



**NEW YORK  
CITY BAR**

**REPORT ON LEGISLATION  
BY THE HEALTH LAW COMMITTEE**

**S.1366B**

**Sen. Rivera**

AN ACT to amend the public health law, in relation to the general hospital indigent care pool; and to repeal certain provisions of such law relating thereto.

**THIS LEGISLATION IS APPROVED**

The Health Law Committee of the New York City Bar Association supports the passage of S.1366B (the “Bill”) which amends the Hospital Financial Assistance Law (the “HFAL”), Public Health Law Section 2807-k. It provides for uniformity of policies, forms and implementation of the HFAL, and expands its benefits to a larger base of patients.

The Health Law Committee is comprised of attorneys who represent clients across the healthcare industry and attorneys who have expertise and interest in health law, policy, and other healthcare-related issues. The goal of the Committee is to advance laws and legal initiatives to promote the efficiency, equity, and quality of health care.

**EXECUTIVE SUMMARY**

The HFAL has provided substantial benefits to patients and has helped to further the non-profit goals of New York’s hospitals. New York State is different from most states because all of its acute care hospitals are not-for-profit organizations. As such, charity care and financial assistance to needy patients are required by federal and state law and consistent with non-profit hospitals’ goals.

The current law, however, has several weaknesses. First, there is a lack of uniformity in the implementation of the HFAL. Each hospital or healthcare system adopts its own policies and financial assistance forms. This can be cumbersome and confusing to patients and makes it more difficult for patients, advocates, and oversight agencies to determine why financial assistance may be available at one hospital and not at another. The Bill goes a long way towards remedying these problems.

Second, the HFAL fails to alleviate considerable medical debt incurred by many of the uninsured and underinsured.

The proposed amendments, if enacted, would promote uniformity, efficiency, and equity.

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*

## **THE BILL**

The following list highlights key provisions of the Bill.

1. Requires hospitals to use a uniform financial assistance policy and form, rather than, currently, to adopt their own policies and forms which meet statutory requirements. A single form is consumer-friendly and ensures consistent application of policies to meet the intent of the HFAL.
2. Requires all hospitals to use the uniform form, including the few hospitals that do not currently participate in the indigent care pool.
3. Does not allow a hospital to predicate availability of financial aid on a patient's submission and denial of an application for coverage through the New York State of Health Marketplace.
4. Expands the benefits of the HFAL to patients who are at least 300% of the Federal Poverty Level ("FPL") up to 600% of the FPL.
5. Ensures that once a patient has completed a financial assistance application, the hospital is not permitted to seek payment until its final decision on the patient's application.
6. Requires hospitals to use Medicaid-approved amounts for services as the basis of financial aid. Previously, a hospital would be permitted to base its financial aid on an average of payments by its high-volume payers or Medicare. Using a single Medicaid payment standard will provide uniformity of benefits to and lower payments by eligible patients.
7. For patients below 200% of the FPL, requires the hospital to waive payment for services.
8. For patients at 200% and up to 400% of the FPL, requires the hospital to use a sliding fee scale based on Medicaid payments for such services.
9. For patients above 400% and up to 600% of the FPL, requires the hospital to only collect payments based on Medicaid rates for such services.

## **REASONS FOR SUPPORT**

The Bill provides for uniformity, expands coverage to families whose income is up to 600% of the FPL and provides other protections. It provides common sense changes to the law from consumer and hospital viewpoints.

Too many patients and families incur substantial medical debt where the patient has no or insufficient coverage for necessary medical services received in hospitals. Hospitals and physicians bill patients for services at their respective "charges", which are the retail prices for their respective services. In contrast, a patient with insurance coverage or who participates in Medicare or Medicaid and receives the same medical services receives a bill for services that lists the same retail charges, but the insurer is paid at negotiated rates or Medicare or Medicaid is paid at a statutory fee schedule. These negotiated rates and statutory fee schedules are usually

significantly less than the retail charges. Patients with no or insufficient coverage do not receive the benefits of negotiated or statutory fee schedules and as a result incur extraordinary medical debts.

The HFAL has reduced hospital medical care costs for patients who are approved for HFAL benefits, but the lack of uniformity in hospital policies and application forms can be difficult for patients to understand and potentially can be applied disparately by hospitals.

The Bill provides for uniform policies, a uniform application form and greater benefits to financially stressed patients and their families.

The Governor has proposed some changes to the HFAL as part of the FY 2025 New State Executive Budget, Health and Mental Hygiene, Article VII Legislation, Part O Medical Debt Protections. They would: (i) increase the FPL level from 300% to 400%; (ii) clarify that the HFAL applies to uninsured and underinsured patients; (iii) prohibit denial of admission or treatment if a patient has an outstanding unpaid bill; (iv) prohibit commencement of a civil action to collect an unpaid bill until the hospital has undertaken reasonable efforts to determine if the patient qualifies for financial assistance under its policies; and (v) require the hospital to apply the Medicaid rate for uninsured patients, and to apply no more than 10% of the amount that would have been applied to the patient's cost sharing for underinsured patients. These amendments would be helpful to patients, but, in our view, are insufficient when compared to the Bill.

The New York City Bar Association Health Law Committee supports Senate Bill S.1366B to amend HFAL to provide for uniformity and expand its reach to benefit more patients.

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