The Hill-Burton Act of 1946

HIMT 1200 Health Legislation Presentation

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Legislation Overview

The Hill-Burton Act of 1946 aimed to provide federal grants and loans so as to improve the physical plant of the nation’s hospital system. The Act was also known as **the Hospital Survey and Construction Act**.

In November 1945, **President Harry S. Truman** delivered a special message to Congress in which he outlined a five-part program for improving the health and healthcare of Americans.

The **Hospital Survey and Construction Act** responded to the first of President Truman's proposals, which called for the construction of hospitals and related healthcare facilities. Money was designated to the states to achieve 4.5 beds per 1,000 people. The states allocated the available money to their various municipalities, but the law provided for a rotation mechanism, so that an area that received funding moved to the bottom of the list for further funding.

The Act, better known as the **Hill-Burton Act**, was adopted by Congress in 1946 and was the federal government's first healthcare initiative. It was intended to stimulate public and nonprofit hospital construction and modernization. The device chosen to attain this goal was the provision of federal grants to individual hospitals for capital construction and modernization projects.

As a condition of funding, recipient facilities contracted to be available to "all persons residing in the territorial area" of the facility and to make available "a reasonable volume of hospital services to persons unable to pay therefore." These two obligations have been termed, respectively, the "**community service**" and "**uncompensated care**" components of the Act.'

Facilities that received **Hill–Burton** funding had to adhere to several requirements:

- They were not allowed to discriminate based on race, color, national origin, or creed, though separate but equal facilities in the same area were allowed. The U.S. Supreme Court struck down this segregation in 1963 when it denied certiorari to the Fourth Circuit decision ***Simkins v. Cone***.
- Facilities that received funding were also required to provide a 'reasonable volume' of free care each year for those residents in the facility's area who needed care but could not afford to pay. Hospitals were initially required to provide uncompensated care for 20 years after receiving funding. The federal money was also only provided in cases where the state and local municipality were willing and able to match the federal grant or loan, so that the federal portion only accounted for one third of the total construction or renovation cost.
- The states and localities were also required to prove the economic viability of the facility in question. This excluded the poorest municipalities from the **Hill–Burton** program; the majority of funding went to middle class areas. It also served to prop up hospitals that were economically nonviable, retarding the development wrought by market forces. Once Medicare and Medicaid were enacted, participation in those programs was added to the list of requirements for access to **Hill–Burton** funding.

What Did **The Hill-Burton Act** Do?

- The goal of the program was to issue loans or grants to support the construction of modern medical facilities in every American county, with a standard of 4.5 hospital beds for each 1,000 people.
- Significantly, the law introduced the concept of state and local cost-sharing, with any facility constructed, expanded, or renovated by federal funds required to meet their cost-share with free or reduced charges for persons unable to pay for their medical care.
- Shortly after implementation, “**Hill-Burton**” funds were used to expand professional schools for doctors and nurses, and to combat infectious diseases such as polio, measles, and whooping cough.

Related Laws/Acts:
Public Health Service Act of 1944

For the first 20 years of the **Hill-Burton Act's** existence, there was no regulation in place to define what constituted a "reasonable volume" of free care or to ensure that hospitals were providing any free care at all. This did not improve until the early 1970s, when lawyers representing poor people began suing hospitals for not abiding by the law. **Hill-Burton** was set to expire in June 1973, but it was extended for one year in the last hour.

In 1975, the Act was amended and became **Title XVI** of the **Public Health Service Act**. The most significant changes at this point were the addition of some regulatory mechanisms (defining what constitutes the inability to pay) and the move from a 20-year commitment to a requirement to provide free care in perpetuity. Still, it was not until 1979 that compliance levels were defined.

Related Laws/Acts:
Emergency Medical Treatment and Active Labor Act

According to Larry S. Gage, president of the National Association of Public Hospitals, a reason for the passage of **EMTALA** was that some hospitals were no longer obligated to provide indigent care under the **Hill-Burton Act**. That law, passed in 1946, provided capital funds for reconstruction and improvement of hospitals, with the proviso that they must make care available to low-income uninsured patients, sometimes for 25 years and sometimes in perpetuity. "So by 1986," Gage says, "some hospitals were aging out of **Hill-Burton** obligations, and it was becoming less effective than it had been in terms of care of uninsured patients." Although **Hill-Burton** had other requirements for care of Medicare and Medicaid patients, the uninsured were far more vulnerable.

Ironically, he says, "**EMTALA** was a vehicle that was designed, in large part, to provide protection to Medicare and Medicaid patients. The fact that, in the end, it applied to all patients in all hospitals, even undocumented immigrants, was interesting. And it was good that it did get applied to all patients, especially those whose transfers were economically motivated." In 1985, a four-page provision called the **Emergency Medical Treatment and Active Labor Act** was inserted into the Consolidated Omnibus Budget Reconciliation Act, which was duly passed and eventually signed by President Ronald Reagan on April 7, 1986.

Related Laws/Acts:

National Health Planning and Resources Development Act

The **National Health Planning and Resources Development Act**, or **Public Law 93-641** is a piece of 1974 American Congressional legislation. In this Act, three distinct existing programs were consolidated: (1) **The Hill-Burton Act**, (2) **The Regional Medical Program**, and (3) **The Comprehensive Health Planning Act**. Congress realized that the provision of federal funds for the construction of new health care facilities was contributing to increasing healthcare costs by generating duplication of facilities. The intent of Congress in passing this Act was to create throughout the United States, a strengthened and improved federal-, state- and area-wide system of health planning and resources development that would help provide solutions to several identified problems.

Legislation History

August 13, 1946

The **Hospital Survey and Construction Act** (or the **Hill–Burton Act**) is a U.S. federal law passed on August 13th, 1946, during the 79th United States Congress.

Why/How/By Whom was this Legislation Passed?

Few people remember this today, but universal healthcare was on the national agenda six decades ago. President Harry Truman tried, and failed, to convince Congress to pass universal coverage. What he got instead was the **Hill–Burton Act**, the federal government's first venture into building hospitals.

The act is named for its two sponsors in the Senate, **Lister Hill**, a Democrat from Alabama — whose physician father was the first American to suture a human heart — and **Harold Burton**, a Republican from Ohio. They recognized that existing hospitals had been neglected during the years of the Depression and World War II, and that there was a desperate need for clinics and small hospitals, particularly in poor, rural areas.

Their bill was groundbreaking. It required facilities receiving federal funds to provide medical services for free or at reduced rates for people unable to pay. The measure also increased access to healthcare for Americans at a time when private capital for investment in hospitals was scarce. Over the years, the act pumped billions of dollars into projects and equipment in 4,000 communities around the country. Especially if you live in a rural county, odds are good that the hospital or clinic you visit today was built using **Hill–Burton** funds.

- Limited sources of capital for new hospitals
- Inadequate supply of available hospital beds per capita nationwide, especially in poorer states

By 1945 and the end of World War II, many American hospitals were **obsolete** – and approximately **50%** of the nation's counties had no hospital facilities at all.

Previous Issues **The Hill-Burton Act** was Passed to Rectify

Protections

Who/What Does This Legislation Protect?

The **Hill-Burton Act** requires various healthcare facilities, including hospitals and other locations that have been granted federal funds for facility construction, modernization, or reconstruction to provide patients with free or low cost health care services.

This in effect means that if a medical provider receives any type of federal aid, they are required to help patients that have a low income or are underinsured. This is a very important program that can assist people who are living in the facility's area who can't otherwise afford to pay for their health care bills and services.

Who/What Doesn't This Legislation Protect?

There are some limits to eligibility under the **Hill-Burton Act**:

You are eligible to apply for **Hill-Burton** free care if your income is at or below the current **Federal Poverty Guidelines**. You may be eligible for **Hill-Burton** reduced-cost care if your income is as much as two times (triple for nursing home care) the HHS Poverty Guidelines. Facilities may require you to provide documentation that verifies your eligibility, such as proof of income.

Care at **Hill-Burton** obligated facilities is **not** automatically free or reduced-cost. You must apply at the admissions or business office at an obligated facility and be found eligible to receive free or reduced-cost care. You may apply before or after you receive care — you may even apply after a bill has been sent to a collection agency. Only facility costs are covered, not your private doctors' bills. Some facilities may use different eligibility standards and procedures. They are identified on the **Hill-Burton list** of obligated facilities as PFCA, CFCA, UACA and 515. Their programs may be called either a free care, charity care, discounted services, indigent care, etc.

Hill-Burton facilities must post a sign in their admissions and business offices and emergency room that notifies the public that free and reduced-cost care is available. When you apply for Hill-Burton care, the obligated facility must provide you with a written statement that tells you what free or reduced-cost care services you will get or why you have been denied.

News Reports

Related Court Cases:

Eaton vs. Board of Managers of the James Walker Memorial Hospital

Eaton v. Board Of Managers Of James Walker Memorial Hospital, (E.D.N.C. 1958), filed by a trio of African-American physicians who had been denied privileges. They argued that because the hospital received federal funds, discriminating against them violated the 14th Amendment. They lost at the district and appeals level, and the Supreme Court declined to review the case. However, three justices dissented.

Buoyed by the possibility of future success at the Supreme Court, the NAACP pushed forward, and soon the ideal case emerged. George Simkins, D.D.S., a North Carolina African-American dentist, had been denied privileges at Moses H. Cone Memorial Hospital, which admitted black patients and received **Hill-Burton** funds. Working with the NAACP, and with support from the Department of Justice, Simkins recruited African-American patients and other practitioners to join a suit, and on Feb. 12, 1962, **Simkins vs. Moses H. Cone Memorial Hospital** was filed in district court.

Related Court Cases:

Simkins v. Moses H. Cone Memorial Hospital

Simkins v. Moses H. Cone Memorial Hospital, 211 F.Supp. 628, Middle District of North Carolina (1962), was a federal case, reaching the Fourth Circuit Court of Appeals, which held that "separate but equal" racial segregation in publicly funded hospitals was a violation of equal protection under the United States Constitution.

George Simkins, Jr. was a dentist and NAACP leader in Greensboro, North Carolina. One of his patients, an African-American person, developed an abscessed tooth and Simkins felt that the patient required medical treatment, but none of the local hospitals that would accept African-American patients had space for the patient. With the assistance of the NAACP and other medical professionals in the area, Simkins filed suit, arguing that because the Moses H. Cone Memorial Hospital and Wesley Long Hospital had received $2.8 million through the **Hill–Burton Act** that they were subject to the Constitutional guarantee of equal protection.

In a 3-2 decision, the **Fourth Circuit** overturned the district ruling, looking to whether the hospitals and the government were so intertwined by funding and law that the hospitals' *"activities are also the activities of those governments and performed under their aegis without the private body necessarily becoming either their instrumentality or their agent in a strict sense."* The Court held that to be the case. The Court then found the provision for segregated "separate but equal" facilities to be unconstitutional, and it struck down that portion of the **Hill–Burton Act**.

Related Tragedies/Scandals: *Racial Discrimination*

The **Hill-Burton Act of 1946**, which provided funds for construction and improvement of hospitals all over the United States, had a provision requiring equal treatment of all patients. However, it also had a "separate but equal" provision, allowing segregated hospitals to receive **Hill-Burton** funds as long as the quality of care was the same. It wasn't, and neither was the distribution of **Hill-Burton** funds, which grossly favored white hospitals. Interpretation of the **Hill-Burton** requirements sometimes defied logic.

The general counsel of the Department of Health, Education, and Welfare decided that **Hill-Burton** hospitals could not deny admission to any person to the part of the hospital that used federal funds, but patients could be denied access to other areas. Also, even if a **Hill-Burton** hospital accepted African-American patients, often their black physicians could not continue to treat them once they were admitted, because they did not have privileges and could not get them. In 1956 (two years after Brown vs. Board of Education ended “separate-but-equal” practices in education), the NAACP decided it was time to challenge the “separate-but-equal” provision of the **Hill-Burton Act**.

The first lawsuit was **Eaton vs. Board of Managers of the James Walker Memorial Hospital**, filed by a trio of African-American physicians who had been denied privileges. They argued that because the hospital received federal funds, discriminating against them violated the 14th Amendment. They lost at the district and appeals level, and the Supreme Court declined to review the case. However, three justices dissented.

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The plaintiffs asked that the "separate-but-equal" provision of the **Hill-Burton Act** be struck down, that discrimination in admitting and treatment privileges be ended, and that refusal to admit African-American patients be banned. The district court found for the defendants, but the plaintiffs appealed and won at the Fourth Circuit Court of Appeals. The case was appealed to the Supreme Court. At that point, HEW Assistant Secretary James Quigley offered support to the NAACP effort and, as all the stakeholders awaited a decision from the Supreme Court, Quigley stopped **Hill-Burton** payments to eight hospitals being constructed under the "separate-but-equal" provision.

On March 2, 1964, the Supreme Court declined to review the case, and the appeals court verdict stood. "Separate-but-equal" under **Hill-Burton** was dead. Hospitals receiving funds from the program would have to desegregate. HEW officials were quick to enforce the decision, although there was little they could do to desegregate hospitals that no longer received **Hill-Burton** funds or those that never had. That would have to be voluntary on the part of the hospitals.

Relationship To HIM

How Has **The Hill-Burton Act** Served the HIM Community?

The **Hill-Burton Act** was signed into law over 70 years ago and its effect on healthcare in the U.S. was nothing short of monumental. The healthcare landscape, as well as the role of HIM in modern healthcare would look entirely different in its absence.

Hill-Burton introduced many ideas in healthcare financing that are still in use today. Chief among them is that hospitals receiving federal monies are obligated to provide free or subsidized care to a portion of their indigent patients. U.S. nonprofit hospitals (still the vast majority) must demonstrate evidence of 'community benefit' to maintain tax-exempt status. Providing care to the uninsured is one of the most common ways to meet this obligation.

Another idea rooted in **Hill-Burton** is federal-state matching, meaning that federal appropriations must be matched by dollars from states, which is how **Medicaid** is financed.

The **Act** was also one of several factors that influenced the rise in healthcare costs during the 1900s, as it led to an increase in number of patients seen in hospitals.

In Conclusion, **The Hill-Burton Act** was, and still is, of immense historical significance. Without its passage in 1946, a healthcare system as advanced as our own simply would not exist. Many look at it as the beginning of a long march towards modernization that continues to this day.

The program stopped providing funds in **1997**, but about 140 health care facilities nationwide are still obligated to provide free or reduced-cost care. Since 1980, more than **$6 billion** in uncompensated services have been provided to eligible patients through **Hill-Burton**.

"After the passage of Medicare and Medicaid, **Hill-Burton** ranks right up there among the most important pieces of health legislation in the 20th century."

- Howard Markel, physician and historian

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