
HOUSE BILL 2341

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Jenkins, Cody, Ladenburg, Van De Wege, Green, Reykdal, Moeller, Tharinger, McCoy, Darneille, and Hunt

Read first time 01/11/12. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to community benefits provided by hospitals;
2 amending RCW 70.170.020 and 70.170.060; adding new sections to chapter
3 70.170 RCW; creating a new section; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Nonprofit hospitals enjoy significant tax benefits in
7 Washington. In return for this advantage, it is expected that
8 nonprofit hospitals provide a commensurate level of benefit to the
9 communities that they serve, including charity care.

10 (b) Public hospital district hospitals operate health care
11 facilities and provide health care services as are appropriate for the
12 needs of the populations that they serve. As public entities it is
13 imperative that they demonstrate through a public process that they are
14 meeting their obligation to benefit the communities that they serve.

15 (c) As of January 1, 2014, with the implementation of the
16 Washington health benefit exchange and the expansion of the medicaid
17 program, the number of uninsured individuals in Washington will
18 decrease substantially. The reduced number of uninsured people in
19 Washington presents an opportunity for hospitals to emphasize community

1 benefit efforts that address broad population-based health responses to
2 the prioritized needs of the community, through a collaborative effort
3 with community members, rather than the provision of uncompensated care
4 to uninsured individuals.

5 (2) The legislature intends to build upon requirements established
6 in the federal patient protection and affordable care act, P.L. 111-
7 148, to increase the quality of, and accountability for, community
8 benefit activities by nonprofit hospitals operating in the state of
9 Washington.

10 **Sec. 2.** RCW 70.170.020 and 1995 c 269 s 2203 are each amended to
11 read as follows:

12 (~~(As used in this chapter:)~~) The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Charity care" means necessary hospital health care rendered to
15 indigent persons, to the extent that the persons are unable to pay for
16 the care or to pay deductibles or coinsurance amounts required by a
17 third-party payer, as determined by the department.

18 (2) "Community benefits" has the same meaning as defined in 26
19 U.S.C. Sec. 501 and any implementing regulations and guidance adopted
20 by the federal internal revenue service as it existed on the effective
21 date of this section, or such subsequent date as may be provided by the
22 department by rule, consistent with the purpose of sections 3, 4, and
23 6 of this act and RCW 70.170.060.

24 (3) "Community benefit implementation strategy" has the same
25 meaning as defined in 26 U.S.C. Sec. 501 and any implementing
26 regulations and guidance adopted by the federal internal revenue
27 service as it existed on the effective date of this section, or such
28 subsequent date as may be provided by the department by rule,
29 consistent with the purpose of sections 3, 4, and 6 of this act and RCW
30 70.170.060.

31 (4) "Community building activities" has the same meaning as defined
32 in 26 U.S.C. Sec. 501 and any implementing regulations and guidance
33 adopted by the federal internal revenue service as it existed on the
34 effective date of this section, or such subsequent date as may be
35 provided by the department by rule, consistent with the purpose of
36 sections 3, 4, and 6 of this act and RCW 70.170.060.

1 (5) "Community health needs assessment" has the same meaning as
2 defined in 26 U.S.C. Sec. 501 and any implementing regulations and
3 guidance adopted by the federal internal revenue service as it existed
4 on the effective date of this section, or such subsequent date as may
5 be provided by the department by rule, consistent with the purpose of
6 sections 3, 4, and 6 of this act and RCW 70.170.060.

7 (6) "Department" means department of health.

8 ~~((+2))~~ (7) "Hospital" means any health care institution which is
9 required to qualify for a license under RCW 70.41.020~~((+2))~~ (4); or as
10 a psychiatric hospital under chapter 71.12 RCW.

11 ~~((+3))~~ (8) "Secretary" means secretary of health.

12 ~~((+4) "Charity care" means necessary hospital health care rendered~~
13 ~~to indigent persons, to the extent that the persons are unable to pay~~
14 ~~for the care or to pay deductibles or co-insurance amounts required by~~
15 ~~a third party payer, as determined by the department.~~

16 ~~(+5))~~ (9) "Sliding fee schedule" means a hospital-determined,
17 publicly available schedule of discounts to charges for persons deemed
18 eligible for charity care; such schedules shall be established after
19 consideration of guidelines developed by the department.

20 ~~((+6))~~ (10) "Special studies" means studies which have not been
21 funded through the department's biennial or other legislative
22 appropriations.

23 NEW SECTION. Sec. 3. A new section is added to chapter 70.170 RCW
24 to read as follows:

25 (1) As of January 1, 2014, each hospital that is organized as, or
26 affiliated with, a nonprofit entity or is operated by a public hospital
27 district must submit a community health needs assessment to the
28 department. Following the submission of the initial community health
29 needs assessment, the hospitals shall submit the assessments every
30 three years. In addition to meeting the requirements for submission to
31 the federal internal revenue service, the community health needs
32 assessment requires submission of the following:

33 (a) A description of the community served by the hospital,
34 including both a geographic description and a description of the
35 general population served by the hospital as well as any populations
36 that are medically underserved, low-income, minority, or chronically
37 ill;

1 (b) A description of the prioritized health needs of the community.

2 (i) In determining the community's health needs, the hospital must

3 consider:

4 (A) The five most common causes of death in the community;

5 (B) Identified public health needs of the community;

6 (C) The extent to which the community experiences ambulatory

7 sensitive conditions. Ambulatory sensitive conditions are those

8 preventable conditions, acute illnesses, and chronic diseases that

9 decrease in response to primary care access, yet are associated with

10 hospitalizations and increased societal health care costs; and

11 (D) Social determinants of health that affect the community that

12 the hospital serves.

13 (ii) The assessment must explain the method used to determine the

14 priorities of the community health needs;

15 (c) A description of the existing health care facilities, health

16 care providers, and other available resources within the community,

17 including social services resources that address social determinants of

18 health. The description must identify any existing facilities,

19 providers, or resources that are owned, operated, or jointly managed by

20 the hospital or any health system with which the hospital is

21 affiliated;

22 (d) A description of the sources of information that are the basis

23 of the components of the community health needs assessment.

24 Information must be based upon information received through:

25 (i) Recognized authorities and sources of data, and to the extent

26 available evidence-based programs and materials; and

27 (ii) Comments solicited from and meetings held with members of the

28 community served by the hospital, including:

29 (A) Individual community members and interested nonprofit,

30 community-based organizations;

31 (B) Persons with special knowledge of or expertise in public

32 health, including any local health jurisdiction in the community served

33 by the hospital;

34 (C) Tribal governments; and

35 (D) Leaders, representatives, or members of populations that are

36 medically underserved, low-income, minority, or chronically ill; and

37 (e) For community health needs assessments submitted on or after

38 January 1, 2017, an assessment of the impact that previously

1 implemented community benefit implementation strategies have had on the
2 health status and health outcomes of populations targeted for community
3 benefit activities.

4 (2) As of January 1, 2014, each hospital that submits a community
5 health needs assessment under subsection (1) of this section shall
6 submit a community benefit implementation strategy to the department
7 within a year of submitting the community health needs assessment. In
8 addition to meeting the requirements for submission to the federal
9 internal revenue service, the community benefit implementation strategy
10 requires submission of the following:

11 (a) A description of the means through which the following
12 individuals, organizations, and governmental entities were consulted in
13 the development of the implementation strategy, including a summary of
14 any discussions or written comments submitted by these entities:

15 (i) Individual community members and interested nonprofit
16 community-based organizations;

17 (ii) Persons with special knowledge of or expertise in public
18 health, including any local public health jurisdiction in the community
19 served by the hospital;

20 (iii) Tribal governments; and

21 (iv) Leaders, representatives, or members of populations that are
22 medically underserved, low-income, minority, or chronically ill;

23 (b) The economic value of the community benefits, by category, that
24 the hospital allocated within the previous three years to address the
25 prioritized health needs of the community as identified in the
26 community health needs assessment and a description of the programs
27 that the community benefits supported;

28 (c) A plan identifying the specific programs and activities that
29 will be implemented to address the prioritized health needs of the
30 community as identified in the community health needs assessment for
31 the next three years, including both community benefit and community
32 building activities. Hospital programs and activities should focus on:

33 (i) A population health response to the prioritized needs of the
34 community through a collaborative effort with community members;

35 (ii) Linkages between clinical services and community health
36 improvement through activities such as the use of hospital clinical
37 staff and other staff with relevant expertise to identify barriers to

1 acute and chronic disease management, identify critical community
2 health needs, and improve care delivery; and

3 (iii) Evidence-based programs and practices. Innovative programs
4 and practices may also be supported if they have mechanisms for
5 collecting data to measure performance and outcomes; and

6 (d) A description of the mechanisms that will be used to assess the
7 extent to which the programs and activities to be undertaken have
8 addressed the prioritized health needs of the community, including
9 impacts on health status and health outcomes.

10 (3) The department shall:

11 (a) Adopt rules to establish standards for hospitals to follow when
12 conducting a community health needs assessment and developing a
13 community benefit implementation strategy. The department shall
14 consider federal requirements to prepare a community health needs
15 assessment and shall minimize any conflicting administrative
16 requirements; and

17 (b) Make the community health needs assessments and community
18 benefit implementation strategies available to the public.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.170 RCW
20 to read as follows:

21 (1) A nonprofit hospital shall annually provide community benefits,
22 including charity care, by complying with one or more of the standards
23 set forth in subsection (2) of this section. The hospital shall file
24 a statement with the department and the department of revenue no later
25 than one hundred twenty days after the hospital's fiscal year ends,
26 stating which of the standards in subsection (2) of this section have
27 been satisfied. The first report must be filed no later than one
28 hundred twenty days after the end of the hospital's fiscal year ending
29 during 2015.

30 (2)(a) A nonprofit hospital may elect to provide community
31 benefits, including charity care, according to any of the following
32 standards:

33 (i) Community benefits, including charity care, are provided at a
34 level which is reasonable in relation to the community needs, as
35 determined through the community health needs assessment, the available
36 resources of the hospital, and the tax-exempt benefits received by the
37 hospital;

1 (ii) Community benefits, including charity care, are provided in an
2 amount equal to at least one hundred percent of the hospital's
3 tax-exempt benefits, excluding federal income tax; or

4 (iii) Community benefits, including charity care, are provided in
5 an amount equal to at least five percent of the hospital's net patient
6 revenue.

7 (b) For purposes of satisfying (a)(iii) of this subsection, a
8 hospital may not change its existing fiscal year unless the hospital
9 changes its ownership or corporate structure as a result of a sale or
10 merger.

11 (c) A nonprofit hospital that has been designated as a
12 disproportionate share hospital under the state medicaid program in the
13 current fiscal year or in either of the previous two fiscal years is
14 considered to have provided a reasonable amount of community benefits,
15 including charity care, and is deemed in compliance with the standards
16 in this subsection.

17 (3) The provision of community benefits, including charity care, in
18 accordance with subsection (2)(a)(i) of this section must be guided by
19 the prudent business judgment of the hospital which will ultimately
20 determine the appropriate level of community benefits, including
21 charity care, based on the community needs, the available resources of
22 the hospital, the tax-exempt benefits received by the hospital, and
23 other factors that may be unique to the hospital, such as the
24 hospital's volume of medicare and medicaid patients. These criteria
25 are not determinative factors, but are guidelines contributing to the
26 hospital's decision, along with other factors which may be unique to
27 the hospital. In addition, the standards set forth in subsection
28 (2)(a) (ii) and (iii) of this section may not be considered
29 determinative of the amount of community benefits, including charity
30 care, that will be considered reasonable under subsection (2)(a)(i) of
31 this section.

32 (4) In any fiscal year that a hospital, through unintended
33 miscalculation, fails to meet any of the standards in subsection (2) of
34 this section, the department of revenue may not revoke the hospital's
35 tax-exempt status without the opportunity to cure the miscalculation in
36 the fiscal year following the fiscal year the failure is discovered by
37 both meeting one of the standards and providing an additional amount of

1 community benefits, including charity care, that is equal to the
2 shortfall from the previous fiscal year. A hospital may apply this
3 provision only once every five years.

4 **Sec. 5.** RCW 70.170.060 and 1998 c 245 s 118 are each amended to
5 read as follows:

6 (1) No hospital or its medical staff shall adopt or maintain
7 admission practices or policies which result in:

8 (a) A significant reduction in the proportion of patients who have
9 no third-party coverage and who are unable to pay for hospital
10 services;

11 (b) A significant reduction in the proportion of individuals
12 admitted for inpatient hospital services for which payment is, or is
13 likely to be, less than the anticipated charges for or costs of such
14 services; or

15 (c) The refusal to admit patients who would be expected to require
16 unusually costly or prolonged treatment for reasons other than those
17 related to the appropriateness of the care available at the hospital.

18 (2) No hospital shall adopt or maintain practices or policies which
19 would deny access to emergency care based on ability to pay. No
20 hospital which maintains an emergency department shall transfer a
21 patient with an emergency medical condition or who is in active labor
22 unless the transfer is performed at the request of the patient or is
23 due to the limited medical resources of the transferring hospital.
24 Hospitals must follow reasonable procedures in making transfers to
25 other hospitals including confirmation of acceptance of the transfer by
26 the receiving hospital.

27 (3) The department shall develop definitions by rule, as
28 appropriate, for subsection (1) of this section and, with reference to
29 federal requirements, subsection (2) of this section. The department
30 shall monitor hospital compliance with subsections (1) and (2) of this
31 section. The department shall report individual instances of possible
32 noncompliance to the state attorney general or the appropriate federal
33 agency.

34 (4) The department shall establish and maintain by rule, consistent
35 with the definition of charity care in RCW 70.170.020, the following:

36 (a) Uniform procedures, data requirements, and criteria for
37 identifying patients receiving charity care;

1 (b) A definition of residual bad debt including reasonable and
2 uniform standards for collection procedures to be used in efforts to
3 collect the unpaid portions of hospital charges that are the patient's
4 responsibility.

5 (5) For the purpose of providing charity care, each hospital shall
6 develop, implement, and maintain a charity care policy which,
7 consistent with subsection (1) of this section, shall enable people
8 below the federal poverty level access to appropriate hospital-based
9 medical services, and a sliding fee schedule for determination of
10 discounts from charges for persons who qualify for such discounts by
11 January 1, 1990. The department shall develop specific guidelines to
12 assist hospitals in setting sliding fee schedules required by this
13 section. All persons with family income below one hundred percent of
14 the federal poverty standard shall be deemed charity care patients for
15 the full amount of hospital charges, provided that such persons are not
16 eligible for other private or public health coverage sponsorship.
17 Persons who may be eligible for charity care shall be notified by the
18 hospital.

19 (6) Each hospital shall make every reasonable effort to determine
20 the existence or nonexistence of private or public sponsorship which
21 might cover in full or part the charges for care rendered by the
22 hospital to a patient; the family income of the patient as classified
23 under federal poverty income guidelines; and the eligibility of the
24 patient for charity care as defined in this chapter and in accordance
25 with hospital policy. An initial determination of sponsorship status
26 shall precede collection efforts directed at the patient.

27 (7) The department shall monitor the distribution of charity care
28 among hospitals, with reference to factors such as relative need for
29 charity care in hospital service areas and trends in private and public
30 health coverage. The department shall prepare reports that identify
31 any problems in distribution which are in contradiction of the intent
32 of this chapter. The report shall include an assessment of the effects
33 of the provisions of this chapter on access to hospital and health care
34 services, as well as an evaluation of the contribution of all
35 purchasers of care to hospital charity care.

36 ~~((8) The department shall issue a report on the subjects addressed~~
37 ~~in this section at least annually, with the first report due on July 1,~~
38 ~~1990.))~~

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.170 RCW
2 to read as follows:

3 The department shall issue a report on the charity care provisions
4 of RCW 70.170.060 and the community benefit implementation strategy
5 reports of section 3 of this act at least annually, with the first
6 report due July 1, 2015.

7 NEW SECTION. **Sec. 7.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 8.** Sections 5 and 6 of this act take effect
12 January 1, 2015.

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