

**Senate Bill No. 379**

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Passed the Senate August 25, 2004

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*Secretary of the Senate*

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Passed the Assembly August 23, 2004

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2004, at \_\_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to add Article 3 (commencing with Section 127400) to Chapter 2 of Part 2 of Division 107 of the Health and Safety Code, relating to hospitals.

## LEGISLATIVE COUNSEL'S DIGEST

SB 379, Ortiz. Statewide health planning and development: hospitals: charity care and reduced payment policies and applications.

Existing law provides for the Office of Statewide Health Planning and Development, which is charged with enforcement of various provisions of law relating to health facilities, including hospitals, as defined.

This bill, which would be operative on June 1, 2005, would require each general acute care hospital, acute psychiatric hospital, and special hospital, except a facility owned or operated by the State Department of Mental Health or the Department of Corrections, to develop a charity care and reduced payment policy, as defined, specifying the financial criteria and procedure used by the hospital to determine whether a patient is eligible for defined charity care or payment allowances, and a charity care and reduced payment application, as defined, in accordance with requirements established by the bill. It would require each hospital to perform various functions in this regard, including notifying patients of the hospital's charity care and reduced payment policy in a language-appropriate manner.

The bill would authorize the office to develop a charity care and reduced payment application or standard elements for each hospital's application, in consultation with interested parties. It would also limit debt collection activities of a hospital and its agents, collection agencies, or assignees for the first 150 days after discharge of a patient who received treatment under a charity care or reduced payment policy.



*The people of the State of California do enact as follows:*

SECTION 1. Article 3 (commencing with Section 127400) is added to Chapter 2 of Part 2 of Division 107 of the Health and Safety Code, to read:

Article 3. Charity Care Policies

127400. As used in this article, the following terms have the following meanings:

(a) “Charity care and reduced payment application” means the statewide charity care and reduced payment application developed by each hospital that is subject to the requirements of this article.

(b) “Charity care and reduced payment policy” means the financial criteria and the procedure used by a hospital to determine whether a patient is eligible for charity care or reduced payment pursuant to Section 127405, the process by which the hospital reviews its charity care and reduced payment decisions, and the reduced payment schedule adopted by the hospital.

(c) “Hospital” means any facility that is required to be licensed under subdivision (a), (b), or (f) of Section 1250, except a facility owned or operated by the State Department of Mental Health or the Department of Corrections.

(d) “Office” means the Office of Statewide Health Planning and Development.

(e) “Reduced payment schedule” means a schedule of payment allowances that is applicable to persons deemed eligible by the hospital for reduced cost care.

(f) “Uninsured” means a person who does not have health insurance and is not currently covered by any third-party payer program.

(g) “Underinsured” means a person whose deductibles, copayments, or medical or hospital bills after payment by third-party payers exceed the patient’s ability to pay as determined in accordance with the hospital’s charity care and reduced payment policy.

127405. (a) Each hospital shall develop a charity care and reduced payment policy and application that meets the requirements of this article.



(b) Each hospital's charity care and reduced payment policy shall, at a minimum, provide that patients whose income is at or below 400 percent of the federal poverty level are eligible to receive financial assistance in the form of charity care or payment allowances.

(c) Each hospital's charity care and reduced payment policy shall limit the payment liability of eligible persons to the payment that is the equivalent to the higher of the payments the hospital would receive from Medicare, Medicaid, or workers' compensation for the applicable service.

127410. (a) Each hospital shall provide patients with oral and written notice of the hospital's charity care and reduced payment policy if clinically appropriate at the time of admission, and during the discharge process, in a manner similar to that required pursuant to Section 12693.30 of the Insurance Code. All written correspondence to the patient required by this article shall also be language appropriate.

(b) A general description of the hospital's charity care and reduced payment policy shall be clearly and conspicuously posted in locations that are visible to the public, including, but not limited to, all of the following:

- (1) Emergency department, if any.
- (2) Billing office.
- (3) Waiting rooms.
- (4) Outpatient settings.

(5) Any other location determined by the office to ensure that all patients are informed of the policy and informed about how to obtain a copy of the policy and related information.

(c) The general description described in subdivision (b) shall include, but not be limited to, all of the following:

- (1) A description of the types of services that are provided.
- (2) A description of the financial criteria used to determine eligibility for charity care and reduced payment.
- (3) Information about the hospital's reduced payment schedule.
- (4) Information about how to apply for charity care or reduced payments.

(5) A statement inviting comments and complaints regarding the hospital's policy, including directions on how to submit comments.



127415. The office, in consultation with interested parties, may develop a uniform charity care and reduced payment application or standard elements for each hospital's charity care and reduced payment application. In developing the application or elements, the office shall consider the application used for the Medi-Cal program and the Healthy Families Program.

127420. (a) Each hospital shall attempt to obtain from the patient or his or her representative information about whether private or public health insurance or sponsorship may fully or partially cover the charges for care rendered by the hospital to a patient, including, but not limited to, any of the following:

- (1) Private health insurance.
- (2) Medicare.
- (3) The Healthy Families Program.
- (4) The Medi-Cal program.
- (5) California Children's Services Program.

(b) If a patient has not provided proof of coverage by a third party at the time care is provided or upon discharge, the hospital, as part of any billing to the patient, shall provide the patient with a clear and conspicuous notice that includes each of the following:

(1) A statement of charges for services rendered by the hospital.

(2) A request that the patient inform the hospital if the patient has health insurance coverage, or coverage under Medicare, the Healthy Families Program, the Medi-Cal program, or other coverage.

(3) A statement that if the consumer does not have health insurance coverage, he or she may be eligible for coverage under Medicare, the Healthy Families Program, the Medi-Cal program, the California Children's Services Program, or charity care or reduced payment.

(4) A statement indicating how patients may obtain applications for the Medi-Cal program and the Healthy Families Program and that the hospital will provide these applications on request. If, at the time care is provided, the patient does not show proof of coverage by a third-party payer specified in subdivision (a), the hospital may send an application for the Medi-Cal program and the Healthy Families Program to the patient. This application may accompany the billing or may be sent separately.



(5) Information regarding charity care and reduced payment application, including the hospital contact for additional information and a statement indicating how patients may obtain a charity care and reduced payment application from the hospital.

(c) For the purposes of the notice required under subdivision (b), a hospital may incorporate the items required into its existing billing statements and shall not be required to develop a separate notice.

127425. (a) In order to facilitate payment by public or private third-party payers, debt collection activities of a hospital and its agents, collection agencies, or assignees for the first 150 days after discharge or the date health care services are provided shall be limited to the following:

(1) Billing and collecting from a patient an amount due.

(2) Attempting to negotiate payment of the bill or a payment plan in accordance with this article.

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

(4) Providing any information that may assist the patient in obtaining coverage through the Medi-Cal program, Healthy Families Program, or any other public program for which the patient may be eligible.

(5) Assisting the patient in applying under the hospital's charity care and reduced payment policy.

(6) Attempting to make a final determination as to whether the patient is eligible for charity care or reduced payment under the hospital's charity care and reduced payment policy.

(7) Providing any notices required by state or federal law.

(b) (1) A hospital, or the hospital's agent, collection agency, or assignee, performing the hospital's obligation under this subdivision, shall use reasonable efforts to negotiate a payment plan during the time period specified in subdivision (a).

(2) For the purposes of this subdivision, reasonable efforts to negotiate a payment plan shall consist of two efforts to contact the patient by telephone and two efforts to contact the patient by mail. This requirement shall not apply if the patient has requested that the hospital, or the hospital's agent, collection agency, or assignee, not contact the patient.

(c) After the time period specified in subdivision (a) has elapsed, the hospital or its agent, collection agency, or assignee



may engage in any other debt collection activity otherwise permitted by law, including reporting nonpayment or any other adverse information to a consumer credit reporting agency, any other adverse action, as defined in Section 1785.3 of the Civil Code, and commencing any civil action against the patient for nonpayment.

(d) Notwithstanding subdivision (c), a hospital or the hospital's agent, collection agency, or assignee, shall not use wage garnishments or liens on primary residences as a means of collecting unpaid hospital bills for patients who qualify for charity care and reduced payments under Section 127405.

(e) Nothing in the section shall be construed to diminish or remove any protections that consumers have under existing state and federal debt collection laws.

127435. Each hospital shall annually provide to the office a copy of its charity care and reduced payment policy, eligibility procedures, review process, and procedure for determining reduced payments, in a format determined by the office.

127436. To the extent that any requirement of Section 127405 results in a federal determination that a hospital's established charge schedule or published rates are not the hospital's customary or prevailing charges for services, the requirement in question shall be inoperative with respect to a hospital that is licensed to, and operated by, a county or a hospital authority established pursuant to Section 101850. The State Department of Health Services shall seek federal guidance regarding modifications to the requirement in question. All other requirements of this article shall remain operative.

127437. Nothing in this article shall be construed to prohibit a hospital from uniformly imposing charges from its established charge schedule or published rates, nor shall this article preclude the recognition of a hospital's established charge schedule or published rates for the Medi-Cal program and the Medicare program reimbursement charges.

127438. Notwithstanding any other provision of law, the amounts paid by parties for services resulting from the schedule of payment allowances that are applied under a hospital's charity care and reduced payment policy shall not constitute a hospital's uniform, published, prevailing, or customary charges, its usual fees to the general public, or its charges to non-Medi-Cal



purchasers under comparable circumstances, for purposes of any payment limit under the federal medicaid program, the Medi-Cal program, or any other federal- or state-financed health care program.

127439. This article shall become operative on June 1, 2005.



Approved \_\_\_\_\_, 2004

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*Governor*

