
ENGROSSED 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 43.70 RCW; adding a new section to chapter 70.230 RCW; and
4 providing an effective date.

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

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

8 (1) (a) To promote the public interest consistent with the
9 purposes of chapter 492, Laws of 1993 as amended by chapter 267, Laws
10 of 1995, the department shall ~~((continue to))~~ require hospitals to
11 submit hospital financial and patient discharge information,
12 including any applicable information reported pursuant to section 2
13 of this act, which shall be collected, maintained, analyzed, and
14 disseminated by the department. The department shall, if deemed cost-
15 effective and efficient, contract with a private entity for any or
16 all parts of data collection.

17 (b) Data elements shall be reported in conformance with a uniform
18 reporting system established by the department. This includes data
19 elements identifying each hospital's revenues, expenses, contractual
20 allowances, charity care, bad debt, other income, total units of
21 inpatient and outpatient services, and other financial and employee

1 compensation information reasonably necessary to fulfill the purposes
2 of this section. Data elements relating to use of hospital services
3 by patients shall be the same as those currently compiled by
4 hospitals through inpatient discharge abstracts. The department shall
5 encourage and permit reporting by electronic transmission or hard
6 copy as is practical and economical to reporters.

7 (c) The department must revise the uniform reporting system to
8 further delineate hospital expenses reported in the other direct
9 expense category in the statement of revenue and expense. The
10 department must include the following additional categories of
11 expenses with the other direct expenses category:

12 (i) Blood supplies;

13 (ii) Contract staffing;

14 (iii) Information technology, including licenses and maintenance;

15 (iv) Insurance and professional liability;

16 (v) Laundry services;

17 (vi) Legal, audit, and tax professional services;

18 (vii) Purchased laboratory services;

19 (viii) Repairs and maintenance;

20 (ix) Shared services or system office allocation;

21 (x) Staff recruitment;

22 (xi) Training costs;

23 (xii) Taxes;

24 (xiii) Utilities; and

25 (xiv) Other noncategorized expenses.

26 (d) The department must revise the uniform reporting system to
27 further delineate hospital revenues reported in the other operating
28 revenue category in the statement of revenue and expense. The
29 department must include the following additional categories of
30 revenues within the other operating revenues category:

31 (i) Donations;

32 (ii) Grants;

33 (iii) Joint venture revenue;

34 (iv) Local taxes;

35 (v) Outpatient pharmacy;

36 (vi) Parking;

37 (vii) Quality incentive payments;

38 (viii) Reference laboratories;

39 (ix) Rental income;

40 (x) Retail cafeteria; and

1 (xi) Other noncategorized revenues.

2 (e) (i) A hospital, other than a hospital designated as a critical
3 access hospital or sole community hospital, must report line items
4 and amounts for any expenses or revenues in the other noncategorized
5 expenses category in (c) (xiv) of this subsection or the other
6 noncategorized revenues category in (d) (xi) of this subsection that
7 either have a value: (A) Of one million dollars or more; or (B)
8 representing one percent or more of the total expenses or total
9 revenues; or

10 (ii) A hospital designated as a critical access hospital or sole
11 community hospital must report line items and amounts for any
12 expenses or revenues in the other noncategorized expenses category in
13 (c) (xiv) of this subsection or the other noncategorized revenues
14 category in (d) (xi) of this subsection that represent the greater of:
15 (A) One million dollars; or (B) one percent or more of the total
16 expenses or total revenues.

17 (2) In identifying financial reporting requirements, the
18 department may require both annual reports and condensed quarterly
19 reports from hospitals, so as to achieve both accuracy and timeliness
20 in reporting, but shall craft such requirements with due regard of
21 the data reporting burdens of hospitals.

22 (3) (a) Beginning with compensation information for 2012, unless a
23 hospital is operated on a for-profit basis, the department shall
24 require a hospital licensed under chapter 70.41 RCW to annually
25 submit employee compensation information. To satisfy employee
26 compensation reporting requirements to the department, a hospital
27 shall submit information as directed in (a) (i) or (ii) of this
28 subsection. A hospital may determine whether to report under (a) (i)
29 or (ii) of this subsection for purposes of reporting.

30 (i) Within one hundred thirty-five days following the end of each
31 hospital's fiscal year, a nonprofit hospital shall file the
32 appropriate schedule of the federal internal revenue service form 990
33 that identifies the employee compensation information with the
34 department. If the lead administrator responsible for the hospital or
35 the lead administrator's compensation is not identified on the
36 schedule of form 990 that identifies the employee compensation
37 information, the hospital shall also submit the compensation
38 information for the lead administrator as directed by the
39 department's form required in (b) of this subsection.

1 (ii) Within one hundred thirty-five days following the end of
2 each hospital's calendar year, a hospital shall submit the names and
3 compensation of the five highest compensated employees of the
4 hospital who do not have any direct patient responsibilities.
5 Compensation information shall be reported on a calendar year basis
6 for the calendar year immediately preceding the reporting date. If
7 those five highest compensated employees do not include the lead
8 administrator for the hospital, compensation information for the lead
9 administrator shall also be submitted. Compensation information shall
10 include base compensation, bonus and incentive compensation, other
11 payments that qualify as reportable compensation, retirement and
12 other deferred compensation, and nontaxable benefits.

13 (b) To satisfy the reporting requirements of this subsection (3),
14 the department shall create a form and make it available no later
15 than August 1, 2012. To the greatest extent possible, the form shall
16 follow the format and reporting requirements of the portion of the
17 internal revenue service form 990 schedule relating to compensation
18 information. If the internal revenue service substantially revises
19 its schedule, the department shall update its form.

20 (4) The health care data collected, maintained, and studied by
21 the department shall only be available for retrieval in original or
22 processed form to public and private requestors pursuant to
23 subsection (7) of this section and shall be available within a
24 reasonable period of time after the date of request. The cost of
25 retrieving data for state officials and agencies shall be funded
26 through the state general appropriation. The cost of retrieving data
27 for individuals and organizations engaged in research or private use
28 of data or studies shall be funded by a fee schedule developed by the
29 department that reflects the direct cost of retrieving the data or
30 study in the requested form.

31 (5) The department shall, in consultation and collaboration with
32 the federally recognized tribes, urban or other Indian health service
33 organizations, and the federal area Indian health service, design,
34 develop, and maintain an American Indian-specific health data,
35 statistics information system.

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

39 (7) The department must maintain the confidentiality of patient
40 discharge data it collects under subsection (1) of this section.

1 Patient discharge data that includes direct and indirect identifiers
2 is not subject to public inspection and the department may only
3 release such data as allowed for in this section. Any agency that
4 receives patient discharge data under (a) or (b) of this subsection
5 must also maintain the confidentiality of the data and may not
6 release the data except as consistent with subsection (8)(b) of this
7 section. The department may release the data as follows:

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

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

12 (ii) Researchers with approval of the Washington state
13 institutional review board upon receipt of a signed confidentiality
14 agreement with the department.

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

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

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

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

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

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

31 (10) For the purposes of this section:

32 (a) "Direct patient identifier" means information that identifies
33 a patient; and

34 (b) "Indirect patient identifier" means information that may
35 identify a patient when combined with other information.

36 (11) The department must adopt rules necessary to carry out its
37 responsibilities under this section. The department must consider
38 national standards when adopting rules.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70

2 RCW to read as follows:

3 (1) (a) For a health system operating a hospital licensed under
4 chapter 70.41 RCW, the health system must annually submit to the
5 department a consolidated annual income statement and balance sheet,
6 including hospitals, ambulatory surgical facilities, health clinics,
7 urgent care clinics, physician groups, health-related laboratories,
8 long-term care facilities, home health agencies, dialysis facilities,
9 ambulance services, behavioral health settings, and virtual care
10 entities that are operated in Washington.

11 (b) The state auditor's office shall provide the department with
12 audited financial statements for all hospitals owned or operated by a
13 public hospital district under chapter 70.44 RCW. Public hospital
14 districts are not required to submit additional information to the
15 department under this subsection.

16 (2) The department must make information submitted under this
17 section available in the same manner as hospital financial data.

18 **Sec. 3.** RCW 70.01.040 and 2012 c 184 s 1 are each amended to
19 read as follows:

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

25 (2) Each health care facility must post prominently in locations
26 easily accessible to and visible by patients, including its web site,
27 a statement that the provider-based clinic is licensed as part of the
28 hospital and the patient may receive a separate charge or billing for
29 the facility, which may result in a higher out-of-pocket expense.

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

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

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

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

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

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

7 (5) For the purposes of this section:

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

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

26 **Sec. 4.** RCW 70.41.470 and 2012 c 103 s 1 are each amended to
27 read as follows:

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

36 (2) Unless contained in the community health needs assessment
37 under subsection (1) of this section, a hospital subject to the
38 requirements under subsection (1) of this section shall make public a
39 description of the community served by the hospital, including both a

1 geographic description and a description of the general population
2 served by the hospital; and demographic information such as leading
3 causes of death, levels of chronic illness, and descriptions of the
4 medically underserved, low-income, and minority, or chronically ill
5 populations in the community.

6 (3)(a) Each hospital subject to the requirements of subsection
7 (1) of this section shall make widely available to the public a
8 community benefit implementation strategy within one year of
9 completing its community health needs assessment. In developing the
10 implementation strategy, hospitals shall consult with community-based
11 organizations and stakeholders, and local public health
12 jurisdictions, as well as any additional consultations the hospital
13 decides to undertake. Unless contained in the implementation strategy
14 under this subsection (3)(a), the hospital must provide a brief
15 explanation for not accepting recommendations for community benefit
16 proposals identified in the assessment through the stakeholder
17 consultation process, such as excessive expense to implement or
18 infeasibility of implementation of the proposal.

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

22 (c) Each hospital subject to the requirements of subsection (1)
23 of this section must make widely available to the public an addendum
24 to its 990 schedule H form, the following information related to the
25 ten community benefits and community building activities with the
26 highest costs for each hospital designated as a critical access
27 hospital or sole community hospital, and for all other hospitals, the
28 twenty community benefits and community building activities with the
29 highest costs:

30 (i) Descriptions of the activities provided and costs of
31 providing each of those activities;

32 (ii) The community health needs assessment implementation
33 strategy that is the basis for the activities;

34 (iii) The zip codes in the hospital's service area; and

35 (iv) How medically underserved, low-income, and minority, or
36 chronically ill populations were served.

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

1 **Sec. 5.** RCW 70.170.060 and 2018 c 263 s 2 are each amended to
2 read as follows:

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

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

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

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

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

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

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

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

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

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

13 (6) Each hospital shall post and prominently display notice of
14 charity care availability. Notice must be posted in all languages
15 spoken by more than ten percent of the population of the hospital
16 service area. Notice must be displayed in at least the following
17 locations:

- 18 (a) Areas where patients are admitted or registered;
19 (b) Emergency departments, if any; and
20 (c) Financial service or billing areas where accessible to
21 patients.

22 (7) (a) Current versions of the hospital's charity care policy, a
23 plain language summary of the hospital's charity care policy, and the
24 hospital's charity care application form must be available on the
25 hospital's web site. The summary and application form must be
26 available in all languages spoken by more than ten percent of the
27 population of the hospital service area.

28 (b) The hospital must post notice regarding the information in
29 (b) (i) and (ii) of this subsection on the hospital's web site if:

30 (i) The hospital owns, in part or in full, a debt collection
31 agency; or

32 (ii) The hospital or health system and a debt collection agency
33 exchange revenues exceeding the amount a consumer owed related to
34 medical debt for the services provided and administrative costs and
35 fees of collecting the debt.

36 (8) (a) All hospital billing statements and other written
37 communications concerning billing or collection of a hospital bill by
38 a hospital must include the following or a substantially similar
39 statement prominently displayed on the first page of the statement in

1 both English and the second most spoken language in the hospital's
2 service area:

3 You may qualify for free care or a discount on your hospital
4 bill, whether or not you have insurance. Please contact our
5 financial assistance office at [web site] and [phone number].

6 (b) Nothing in (a) of this subsection requires any hospital to
7 alter any preprinted hospital billing statements existing as of
8 October 1, 2018.

9 (9) Hospital obligations under federal and state laws to provide
10 meaningful access for limited English proficiency and non-English-
11 speaking patients apply to information regarding billing and charity
12 care. Hospitals shall develop standardized training programs on the
13 hospital's charity care policy and use of interpreter services, and
14 provide regular training for appropriate staff, including the
15 relevant and appropriate staff who perform functions relating to
16 registration, admissions, or billing.

17 (10) Each hospital shall make every reasonable effort to
18 determine:

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

22 (b) The annual family income of the patient as classified under
23 federal poverty income guidelines as of the time the health care
24 services were provided, or at the time of application for charity
25 care if the application is made within two years of the time of
26 service, the patient has been making good faith efforts towards
27 payment of health care services rendered, and the patient
28 demonstrates eligibility for charity care; and

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

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

36 (12) The department shall monitor the distribution of charity
37 care among hospitals, with reference to factors such as relative need
38 for charity care in hospital service areas and trends in private and
39 public health coverage. The department shall prepare reports that
40 identify any problems in distribution which are in contradiction of

1 the intent of this chapter. The report shall include an assessment of
2 the effects of the provisions of this chapter on access to hospital
3 and health care services, as well as an evaluation of the
4 contribution of all purchasers of care to hospital charity care.

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

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.230
9 RCW to read as follows:

10 The department shall require ambulatory surgical facilities to
11 annually report the following information in a format established by
12 the department:

13 (1) The number of patient encounters;

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

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

20 (4) Commencement of projects during the reporting period that
21 require a capital expenditure for the facility in excess of one
22 million dollars.

23 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2021.

--- END ---