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HOUSE BILL 16

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Eleanor Chavez

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH CARE; REQUIRING HOSPITALS TO LIMIT CHARGES TO UNINSURED RESIDENTS OF THE STATE; PROVIDING FOR A SLIDING SCALE OF CHARGES A HOSPITAL MAY CHARGE UNINSURED RESIDENTS OF THE STATE WHOSE GROSS HOUSEHOLD INCOMES ARE LESS THAN FIVE HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 24-1-5.8 NMSA 1978 (being Laws 2003, Chapter 426, Section 1) is amended to read:

"24-1-5.8. LEGISLATIVE FINDINGS--LICENSING REQUIREMENTS FOR CERTAIN HOSPITALS--LIMITING CHARGES TO UNINSURED PATIENTS.---

~~[A. The legislature finds that:~~

~~(1) acute care general hospitals throughout New Mexico operate emergency departments and provide vital emergency medical services to patients requiring immediate~~

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1 ~~medical care; and~~

2 ~~(2) federal and state laws require hospitals~~  
3 ~~that operate an emergency department to provide certain~~  
4 ~~emergency services and care to any person, regardless of that~~  
5 ~~person's ability to pay. Accordingly, these hospitals~~  
6 ~~encounter significant financial losses when treating uninsured~~  
7 ~~or underinsured patients.~~

8 B.] A. As used in this section:

9 (1) "limited service hospital" means a  
10 hospital that limits admissions according to medical or  
11 surgical specialty, type of disease or medical condition, or a  
12 hospital that limits its inpatient hospital services to  
13 surgical services or invasive diagnostic and treatment  
14 procedures; provided, however, that a "limited service  
15 hospital" does not include:

16 (a) a hospital licensed by the  
17 department as a special hospital;

18 (b) an eleemosynary hospital that does  
19 not bill patients for services provided; or

20 (c) a hospital that has been granted a  
21 license prior to January 1, 2003;

22 (2) "department" means the department of  
23 health; ~~and~~

24 (3) "low-income patient" means a patient whose  
25 ~~[family or]~~ gross household income does not exceed two hundred

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1 percent of the federal poverty level;

2 (4) "household" means a group of related or  
3 unrelated individuals who are not residents of an institution  
4 or boarding house but who are living as one economic unit;

5 (5) "major medical health coverage" means a  
6 hospital and medical expense-incurred policy, plan or contract  
7 offered by a health insurer; nonprofit health service provider;  
8 health maintenance organization; managed care organization;  
9 provider service organization; or public health coverage  
10 program; "major medical health coverage" does not include:

11 (a) an individual policy intended to  
12 supplement major medical health coverage such as medicare  
13 supplement, long-term care, disability income, specified  
14 disease, accident-only, hospital indemnity or any other  
15 limited-benefit health insurance policy; or

16 (b) access to health care exclusively  
17 through the federal Indian health service or a tribal health  
18 care delivery program established pursuant to Section 638 of  
19 the federal Indian Self-Determination and Education Assistance  
20 Act; and

21 (6) "uninsured resident of the state" means an  
22 individual who is a resident of the state and who has no major  
23 medical health insurance coverage.

24 ~~[G.]~~ B. The department shall issue a license to an  
25 acute-care or general hospital or a limited ~~[services]~~ service

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1 hospital that agrees to:

2 (1) continuously maintain and operate an  
3 emergency department that provides emergency medical services  
4 as determined by the department;

5 (2) participate in the medicaid, medicare and  
6 county indigent care programs;

7 (3) require a physician owner to disclose a  
8 financial interest in the hospital before referring a patient  
9 to the hospital;

10 (4) comply with the same quality standards  
11 applied to other hospitals;

12 (5) provide emergency services and general  
13 health care to nonpaying patients and low-income reimbursed  
14 patients in the same proportion as the patients are treated in  
15 acute-care general hospitals in the local community, as  
16 determined by the department in consultation with a statewide  
17 hospital organization, the government of the county in which  
18 the facilities are located and the affected hospitals; provided  
19 that:

20 (a) a hospital may appeal the  
21 determination of the department pursuant to Section 39-3-1.1  
22 NMSA 1978; and

23 (b) the annual cost of the care required  
24 to be provided pursuant to this paragraph shall not exceed an  
25 amount equal to five percent of the hospital's annual revenue;

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1 and

2 (6) require a health care provider to disclose  
3 a financial interest before referring a patient to the  
4 hospital.

5 C. In addition to the requirements in Subsection B  
6 of this section, the department shall issue a license to an  
7 acute-care or general hospital or a limited service hospital  
8 that agrees to charge a patient who is an uninsured resident of  
9 the state an amount no greater than one hundred fifteen percent  
10 of the applicable payment rate under the federal medicare  
11 program for emergency and general health care services rendered  
12 to the uninsured patient. The amount charged to an uninsured  
13 resident of the state whose gross household income is less than  
14 five hundred percent of the federal poverty level shall be in  
15 accordance with a sliding scale pursuant to Subsection D of  
16 this section.

17 D. The department shall establish a sliding scale  
18 based on income that shall stipulate the percentage of a  
19 hospital charge that an uninsured resident of the state whose  
20 gross household income is less than five hundred percent of the  
21 federal poverty level is required to pay for emergency and  
22 general health care rendered at an acute-care or general  
23 hospital or a limited service hospital."