
SUBSTITUTE HOUSE BILL 2036

State of Washington

66th Legislature

2020 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Macri, Ormsby, Riccelli, and Pollet)

READ FIRST TIME 01/30/20.

1 AN ACT Relating to health system transparency; amending RCW
2 43.70.052, 70.01.040, 70.41.470, and 70.170.060; adding a new section
3 to chapter 70.230 RCW; and providing an effective date.

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

5 **Sec. 1.** RCW 43.70.052 and 2014 c 220 s 2 are each amended to
6 read as follows:

7 (1) (a) To promote the public interest consistent with the
8 purposes of chapter 492, Laws of 1993 as amended by chapter 267, Laws
9 of 1995, the department shall (~~continue to~~) require hospitals to
10 submit hospital financial and patient discharge information, which
11 shall be collected, maintained, analyzed, and disseminated by the
12 department. The department shall, if deemed cost-effective and
13 efficient, contract with a private entity for any or all parts of
14 data collection.

15 (b) (i) Data elements shall be reported in conformance with a
16 uniform reporting system established by the department. (~~This
17 includes data elements identifying each hospital's revenues,
18 expenses, contractual allowances, charity care, bad debt, other
19 income, total units of inpatient and outpatient services, and~~) Data
20 elements relating to use of hospital services by patients must be the
21 same as those currently compiled by hospitals through inpatient

1 discharge abstracts. The department shall encourage and permit
2 reporting by electronic transmission or hard copy as is practical and
3 economical to reporters.

4 (ii) Data elements must identify each hospital's:

5 (A) Revenues. When reporting revenues, the hospital must include
6 an addendum with a description of the services provided in exchange
7 for the income or revenue and, for any service that generates more
8 than fifty thousand dollars cumulatively during the reporting period,
9 the amount for that service must be listed;

10 (B) Expenses. When reporting expenses, the hospital must report
11 those expenses defined by the department and, for any expenses that
12 do not meet a defined category, the hospital must include an addendum
13 report with a description of the expenses and for any expense that
14 costs more than fifty thousand dollars cumulatively during the
15 reporting period, the amount for that expense must be listed;

16 (C) Contractual allowances;

17 (D) Charity care;

18 (E) Bad debt;

19 (F) Total units of inpatient and outpatient services; and

20 (G) Other financial and employee compensation information
21 reasonably necessary to fulfill the purposes of this section. ((Data
22 elements relating to use of hospital services by patients shall be
23 the same as those currently compiled by hospitals through inpatient
24 discharge abstracts. The department shall encourage and permit
25 reporting by electronic transmission or hard copy as is practical and
26 economical to reporters.))

27 (iii) A health system, or entity providing or directing health
28 care services, must report to the department data related to the data
29 elements identified in (b)(ii) of this subsection for each health
30 care facility component or service that comprises the entity. In
31 addition, the entity must report: (A) Any financial exchanges between
32 the entity and each health care facility component or service, or
33 between health care facility components and services, with an
34 explanation of the nature of each exchange over fifty thousand
35 dollars; and (B) the total number of full-time equivalents at each
36 health care facility component or service.

37 (2) In identifying financial reporting requirements, the
38 department may require both annual reports and condensed quarterly
39 reports from hospitals, so as to achieve both accuracy and timeliness

1 in reporting, but shall craft such requirements with due regard of
2 the data reporting burdens of hospitals.

3 (3) (a) Beginning with compensation information for 2012, unless a
4 hospital is operated on a for-profit basis, the department shall
5 require a hospital licensed under chapter 70.41 RCW to annually
6 submit employee compensation information. To satisfy employee
7 compensation reporting requirements to the department, a hospital
8 shall submit information as directed in (a)(i) or (ii) of this
9 subsection. A hospital may determine whether to report under (a)(i)
10 or (ii) of this subsection for purposes of reporting.

11 (i) Within one hundred thirty-five days following the end of each
12 hospital's fiscal year, a nonprofit hospital shall file the
13 appropriate schedule of the federal internal revenue service form 990
14 that identifies the employee compensation information with the
15 department. If the lead administrator responsible for the hospital or
16 the lead administrator's compensation is not identified on the
17 schedule of form 990 that identifies the employee compensation
18 information, the hospital shall also submit the compensation
19 information for the lead administrator as directed by the
20 department's form required in (b) of this subsection.

21 (ii) Within one hundred thirty-five days following the end of
22 each hospital's calendar year, a hospital shall submit the names and
23 compensation of the five highest compensated employees of the
24 hospital who do not have any direct patient responsibilities.
25 Compensation information shall be reported on a calendar year basis
26 for the calendar year immediately preceding the reporting date. If
27 those five highest compensated employees do not include the lead
28 administrator for the hospital, compensation information for the lead
29 administrator shall also be submitted. Compensation information shall
30 include base compensation, bonus and incentive compensation, other
31 payments that qualify as reportable compensation, retirement and
32 other deferred compensation, and nontaxable benefits.

33 (b) To satisfy the reporting requirements of this subsection (3),
34 the department shall create a form and make it available no later
35 than August 1, 2012. To the greatest extent possible, the form shall
36 follow the format and reporting requirements of the portion of the
37 internal revenue service form 990 schedule relating to compensation
38 information. If the internal revenue service substantially revises
39 its schedule, the department shall update its form.

1 (4) The health care data collected, maintained, and studied by
2 the department shall only be available for retrieval in original or
3 processed form to public and private requestors pursuant to
4 subsection (7) of this section and shall be available within a
5 reasonable period of time after the date of request. The cost of
6 retrieving data for state officials and agencies shall be funded
7 through the state general appropriation. The cost of retrieving data
8 for individuals and organizations engaged in research or private use
9 of data or studies shall be funded by a fee schedule developed by the
10 department that reflects the direct cost of retrieving the data or
11 study in the requested form.

12 (5) The department shall, in consultation and collaboration with
13 the federally recognized tribes, urban or other Indian health service
14 organizations, and the federal area Indian health service, design,
15 develop, and maintain an American Indian-specific health data,
16 statistics information system.

17 (6) All persons subject to the data collection requirements of
18 this section shall comply with departmental requirements established
19 by rule in the acquisition of data.

20 (7) The department must maintain the confidentiality of patient
21 discharge data it collects under subsection (1) of this section.
22 Patient discharge data that includes direct and indirect identifiers
23 is not subject to public inspection and the department may only
24 release such data as allowed for in this section. Any agency that
25 receives patient discharge data under (a) or (b) of this subsection
26 must also maintain the confidentiality of the data and may not
27 release the data except as consistent with subsection (8)(b) of this
28 section. The department may release the data as follows:

29 (a) Data that includes direct and indirect patient identifiers,
30 as specifically defined in rule, may be released to:

31 (i) Federal, state, and local government agencies upon receipt of
32 a signed data use agreement with the department; and

33 (ii) Researchers with approval of the Washington state
34 institutional review board upon receipt of a signed confidentiality
35 agreement with the department.

36 (b) Data that does not contain direct patient identifiers but may
37 contain indirect patient identifiers may be released to agencies,
38 researchers, and other persons upon receipt of a signed data use
39 agreement with the department.

1 (c) Data that does not contain direct or indirect patient
2 identifiers may be released on request.

3 (8) Recipients of data under subsection (7)(a) and (b) of this
4 section must agree in a written data use agreement, at a minimum, to:

5 (a) Take steps to protect direct and indirect patient identifying
6 information as described in the data use agreement; and

7 (b) Not redisclose the data except as authorized in their data
8 use agreement consistent with the purpose of the agreement.

9 (9) Recipients of data under subsection (7)(b) and (c) of this
10 section must not attempt to determine the identity of persons whose
11 information is included in the data set or use the data in any manner
12 that identifies individuals or their families.

13 (10) For the purposes of this section:

14 (a) "Direct patient identifier" means information that identifies
15 a patient; (~~and~~)

16 (b) "Health system" means an entity that owns, operates, is in
17 common control of, or provides financial support to at least one
18 hospital as well as other health care facility components and
19 services that may be independent of any hospital or hospitals,
20 including ambulatory surgical facilities, health clinics, urgent care
21 clinics, health-related laboratories, long-term care facilities, home
22 health agencies, dialysis facilities, ambulance services, behavioral
23 health settings, and virtual care entities including, but not limited
24 to, electronic applications and telehealth portals; and

25 (c) "Indirect patient identifier" means information that may
26 identify a patient when combined with other information.

27 (11) The department must adopt rules necessary to carry out its
28 responsibilities under this section. The department must consider
29 national standards when adopting rules.

30 **Sec. 2.** RCW 70.01.040 and 2012 c 184 s 1 are each amended to
31 read as follows:

32 (1) Prior to the delivery of nonemergency services, a provider-
33 based clinic that charges a facility fee shall provide a notice to
34 any patient that the clinic is licensed as part of the hospital and
35 the patient may receive a separate charge or billing for the facility
36 component, which may result in a higher out-of-pocket expense.

37 (2) Each health care facility must post prominently in locations
38 easily accessible to and visible by patients, including its web site,
39 a statement that the provider-based clinic is licensed as part of the

1 hospital and the patient may receive a separate charge or billing for
2 the facility, which may result in a higher out-of-pocket expense.

3 (3) Nothing in this section applies to laboratory services,
4 imaging services, or other ancillary health services not provided by
5 staff employed by the health care facility.

6 (4) As part of the year-end financial reports submitted to the
7 department of health pursuant to RCW 43.70.052, all hospitals with
8 provider-based clinics that bill a separate facility fee shall
9 report:

10 (a) The number of provider-based clinics owned or operated by the
11 hospital that charge or bill a separate facility fee;

12 (b) The number of patient visits at each provider-based clinic
13 for which a facility fee was charged or billed for the year;

14 (c) The revenue received by the hospital for the year by means of
15 facility fees at each provider-based clinic; and

16 (d) The range of allowable facility fees paid by public or
17 private payers at each provider-based clinic.

18 (5) For the purposes of this section:

19 (a) "Facility fee" means any separate charge or billing by a
20 provider-based clinic in addition to a professional fee for
21 physicians' services that is intended to cover building, electronic
22 medical records systems, billing, and other administrative and
23 operational expenses.

24 (b) "Provider-based clinic" means the site of an off-campus
25 clinic or provider office (~~located at least two hundred fifty yards~~
26 ~~from the main hospital buildings or as determined by the centers for~~
27 ~~medicare and medicaid services,~~) that is owned or operated by a
28 hospital licensed under chapter 70.41 RCW or a health system that
29 operates one or more hospitals licensed under chapter 70.41 RCW, is
30 licensed as part of the hospital, and is primarily engaged in
31 providing diagnostic and therapeutic care including medical history,
32 physical examinations, assessment of health status, and treatment
33 monitoring. This does not include clinics exclusively designed for
34 and providing laboratory, X-ray, testing, therapy, pharmacy, or
35 educational services and does not include facilities designated as
36 rural health clinics.

37 **Sec. 3.** RCW 70.41.470 and 2012 c 103 s 1 are each amended to
38 read as follows:

1 (1) As of January 1, 2013, each hospital that is recognized by
2 the internal revenue service as a 501(c)(3) nonprofit entity must
3 make its federally required community health needs assessment widely
4 available to the public within fifteen days of submission to the
5 internal revenue service. Following completion of the initial
6 community health needs assessment, each hospital in accordance with
7 the internal revenue service((7)) shall complete and make widely
8 available to the public an assessment once every three years.

9 (2)(a) Unless contained in the community health needs assessment
10 under subsection (1) of this section, a hospital subject to the
11 requirements under subsection (1) of this section shall make public a
12 description of the community served by the hospital, including both a
13 geographic description and a description of the general population
14 served by the hospital; and demographic information such as leading
15 causes of death, levels of chronic illness, and descriptions of the
16 medically underserved, low-income, and minority, or chronically ill
17 populations in the community.

18 (b) Each hospital subject to the requirements under subsection
19 (1) of this section must make public an addendum which details
20 information about activities identified as community health
21 improvement services. The information must specify the type of
22 activity, the method in which each type of activity was provided, the
23 resources used to provide the activity, how each activity may
24 correspond to follow-up services offered by the hospital, the cost of
25 providing each type of activity, and any materials provided to
26 activity participants. Information related to the resources used to
27 provide the activity includes, but is not limited to, labor provided
28 and whether the location was rented or provided by the hospital.

29 (3)(a) Each hospital subject to the requirements of subsection
30 (1) of this section shall make widely available to the public a
31 community benefit implementation strategy within one year of
32 completing its community health needs assessment. In developing the
33 implementation strategy, hospitals shall consult with community-based
34 organizations and stakeholders, and local public health
35 jurisdictions, as well as any additional consultations the hospital
36 decides to undertake. Unless contained in the implementation strategy
37 under this subsection (3)(a), the hospital must provide a brief
38 explanation for not accepting recommendations for community benefit
39 proposals identified in the assessment through the stakeholder

1 consultation process, such as excessive expense to implement or
2 infeasibility of implementation of the proposal.

3 (b) Implementation strategies must be evidence-based, when
4 available; or development and implementation of innovative programs
5 and practices should be supported by evaluation measures.

6 (4) For the purposes of this section, the term "widely available
7 to the public" has the same meaning as in the internal revenue
8 service guidelines.

9 **Sec. 4.** RCW 70.170.060 and 2018 c 263 s 2 are each amended to
10 read as follows:

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

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

16 (b) A significant reduction in the proportion of individuals
17 admitted for inpatient hospital services for which payment is, or is
18 likely to be, less than the anticipated charges for or costs of such
19 services; or

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

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

33 (3) The department shall develop definitions by rule, as
34 appropriate, for subsection (1) of this section and, with reference
35 to federal requirements, subsection (2) of this section. The
36 department shall monitor hospital compliance with subsections (1) and
37 (2) of this section. The department shall report individual instances
38 of possible noncompliance to the state attorney general or the
39 appropriate federal agency.

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

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

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

10 (5) For the purpose of providing charity care, each hospital
11 shall develop, implement, and maintain a charity care policy which,
12 consistent with subsection (1) of this section, shall enable people
13 below the federal poverty level access to appropriate hospital-based
14 medical services, and a sliding fee schedule for determination of
15 discounts from charges for persons who qualify for such discounts by
16 January 1, 1990. The department shall develop specific guidelines to
17 assist hospitals in setting sliding fee schedules required by this
18 section. All persons with family income below one hundred percent of
19 the federal poverty standard shall be deemed charity care patients
20 for the full amount of hospital charges, except to the extent the
21 patient has third-party coverage for those charges.

22 (6) Each hospital shall post and prominently display notice of
23 charity care availability. Notice must be posted in all languages
24 spoken by more than ten percent of the population of the hospital
25 service area. Notice must be displayed in at least the following
26 locations:

27 (a) Areas where patients are admitted or registered;

28 (b) Emergency departments, if any; and

29 (c) Financial service or billing areas where accessible to
30 patients.

31 (7) Current versions of the hospital's charity care policy, a
32 plain language summary of the hospital's charity care policy, ~~((and))~~
33 the hospital's debt collection practices, the hospital's charity care
34 application form, and the statement specified in subsection (8)(a) of
35 this section must be available on the hospital's web site. The
36 description of the hospital's debt collection practices must identify
37 all entities under contract with the hospital to collect debt and any
38 revenue generating agreement between the hospital and any of the
39 contracted debt collection entities. The summary and application form

1 must be available in all languages spoken by more than ten percent of
2 the population of the hospital service area.

3 (8) (a) All hospital billing statements and other written
4 communications concerning billing or collection of a hospital bill by
5 a hospital must include the following or a substantially similar
6 statement prominently displayed on the first page of the statement in
7 both English and the second most spoken language in the hospital's
8 service area:

9 You may qualify for free care or a discount on your hospital
10 bill, whether or not you have insurance. Please contact our
11 financial assistance office at [web site] and [phone number].
12 Washington state law gives you the right to an itemized bill and
13 requires that hospitals delay collections actions until a
14 decision about your application for free care has been made. This
15 hospital [does or does not] have a financial interest in one or
16 more of the debt collection agencies that your bill may be
17 referred to if you fail to pay your bill.

18 (b) Nothing in (a) of this subsection requires any hospital to
19 alter any preprinted hospital billing statements existing as of
20 October 1, ((2018)) 2019.

21 (9) Hospital obligations under federal and state laws to provide
22 meaningful access for limited English proficiency and non-English-
23 speaking patients apply to information regarding billing and charity
24 care. Hospitals shall develop standardized training programs on the
25 hospital's charity care policy and use of interpreter services, and
26 provide regular training for appropriate staff, including the
27 relevant and appropriate staff who perform functions relating to
28 registration, admissions, or billing.

29 (10) Each hospital shall make every reasonable effort to
30 determine:

31 (a) The existence or nonexistence of private or public
32 sponsorship which might cover in full or part the charges for care
33 rendered by the hospital to a patient;

34 (b) The annual family income of the patient as classified under
35 federal poverty income guidelines as of the time the health care
36 services were provided, or at the time of application for charity
37 care if the application is made within two years of the time of
38 service, the patient has been making good faith efforts towards
39 payment of health care services rendered, and the patient
40 demonstrates eligibility for charity care; and

1 (c) The eligibility of the patient for charity care as defined in
2 this chapter and in accordance with hospital policy. An initial
3 determination of sponsorship status shall precede collection efforts
4 directed at the patient.

5 (11) At the hospital's discretion, a hospital may consider
6 applications for charity care at any time, including any time there
7 is a change in a patient's financial circumstances.

8 (12) The department shall monitor the distribution of charity
9 care among hospitals, with reference to factors such as relative need
10 for charity care in hospital service areas and trends in private and
11 public health coverage. The department shall prepare reports that
12 identify any problems in distribution which are in contradiction of
13 the intent of this chapter. The report shall include an assessment of
14 the effects of the provisions of this chapter on access to hospital
15 and health care services, as well as an evaluation of the
16 contribution of all purchasers of care to hospital charity care.

17 (13) The department shall issue a report on the subjects
18 addressed in this section at least annually, with the first report
19 due on July 1, 1990.

20 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.230
21 RCW to read as follows:

22 The department shall require ambulatory surgical facilities to
23 annually report the following information in a format established by
24 the department:

25 (1) The number of patient encounters;

26 (2) Utilization data by service provided, including the following
27 categories: Primary care, specialty care, urgent care, or surgery, as
28 well as virtual care appointments by medium;

29 (3) Acquisitions of diagnostic or therapeutic equipment during
30 the reporting period with a value in excess of five hundred thousand
31 dollars; and

32 (4) Commencement of projects during the reporting period that
33 require a capital expenditure for the facility in excess of one
34 million dollars.

35 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2021.

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