

HOUSE BILL NO. 45

INTRODUCED BY B. KEENAN

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO HOSPITAL ~~CHARITY CARE~~
FINANCIAL ASSISTANCE AND COMMUNITY BENEFIT REQUIREMENTS; AUTHORIZING THE
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ESTABLISH ~~CHARITY CARE FINANCIAL~~
ASSISTANCE AND COMMUNITY BENEFIT STANDARDS FOR NONPROFIT HOSPITALS; ESTABLISHING
~~CHARITY CARE FINANCIAL ASSISTANCE~~ AND COMMUNITY BENEFIT REPORTING REQUIREMENTS;
PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 50-5-106, 50-5-112, 50-5-121, AND
50-5-245, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-5-106, MCA, is amended to read:

"50-5-106. Records and reports required of health care facilities -- confidentiality. (1) Health
care facilities shall keep records and ~~make reports as required by~~ PROVIDE THE RECORDS AT THE REQUEST OF the
department.

(2) ~~Before February 1 April 15 of each year, every~~ EVERY licensed health care facility shall submit
an annual report for the preceding calendar year to the department.

(3) ~~Before April 15 of each year, every~~ EVERY hospital, CRITICAL ACCESS HOSPITAL, OR RURAL
EMERGENCY HOSPITAL that is operating as a nonprofit health care facility UNDER SECTION 501(C)(3) OF THE
INTERNAL REVENUE CODE, 26 U.S.C. 501(C)(3), shall submit to the department:

(a) ~~both a charity care report and a community benefit report for the preceding year~~ A COPY OF
INTERNAL REVENUE SERVICE FORM 990 SCHEDULE H AND ASSOCIATED WORKSHEETS; and

(b) ~~both a charity care plan~~ FINANCIAL ASSISTANCE POLICY and a community benefit plan for the
current calendar year.

(4) ~~(a) The report~~ Reports required under this section must be ~~on forms and contain information~~

1 ~~specified by the department~~ PROVIDED TO THE DEPARTMENT WITHIN 30 DAYS OF FILING THE REQUIRED FORMS WITH
2 THE INTERNAL REVENUE SERVICE ANNUALLY.

3 ~~(b) To the extent practicable, the department shall limit the information to be submitted for the~~
4 ~~charity care and community benefit reports required under subsection (3)(a) to data that is already being~~
5 ~~collected by the hospital.~~

6 (5) Information received by the department through reports, inspections, or provisions of parts 1
7 and 2 may not be disclosed in a way ~~which that~~ would identify patients. A department employee who discloses
8 information that would identify a patient must be dismissed from employment and subject to the provisions of
9 45-7-401 and 50-16-551, if applicable, unless the disclosure was authorized as permitted by law.

10 (6) Information and statistical reports from health care facilities ~~which that~~ are considered
11 necessary by the department for health planning and resource development activities must be made available
12 to the public and the health planning agencies within the state. Applications by health care facilities for
13 certificates of need and any information relevant to review of these applications, pursuant to part 3, must be
14 accessible to the public."
15

16 **Section 2.** Section 50-5-112, MCA, is amended to read:

17 **"50-5-112. Civil penalties.** (1) ~~A~~ Except as provided in 50-5-121, a person who commits an act
18 prohibited by 50-5-111 is subject to a civil penalty not to exceed \$1,000 for each day that a facility is in violation
19 of a provision of part 1 or 2 of this chapter or of a rule, license provision, or order adopted or issued pursuant to
20 part 1 or 2. The department or, upon request of the department, the county attorney of the county in which the
21 health care facility in question is located may petition the court to impose the civil penalty. Venue for an action
22 to collect a civil penalty pursuant to this section is in the county in which the facility is located.

23 (2) In determining the amount of penalty to be assessed for an alleged violation under this section,
24 the court shall consider:

25 (a) the gravity of the violation in terms of the degree of physical or mental harm to a resident or
26 patient;

27 (b) the degree of harm to the health, safety, rights, security, or welfare of a resident or patient;

28 (c) the degree of deviation committed by the facility from a requirement imposed by part 1 or 2 of

- 1 this chapter or by a rule, license provision, or order adopted or issued pursuant to part 1 or 2; and
- 2 (d) other matters as justice may require.
- 3 (3) A penalty collected under this section must be deposited in the state general fund.
- 4 (4) In addition to or exclusive of the remedy provided in subsection (1), the department may pursue
- 5 remedies available for a violation, as provided for in 50-5-108, or any other remedies available to it."
- 6

7 **Section 3.** Section 50-5-121, MCA, is amended to read:

8 **"50-5-121. Hospital discrimination based on ability to pay prohibited -- community benefit and**

9 **charity care FINANCIAL ASSISTANCE requirements -- rulemaking authority.** (1) ~~(a) Except as provided in~~

10 ~~subsection (3), a~~ A hospital, CRITICAL ACCESS HOSPITAL, OR RURAL EMERGENCY HOSPITAL must have in writing:

11 ~~(a)~~ a policy applying to all patients, including medicaid and medicare patients, that prohibits

12 discrimination based on a patient's ability to pay; and

13 ~~(b) a charity care policy consistent with industry standards applicable to the area the facility serves~~

14 ~~and the tax status of the hospital.~~

15 ~~(2)(b)(2)~~ A hospital, CRITICAL ACCESS HOSPITAL, OR RURAL EMERGENCY HOSPITAL may not transfer

16 a patient to another hospital or health care facility based on the patient's ability to pay for health care services.

17 ~~(2)(3)~~ (a) A hospital operating as a nonprofit health care facility must have in writing:

18 ~~(i)~~ a ~~charity care~~ FINANCIAL ASSISTANCE policy consistent with federal standards and standards

19 established by the department, applicable to the area the hospital serves; and

20 ~~(ii)~~ a community benefit policy consistent with federal standards and standards established by the

21 department.

22 ~~(b)~~ A hospital, CRITICAL ACCESS HOSPITAL, OR RURAL EMERGENCY HOSPITAL operating as a nonprofit

23 health care facility shall:

24 ~~(i)~~ adhere to the written ~~charity care~~ FINANCIAL ASSISTANCE and community benefit policies; and

25 ~~(ii)~~ make the policies available to the public.

26 ~~(3) A specialty hospital must have in writing a charity care policy consistent with industry standards for~~

27 ~~nonprofit hospitals irrespective of the tax status of the specialty hospital.~~

28 ~~(3)(4)~~ No later than July 1, 2024, the department shall adopt rules to implement the ~~charity care~~

1 FINANCIAL ASSISTANCE and community benefit requirements of this part, WHICH MUST BE SPECIFIC TO THE HOSPITAL
2 AND THE AREA OR AREAS IT SERVES, including RULES MUST INCLUDE but ARE not limited to rules to THAT:

3 (a) define ~~charity care~~ FINANCIAL ASSISTANCE and community benefit CONSISTENT WITH FEDERAL
4 STANDARDS, WHEREVER POSSIBLE;

5 (b) establish the standards for community benefit and ~~charity care~~ FINANCIAL ASSISTANCE applicable
6 to hospitals operating as nonprofit health care facilities CONSISTENT WITH FEDERAL STANDARDS, WHEREVER
7 POSSIBLE; AND

8 (c) ~~establish the information to be reported and verified to ensure a hospital operating as a~~
9 ~~nonprofit health care facility is complying with charity care and community benefit standards; and~~

10 (d)(c) establish penalties for failing to comply with 50-5-106 and this section. ~~The penalties may be in~~
11 ~~addition to the penalties provided for in 50-5-112.~~"

12

13 **Section 4.** Section 50-5-245, MCA, is amended to read:

14 **"50-5-245. Department to license specialty hospitals -- standards -- rulemaking -- moratorium.**

15 (1) Subject to subsection (4), the department shall license specialty hospitals using the requirements for
16 licensure of hospitals and the procedure provided for in parts 1 and 2 of this chapter.

17 (2) Prior to approving an application under this section, the department shall adopt rules that are
18 necessary to implement and administer this section.

19 (3) Notwithstanding the requirements of subsection (1), the department may not accept an
20 application or issue a license for a specialty hospital before July 1, 2009.

21 (4) A health care facility licensed by the department and in existence on May 8, 2007, may not
22 change its licensure status in order to qualify for licensure as a specialty hospital unless the health care facility
23 is licensed as a hospital and the hospital is not subject to the provisions of 50-5-246 and subsections (5)
24 through (9) of this section.

25 (5) A specialty hospital meets the 24-hour emergency care requirements for a hospital, as defined
26 in 50-5-101, if it has an agreement with a hospital in the area served by the specialty hospital stating that the
27 hospital will provide 24-hour emergency care to patients of the specialty hospital.

28 (6) A specialty hospital applying for a license must have:

1 (a) a ~~charity care~~ FINANCIAL ASSISTANCE policy meeting the provisions of 50-5-121 ~~and, if~~
2 ~~applicable, subsection (9) of this section~~ if the hospital will be operating as a nonprofit health care facility or
3 meeting the provisions of subsection (9) of this section, if applicable; and

4 (b) a joint venture relationship with a hospital; or

5 (c) a signed statement from a ~~nonprofit~~ hospital operating as a nonprofit health care facility in the
6 community acknowledging that the hospital declined a bona fide, good faith opportunity to participate in a joint
7 venture with the applicant.

8 (7) A specialty hospital owned by physicians and proposed as a joint venture with a ~~nonprofit~~
9 hospital operating as a nonprofit health care facility in the community may be licensed if:

10 (a) the majority of partnering physicians hold active privileges with the joint venture hospital; and

11 (b) the partnering hospital holds an ownership interest of at least 50%.

12 (8) This section does not prohibit physicians who are partners in a specialty hospital that is
13 proposed as a joint venture from managing the specialty hospital.

14 (9) The ~~charity care~~ FINANCIAL ASSISTANCE policy for a specialty hospital applying as a joint venture
15 with a ~~nonprofit~~ hospital operating as a nonprofit health care facility in the community must be the same as the
16 policy used by the ~~nonprofit~~ hospital."
17

18 **NEW SECTION. Section 5. Transition.** (1) The department of public health and human services may
19 not require the submission of the ~~charity care report~~ FINANCIAL ASSISTANCE POLICY and community benefit report
20 required under [this act] until the department has adopted rules specifying the information to be reported.

21 (2) A hospital ~~charity care~~ FINANCIAL ASSISTANCE policy required under [this act] may comply with
22 only federal ~~charity care~~ FINANCIAL ASSISTANCE standards until the department of public health and human
23 services has adopted rules specifying state standards for the policy.

24 - END -