LEGISLATIVE BILL 382

Approved by the Governor May 9, 1985

Introduced by Wesely, 26; Smith, 33; Hoagland, 6

AN ACT relating to health care; to amend section 71-2049, Revised Statutes Supplement, 1984; to adopt the Hospital Consumer Information Act; to provide penalties; to harmonize provisions; to provide severability; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 16 of this act shall be known and may be cited as the Hospital Consumer Information Act.

Sec. 2. The purpose of the Hospital Consumer Information Act is to promote the economic delivery of high quality and cost-effective health care services to the people of the State of Nebraska by consolidating hospital billing and outpatient surgical facility billing forms and providing better information to consumers as to the costs and charges for hospital and ambulatory surgical care in the state.

Sec. 3. As used in the Hospital Consumer Information Act, unless the context otherwise requires, the definitions in sections 4 to 11 of this act shall be used.

Sec. 4. Ambulatory surgical facility shall mean a facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization and which is licensed as a health clinic as defined by section 71-2017.01, but shall not include the offices of private physicians or dentists whether for individual or group practice.

Sec. 5. Hospital shall mean a hospital as defined by section 71-2017.01, except state hospitals administered by the Department of Public Institutions.

Sec. 6. Hospital uniform billing form shall mean the Health Care Financing Administration claim form number 1450 mandated for the Medicare program pursuant to sections 1814 (a)(2) and 1871 of the Social Security Act, as amended, developed by the National Uniform Billing Committee, and commonly referred to as the uniform billing claim form number 82.

Sec. 7. Insurance arrangement shall mean a plan, program, contract, or any other arrangement under which one or more employers, unions, or other organizations provide to their employees or members, either directly or indirectly, health care services or

benefits.

Sec. 8. Insurer shall mean any insurance company as defined by section 44-103, fraternal benefit society as defined by section 1 of Laws 1985, LB 508, hospital service corporation formed pursuant to section 21-1509, or health maintenance organization as defined by section 44-3208, authorized to transact health insurance business in the State of Nebraska.

Sec. 9. Medicaid shall mean the medical assistance program pursuant to sections 68-1018 to 68-1025.

Sec. 10. Medicare shall mean Title XVIII of the Social Security Act, 42 U.S.C. section 1395 et seq., as amended.

Sec. 11. Third-party administrator shall mean any insurer, any insurance consultant licensed pursuant to sections 44-2606 to 44-2635, or any broker, agent, or insurance agency licensed pursuant to the Insurance Producers Licensing Act which contracts to provide insurance services through any arrangement under which one or more employers, unions, or other organizations provide to their employees or members, either directly or indirectly, health care services or benefits.

Sec. 12. On or before January 1, 1986, all insurers, third-party administrators, the Medicare and Medicaid programs, and persons operating under insurance arrangements in Nebraska shall utilize and accept the hospital uniform billing form as the initial billing form on all claims filed for the payment of all inpatient and outpatient hospital charges and ambulatory surgical facility charges in Nebraska. After January 1, 1986, no insurer, third-party administrator, person operating under an insurance arrangement, or Medicare or Medicaid program shall require a Nebraska hospital or outpatient surgical facility to complete an initial billing form other than the hospital uniform billing form as a condition of reimbursement for insured services provided by the hospital or ambulatory surgical facility. After January 1, 1986, no insurer or third-party administrator shall contract with any person or employer, union, or other organization under which health care services or benefits are provided unless such person or organization accepts and utilizes or agrees to accept and utilize the hospital uniform billing form for claims for health care services or benefits provided to employees or members.

Sec. 13. Each hospital and ambulatory surgical facility shall issue and complete a billing invoice on the uniform hospital billing form for outpatient and inpatient services provided by the facility as a condition of reimbursement by the Medicaid and Medicare programs, insurers, third-party administrators, or persons operating under an insurance agreement.

Sec. 14. (1) Upon the written request of a

prospective patient, his or her attending physician, or any authorized agent of the prospective patient, each hospital, except hospitals excluded under section 1886(d)(1)(B) of P.L. 98-21, the Social Security Act Amendments of 1983, and ambulatory surgical facility shall provide a written estimate of the average charges for health services related to a particular diagnostic condition or medical procedure if such services are provided by the facility. Such written request shall include a written medical diagnosis made by a health care practitioner licensed to provide such diagnosis. The prospective patient or his or her agent may also provide to the facility the prospective patient's age and sex, any complications or co-morbidities of the prospective patient, other procedures required for the prospective patient, and other information which would allow the facility to provide a more accurate or detailed estimate. Such estimate shall be provided within seven working days from the date of submission of the written request and information necessary to prepare such an estimate.

(2) All hospitals and ambulatory surgical facilities shall provide notice to the public that such hospital or facility will provide an estimate of charges for medical procedures or diagnostic conditions pursuant to subsection (1) of this section. Such public notice shall be provided either as a part of the advertising or promotional materials of the facility or by posting a notice in an obvious place within the public areas of the facility.

Sec. 15. (1) Effective January 1, 1986, each hospital, except hospitals excluded under section 1886(d)(1)(B) of P.L. 98-21, the Social Security Act Amendments of 1983, and ambulatory surgical facility shall identify the twenty most common diagnostic related groups for which services are provided by the facility. Such listing of diagnostic related groups shall be made available to consumers of health care, along with the range of average charges for treatment and the associated average length of stay for each diagnostic related group listed. Such listing shall be provided to any person upon request. The information included in the listing shall show the date prepared and shall be regularly updated every six months.

(2) Any hospital or ambulatory surgical facility which provides services for fewer than twenty diagnostic related groups or performs an insufficient number of procedures to compute a statistically valid average shall provide a listing to the public of the most common diagnostic related groups provided by the facility and the average charges and length of stay for which a valid statistical average is available and shall disclose the circumstances for such limited available data.

Sec. 16. Any person who violates or knowingly

aids and abets in the violation of the Hospital Consumer Information Act or who fails to perform any duty under such act shall be guilty of a Class IV misdemeanor.

Sec. 17. That section 71-2049, Revised Statutes Supplement, 1984, be amended to read as follows:

71-2049. Except for state hospitals administered by the Department of Public Institutions, each hospital, as defined in subdivision (2) of section 71-2017.01, and each ambulatory surgical facility, as defined in section 4 of this act, shall, upon written request of a patient or third-party payor on behalf of a patient, include in such patient's or payor's bill an itemized list of all expenses such patient incurred during his or her stay at such hospital stay or ambulatory surgical facility. Such expenses shall include, but not be limited to, the cost of (1) X-rays, (2) laboratory fees, (3) respiratory therapy services, (4) oxygen, (5) pharmaceuticals, (6) take-home drugs, (7) chargeable medical supplies, (8) central service supplies, (9) medical equipment, (10) room and board, and (11) all additional charges incurred by the patient. The right to request such information shall be clearly and conspicuously stated in each patient's or payor's bill. The patient or payor shall receive a copy of the itemized bill within fourteen days after the hospital receives the request. Such request shall be made by the patient or payor within twenty-eight days after the date of discharge.

Upon receipt of an itemized list, a patient or payor may request and the hospital or ambulatory surgical facility shall provide an explanation of any or all expenses or services included on the itemized list. The patient or payor shall make a request for such explanation within twenty-eight days of receipt of an itemized list. The patient or payor shall receive the explanation within fourteen days after the hospital or ambulatory surgical facility receives the request.

Any person who violates this section shall be guilty of a Class IV misdemeanor.

Sec. 18. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 19. That original section 71-2049, Revised Statutes Supplement, 1984, is repealed.