

State of Arkansas
87th General Assembly
Regular Session, 2009

A Bill

HOUSE BILL 2188

By: Representative Blount

For An Act To Be Entitled

AN ACT TO PROTECT CONSUMERS CONCERNING HOSPITAL
COSTS; TO PROVIDE HOSPITAL CHARITY CARE
TRANSPARENCY; TO PROHIBIT UNFAIR DEBT COLLECTIONS
BY HOSPITALS; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO PROVIDE HOSPITAL CHARITY CARE
TRANSPARENCY AND TO PROHIBIT UNFAIR DEBT
COLLECTIONS BY HOSPITALS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 9 is amended to add an
additional subchapter to read as follows:

20-9-1301. Findings.

The General Assembly finds that:

(1) Arkansans through their state and federal taxes provide
hundreds of millions of dollars in payments and essential provider payments
to Arkansas's hospitals annually;

(2) Arkansas's tax-exempt hospitals also enjoy additional
hundreds of millions of dollars in tax exemptions, the cost of which is borne
by taxpaying families and businesses;

(3) Taxpayer support for hospitals is premised on the hospitals'
assurances that the hospitals afford a health care safety net to Arkansas by
providing charity care and other community services;

(4) Many Arkansas families do not have access to adequate health
insurance that fully covers their hospital expenses;



1 (5) Hospital bills are an increasing source of financial
 2 hardship even for working families with health insurance and a leading cause
 3 of personal bankruptcy in Arkansas;

4 (6) It is inconsistent with a hospital's responsibilities to the
 5 community and taxpayers that support it for the hospital to engage in
 6 deceptive or discriminatory pricing and collection practices;

7 (7) A hospital operates unfairly if it fails to disclose,
 8 document, and provide charity care and community service commensurate with
 9 the amount of direct subsidies and tax exemptions it enjoys;

10 (8) It is inconsistent with a hospital's responsibilities to the
 11 community and taxpayers that support it to engage in abusive collection
 12 practices against consumers who are attempting in good faith to pay their
 13 bills; and

14 (9) The American Hospital Association and the Catholic Health
 15 Association and Voluntary Hospital Association have urged hospitals to ensure
 16 transparency in their pricing, collection, and charity policies and
 17 practices, but random surveys demonstrate that pricing transparency has not
 18 become the norm among Arkansas hospitals.

19
 20 20-9-1302. Definition.

21 (1) As used in this subchapter, "hospital" means a facility used
 22 for the purpose of providing inpatient diagnostic care or treatment,
 23 including general medical care, surgical care, obstetrical care, psychiatric
 24 care, and specialized services or specialized treatment that is subject to
 25 the rules and regulations for hospitals in Arkansas.

26 (2) "Hospital" does not mean a facility the primarily provides
 27 long-term care.

28
 29 20-9-1303. Annual reports of charity care.

30 (a) Within one hundred fifty (150) days after the end of a hospital's
 31 fiscal year, the hospital licensed by the Department of Health and any
 32 closely related entity of the hospital shall submit to the department a
 33 report describing, including without limitation:

34 (1) The value of the entity's exemption from and federal, state,
 35 or local tax or licensure fee obligation;

36 (2) The value of any public subsidy received by the entity,

1 including the amount of benefit realized by the hospital from its use of
2 public bonds or other financing, other than public reimbursement for the care
3 of an identifiable patient;

4 (3) The amount of any charity care, provided by the hospital
5 excluding any amounts that have been the subject of collection efforts and
6 which are deemed bad debt under applicable accounting principles; and

7 (4) The amount of any charity care of any uncompensated
8 community service provided by the hospital.

9 (b)(1) A hospital that maintains, either directly or through an
10 affiliated organization, a worldwide website on which it disseminates
11 information to the public regarding its services shall post on the site
12 without limitation:

13 (A) The hospital's joint annual report for each of the
14 five (5) most recent years for which reports are available;

15 (B) A hyperlink to hospital's information posted on the
16 Hospital Compare website operated by the United States Department of Health
17 and Human Services;

18 (C) A copy of the hospital's statement of its charity care
19 policies;

20 (D) A statement of the hospital's financial requirements
21 for admission or treatment, including without limitation the amount of any
22 required financial deposit or prepayment, and the circumstances under which
23 the requirements shall be waived;

24 (E) A plain language description of the debt collection
25 standards, policies, and protections used by the hospital;

26 (F)(i) If the hospital or a related entity is an exempt
27 organization under § 501(c) of the Internal Revenue Code, copies of the IRS
28 Form 990 returns and Schedule H submitted in each of the past five (5) years
29 for the hospital and any related entity.

30 (ii) For purposes of subdivision (c)(F)(i), the
31 hospital shall post only those portions of the returns that are required
32 under federal law to be made publicly available; and

33 (G) A copy of the Form 990 and Schedule H filed by the
34 hospital or its parent organization.

35 (2) The website shall provide conspicuous notice to the public
36 of the availability of the materials listed under subdivision (b)(1) of this

1 section.

2
3 20-9-1304. Fair debt collection practices for hospitals.

4 (a) A hospital, an entity acting as the agent of a hospital, and an
5 assignee or successor in interest of a hospital shall comply with the fair
6 debt collection practices under this section.

7 (b) A hospital shall have a written policy defining standards and
8 practices for the collection of debt incurred by patients for medical
9 treatment or supplies furnished by the hospital, including without limitation
10 policies that:

11 (1) Prohibit the hospital from turning a patient's bill over to
12 a collection agent for one hundred eighty (180) days after the patient
13 receives the bill;

14 (2) Bar the hospital from charging interest on patient debt;

15 (3) Require hospitals to screen patients for eligibility for
16 public programs for the reimbursement of hospital costs;

17 (4) Require third parties collecting the hospital's debt to
18 abide by the hospital's debt collection policies; and

19 (5) Establish standards for determining the financial ability of
20 a patient or the patient's guarantors to pay for treatment or supplies
21 received from the hospital, taking into account without limitation the
22 person's:

23 (A) Available assets;

24 (B) Family size;

25 (C) Income; and

26 (D) Reasonably anticipated future medical expenses based
27 on the patient's or the guarantor's current medical condition and other
28 financial obligations.

29 (c) A hospital, its agent, assignee, or successor in interest shall
30 not demand from a patient or the patient's guarantor payment for medical
31 treatment or supplies in amounts or on a schedule that exceeds the person's
32 ability to pay as determined under the hospital's standards and policies
33 established under subsection (b) of this section.

34 (d) When seeking payment for treatment or supplies that a hospital has
35 provided to a patient, the hospital, its agent, assignee, or successor in
36 interest shall not garnish wages, execute against, or file a lien on real

1 property that is the patient's or the patient's guarantor's primary residence
2 unless there has been a judicial finding that:

3 (1)(A) The patient or the patient's guarantor has the financial
4 means to immediately pay the full balance owed but willfully refuses to pay;
5 or

6 (B) The patient or the patient's guarantor has the
7 financial means to pay the balance in installments, has been afforded a
8 reasonable opportunity to do so, but has willfully failed to pay installments
9 when they were due; and

10 (2) In the case of an execution or lien against real property,
11 the property is not the primary residence of a spouse or of a minor or
12 disabled child of the patient or the patient's guarantor.

13 (e) A judicial finding that involves a determination of the patient's
14 or the patient's guarantor's ability to pay a hospital bill shall take into
15 account a person's:

16 (A) Available assets;

17 (B) Family size;

18 (C) Income; and

19 (D) Reasonably anticipated future medical expenses based
20 on the patient's or the guarantor's current medical condition.

21 (f) A hospital, its agent, assignee, or successor interest shall
22 provide the patient or the patient's guarantor a copy of the hospital's
23 policy required by subsection (b) of this section, and a plain language
24 description of the rights and protections guaranteed by subsections (c) and
25 (d) of this section:

26 (1) If:

27 (A) The hospital, its agent, assignee, or successor
28 interest sends a patient or the patient's guarantor its first communication
29 seeking payment;

30 (B) The patient or the patient's guarantor requests a copy
31 of the hospital's bill; and

32 (C) The hospital, its agent, assignee, or successor
33 interest files suit against the patient or the patient's guarantor to collect
34 a debt for hospital treatment or supplies; and

35 (2) At least five (5) days before seeking or accepting from the
36 patient or the patient's guarantor a payment plan, contract, or accord and

1 settlement of any debt for hospital treatment or supplies.

2 (g) This section does not apply to collection efforts directed at a
3 tortfeasor or at a government or private third-party insurer.

4
5 20-9-1305. Rules.

6 The State Board of Health shall adopt rules to implement this
7 subchapter.