CONNECTICUT HOSPITAL ASSOCIATION

TESTIMONY OF
CONNECTICUT HOSPITAL ASSOCIATION
SUBMITTED TO THE PUBLIC HEALTH COMMITTEE
Thursday, March 11, 2004

SB 561, An Act Concerning Hospital Billing Practices

The Connecticut Hospital Association appreciates this opportunity to present testimony in support of SB 561, An Act Concerning Hospital Billing Practices.

There are two proposed changes in SB 561. The first proposed change, in section 1, would add a sentence to the definition of "collection agent" to clarify that hospital employees or agents engaged in routine hospital billing processes or follow-up processes to routine billing are not "collection agents" as that term is used in the existing law. CHA believes that this change is entirely consistent with the intent of the law, which is to impose on third party collection agencies, debt collection attorneys, and others engaged in the collections business, obligations to provide certain notices and summaries to patients from whom they are trying to collect a debt, in addition to the information that the law requires a hospital to provide. The proposed change clarifies the law surrounding routine billing and the definition of a collection agent. CHA believes that it is important to make this clarification in order to avoid confusion. CHA also notes that the proposed change does nothing to exclude from the definition of "collection agent" any hospital employee working for any in-house collection agency that engages in collection activity beyond routine billing and follow-up.

The second proposed change, in section 2(b), is intended to clarify that the state's billing and collections statute is not intended to conflict with federal law that requires Medicare providers to engage in reasonable collection efforts as a condition to receiving Medicare reimbursement. To quote guidance issued by the United States Department of Health & Human Services:

> [t]he Medicare program does contain a special feature that allows a hospital to be paid for its Medicare bad debts. If a hospital wants this special reimbursement adjustment, it must, at the very least, send the Medicare patient a bill for the debt and must make the same reasonable effort to collect from Medicare patients as it does for its non-Medicare patients. In other words, if the hospital sends non-Medicare patients' bills to a collection agency but does not do so for Medicare patients, the hospital has not engaged in uniform collection efforts and cannot ask Medicare to reimburse it for Medicare patients' bad debt… If a hospital decides that it wants the special Medicare reimbursement allowing for payment of Medicare bad debts, however, then it must engage in uniform collection efforts for all patients, both Medicare and non-Medicare.

This proposed change, like the first, does nothing contrary to the intent of the billing and collection law -- it simply confirms that hospitals will not be in violation of the law if they engage in uniform collection efforts to preserve their ability to receive Medicare reimbursement.

The proposed language in section 2(b) would also clarify that hospitals that attempt to collect copayments or deductibles in compliance with payor contracts would not be in violation of the state's billing and collection law. Again, this does not alter the law's intent, but acknowledges that insured patients are responsible for copayments and deductibles as provided in their policies, and that hospitals are not behaving unlawfully if they attempt to collect those payments.

CHA also proposed a change to correct what we believe is a technical drafting error in Section 3 of Public Act 03-266. Specifically, the current law states:

> No hospital shall refer to a collection agent … unless the hospital has made a determination *that* such individual is an uninsured patient.

A literal reading of this section implies that a hospital may not refer a file for collection unless the debtor is "uninsured." This of course cannot be what the legislature intended, because the literal interpretation would limit collection activities to the uninsured, the very group that the law is trying to protect, and exempt from collection numerous debtors who have an income or eligibility status that does not meet the definition of "uninsured" but who have not paid their bills. CHA submits that the word "whether" should be substituted in place of "that" to correct the technical error.

CHA would be pleased to discuss any of these issues or consider alternative language, if necessary, with Committee members and interested parties or groups who wish to be sure that these proposed changes do nothing to alter the law's original intent. In fact, CHA has begun discussions with the proponents of last year's legislation and is hopeful that we can reach agreement on all or part of this legislation.

Thank you for your consideration of our position.

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