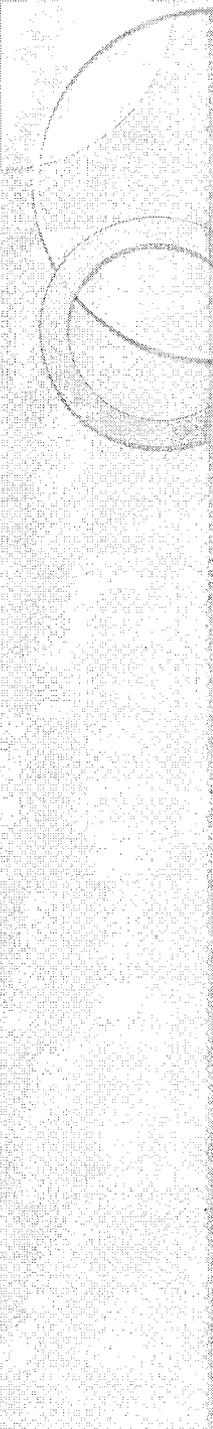


# **FLORIDA HOSPITALS** **AND** **UNDOCUMENTED ALIENS**

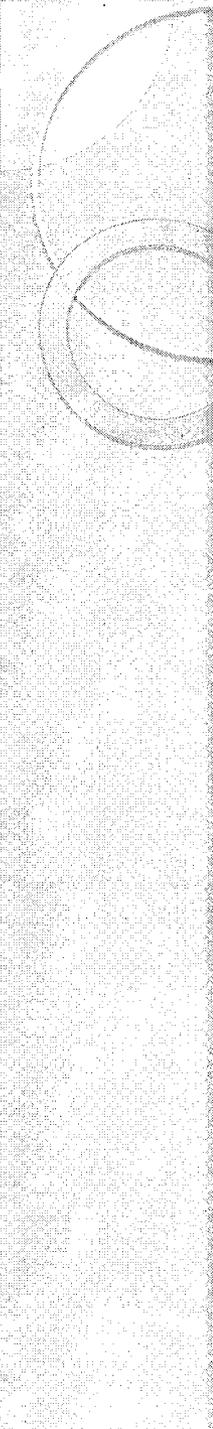


Robert L. Lord, Jr.  
Vice President / Legal Services  
Chief Legal Officer  
Martin Memorial Health Systems  
Stuart, Florida



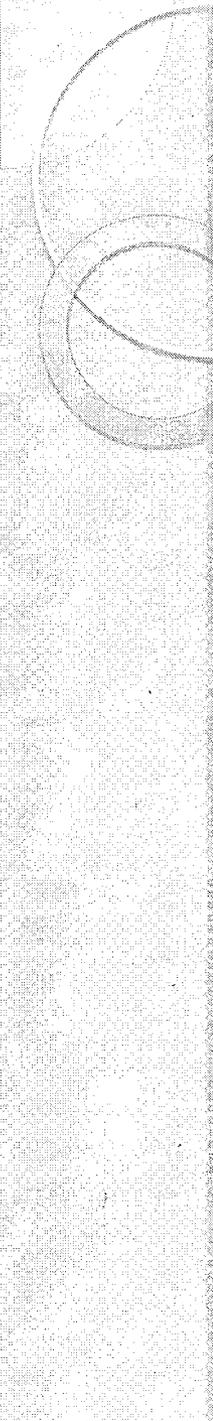
# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

- Federal and state law requires that all hospitals provide emergency medical services within their capability to all patients, and to transfer emergency patients to an appropriate facility if they cannot provide the needed care.
- Hospitals cannot discriminate for any reason, including immigration status or inability to pay.



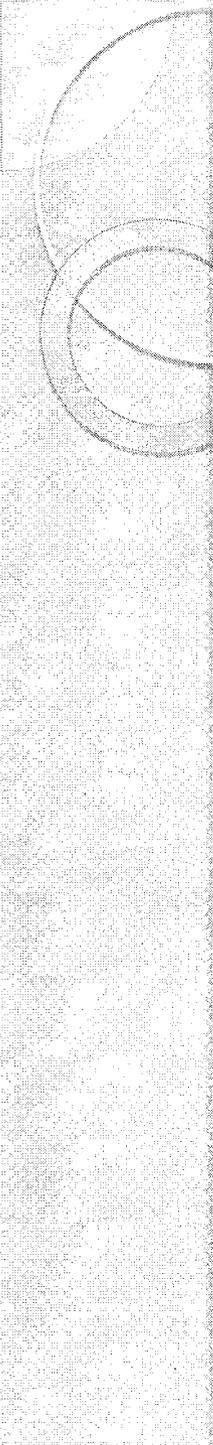
# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

- Historically, AHCA data shows that a higher percentage of patients who are not citizens are admitted to Florida hospitals through emergency rooms versus emergency admission rates for citizens.
- Currently, limited Medicaid funding is available to offset a small portion of the cost hospitals incur to evaluate and stabilize undocumented alien patients.
- After stabilization, these patients are not eligible to participate in Medicare, Medicaid or other governmental healthcare programs, and most are uninsured.



# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

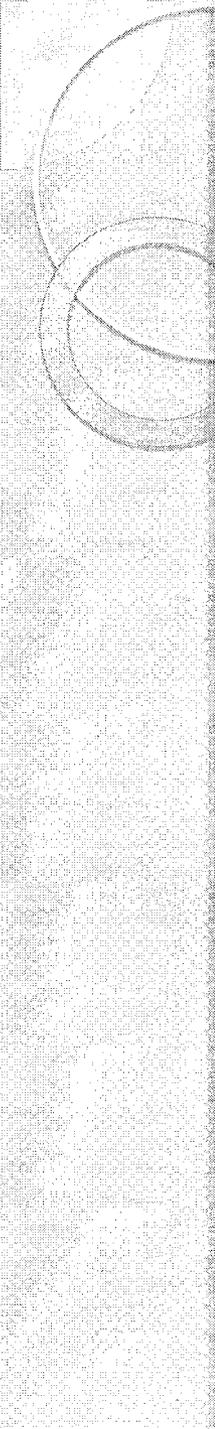
- Historically, Florida hospitals have received very little reimbursement to offset the cost of care for these patients.
- When the patient's condition requires follow-up care, that care is often provided by hospitals, because no other provider will accept the patient without payment.



# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

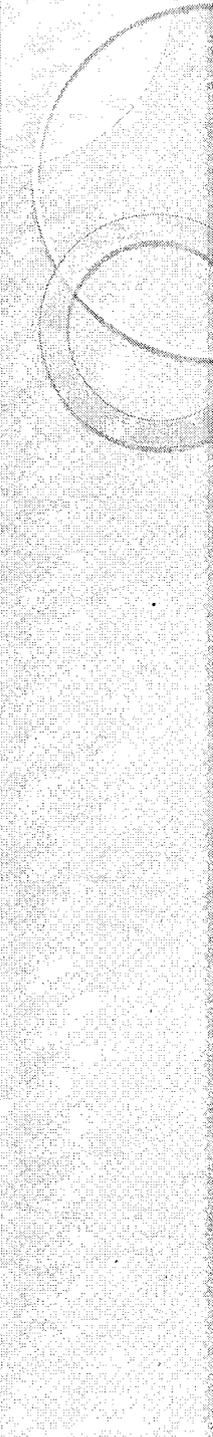
## Impact on Community

- Our mission since 1939 has been to serve everyone in our community, regardless of nationality or ability to pay.
- However, the amount of charity care we provide has continued to rise in the past three years, increasing by nearly \$10 million since 2008.



# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

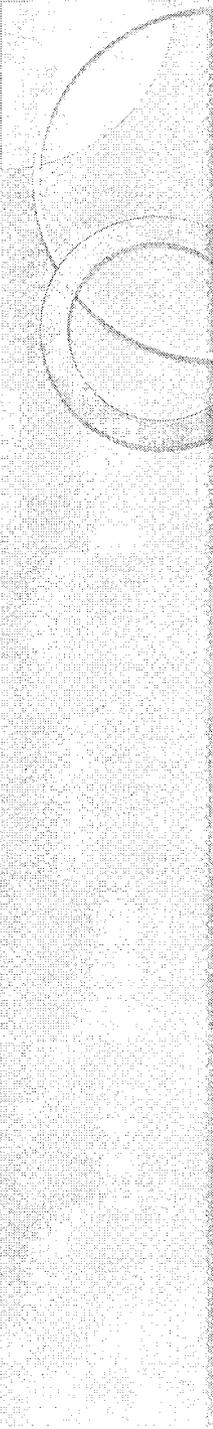
- Caring for undocumented immigrants adds significantly to the amount of charity care we provide.
- As a not-for-profit hospital, that creates a burden on our ability to continue providing high-quality care for the community we serve.



# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

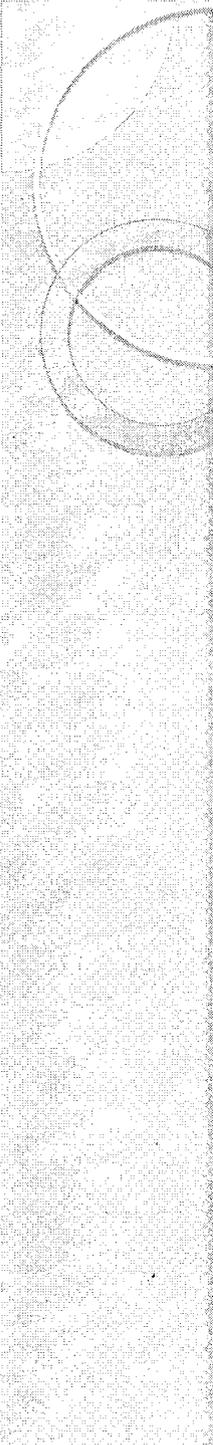
## **Particularly difficult cases**

- Patients who are incapacitated or otherwise unable to care for themselves (stroke injuries, traumatic brain injuries, Alzheimer's patients, etc.)
- Patients with chronic medical conditions requiring frequent medical services (brittle diabetic patients, dialysis patients, etc.)



# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

- Federal regulations require that hospitals discharge patients to an appropriate place (home, rehabilitation facility, nursing home, etc.)
- What is a hospital to do when there is no qualified provider in the US willing to provide required post discharge service without payment?

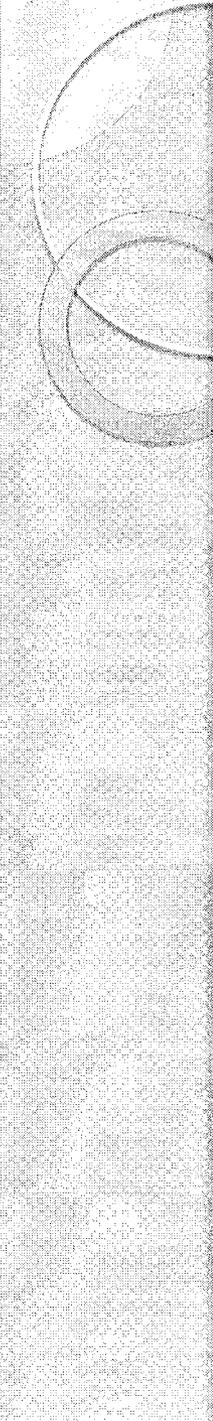


# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

## **Jimenez v. Martin Memorial**

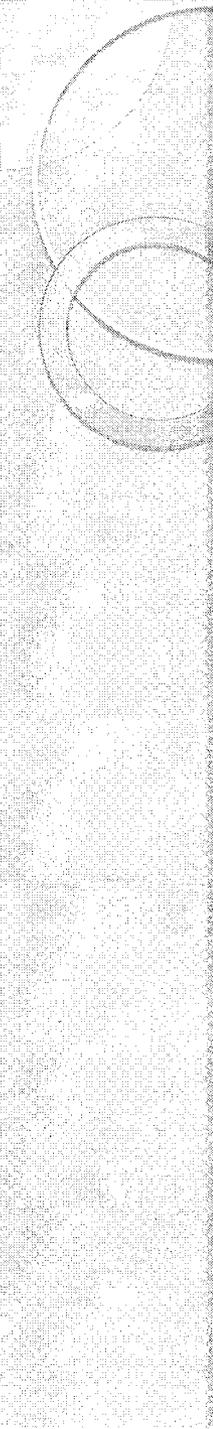
### **Legal significance**

- A Florida Circuit Court Judge does not have jurisdiction to order in a guardianship case involving an undocumented alien that the patient be repatriated, even if –
  - the Court concludes based on substantial expert and other testimony that it is in the patient's best interest that the patient be returned to their homeland (Guatemala in this case);
  - there is no evidence that the needed services are available anywhere in the United States; and
  - the foreign government has provided written assurance that it will provide the needed care at no charge to the patient.



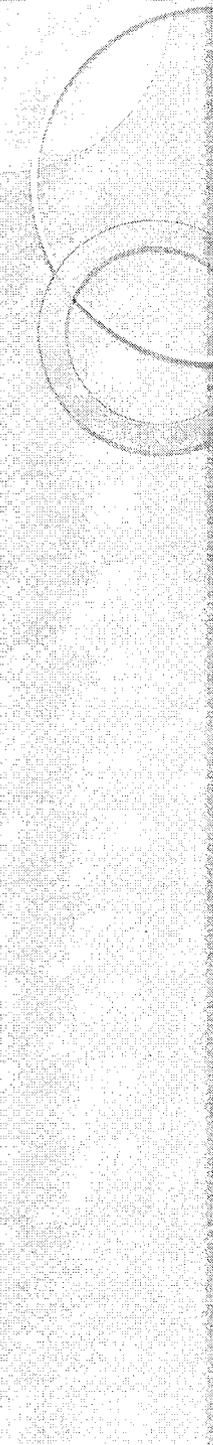
# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

- The decision in the Jimenez appeal means that even where the foreign government promises to care for the patient and the care is not available in the US due to the patient's inability to pay, no Florida court has jurisdiction to order that the patient be repatriated.
- Only with the assistance of the federal government can this occur.
- The federal authorities generally do not initiate legal proceedings involving these difficult patients.
- Under case law, if deportation proceedings are commenced, the federal government could become financially responsible for the cost of the patient's care.



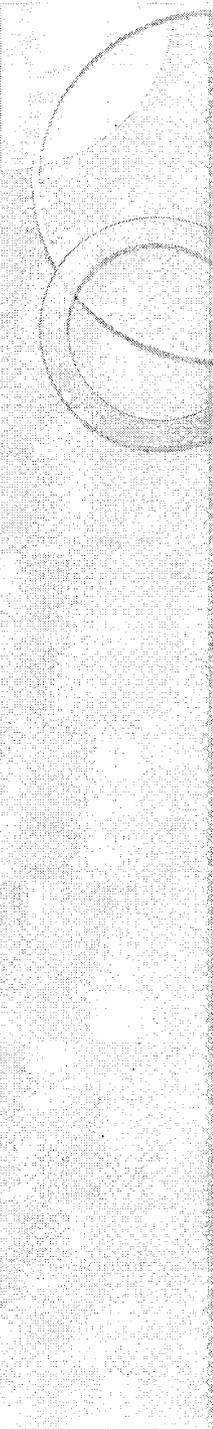
# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

- In the past decade, Martin Memorial has had at least 3 patients who were inpatients in the hospital for more than a year, at costs exceeding \$1 million each.
- Martin Memorial has had numerous undocumented kidney dialysis patients who received frequent care at no cost for extended periods of time, even though we do not offer outpatient dialysis services to the public.
  - The alternative would be for them to die from kidney failure.



# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

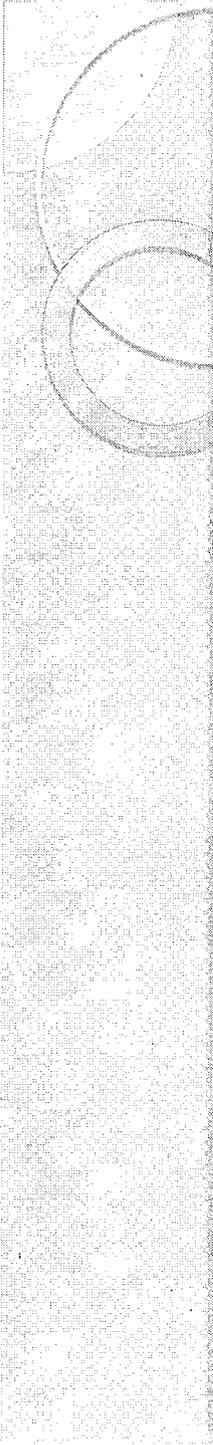
- Florida hospitals expend considerable time and resources trying to find or otherwise provide non-acute care services for undocumented patients.
- Hospitals try to work with the embassy or consulate of the country of origin, and with the patient or their family, to return the patient to their homeland.
- Without the cooperation of the patient or guardian, there is no legal authority a hospital can call on to assist it unless the federal immigration authorities are willing to become involved.
- Even when the patient or family agrees, the repatriation process usually takes many months and the hospital bears the cost (plane tickets, air ambulances, medical supplies, etc.).



# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

## **What is needed?**

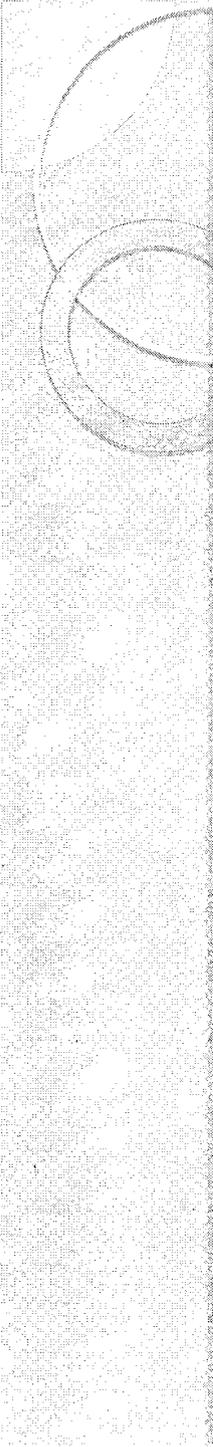
- Clarification of federal and state laws and regulations as to the extent of a hospital's obligation to provide continuing care after patient stabilization.
- Better coordination and cooperation among federal immigration authorities, foreign embassies, immigration attorneys and patient families.



# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

## What is needed?

- Vocational rehabilitation access
- Home health access
- Long term care facility access
- Medicaid funding for inpatient care
- Disability coverage
- Foreign aid credit
- Crime victim compensation
- Emergency care tort reform



# **FLORIDA HOSPITALS AND** **UNDOCUMENTED ALIENS**

**For additional information, contact:**

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