location where it needs to be made available. The information available in the emergency room must occur within 180 days of April 27, which is October 24, 2021.

[HB 3803](#) passed the General Assembly and is currently awaiting the Governor's signature. It also amends the Fair Patient Billing Act and requires hospitals to proactively offer information on charity care options available to uninsured patients, regardless of their immigration status or residency. This new requirement is effective on the first day of the first month following 90 days after becoming law, which is when the Governor signs it. For example, if the Governor signs the bill in August, it will be effective on December 1, 2021.

If you have questions, please [contact IHA](#).