HOUSE BILL REPORT
HB 2036

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to health system transparency.

Brief Description: Concerning health system transparency.

Sponsors: Representatives Macri, Ormsby, Riccelli and Pollet.

Brief History:
Committee Activity:
Health Care & Wellness: 1/15/20, 1/28/20 [DPS].

Brief Summary of Substitute Bill

- Adds ambulatory surgical facilities reporting requirements regarding patient encounters, utilization, equipment purchases, and capital projects.
- Requires entities that operate health systems to report financial and patient discharge data related to components and services that comprise the health system, as well as data regarding certain financial exchanges and the number of employees.
- Eliminates the exemption from reporting information about facility fees for off-campus clinics or providers that are located within 250 yards from the main hospital building.
- Requires that community needs assessments submitted by hospitals include an addendum containing certain information about activities identified as community health improvement services.
- Requires hospitals to make their debt collection practices available on their websites.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Cody, Chair; Macri, Vice Chair; Chopp, Davis, Riccelli, Robinson, Stonier, Thai and Tharinger.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 6 members: Representatives Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Chambers, DeBolt, Harris and Maycumber.

Staff: Chris Blake (786-7392).

Background:

Hospital Financial and Patient Discharge Reporting.
Hospitals must submit financial and patient discharge data to the Department of Health (Department). Each hospital must report data elements identifying its revenues, expenses, contractual allowances, charity care, bad debt, other income, total units of inpatient and outpatient services, and other financial and employee compensation information. With respect to compensation information, public and nonprofit hospitals must either provide employee compensation information submitted to the federal Internal Revenue Service or provide the compensation information for the five highest compensated employees of the hospital who do not have direct patient responsibilities.

Facility Fees.
Provider-based clinics that charge facility fees must provide a notice to patients receiving nonemergency services. The notice must inform the patient that the clinic is licensed as part of a hospital, and the patient may receive a separate billing for the facility component of a health care visit which may result in a higher out-of-pocket expense. Hospitals with provider-based clinics that bill a separate facility fee must report specific information to the Department each year. The reportable information relates to the number of provider-based clinics that bill a separate fee, the number of patient visits at each of those provider-based clinics, the revenue received by the hospital through the facility fees billed at each of those provider-based clinics, and the range of allowable facility fees paid by public or private payers at each of those provider-based clinics.

A "provider-based clinic" is defined as the site of an off-campus clinic or provider office that is licensed as part of a hospital and is at least 250 yards from the main hospital buildings, or as determined by the federal Centers for Medicare and Medicaid Services, and is owned by a hospital or a health system that operates one or more hospitals. The clinic or provider must be primarily engaged in providing diagnostic and therapeutic care. A "facility fee" is any separate charge or billing by a provider-based clinic that is in addition to the professional fee for physician's services and is intended to cover building, electronic medical records systems, billing, and other administrative and operational expenses.

Community Health Needs Assessments.
To qualify as a nonprofit organization, federal law requires that hospitals complete a community health needs assessment every three years and adopt an implementation strategy to meet the identified community health needs. The community health needs assessment must consider input from people who represent broad interests in the community served by the hospital, including those with special knowledge or expertise in public health.

State law requires that hospitals that are federally recognized as nonprofit entities make their community health needs assessments available to the public. In addition, hospitals must

include a description of the community served by the hospital and demographic information related to the community's health. Within one year of completing their community health needs assessments, hospitals must make public a community benefit implementation strategy.

Notice of Charity Care Policies.
Washington hospitals may not deny patients access to emergency care because of the inability to pay. Hospitals are required to develop, implement, and maintain a charity care policy and a sliding fee schedule and submit them, along with data regarding the annual use of charity care, to the Department. Hospitals must also submit bad debt policies to the Department, including standards for collecting the unpaid portions of hospital charges that are the patient's responsibility. "Charity care" is defined as necessary hospital health care rendered to indigent persons to the extent they are unable to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payer.

Hospitals must notify a person who may be eligible for charity care in several ways. Hospitals must display notices about the availability of charity care prominently in certain hospital areas, including areas where patients are admitted or registered, emergency departments, and financial services or billing areas. The hospital must also make the current version of the hospital's charity care policy and application form available on its website. In addition, all hospital billing statements and other written statements about billing must include a prescribed message about the potential availability of charity care.

Summary of Substitute Bill:

Financial and Patient Discharge Reporting.
Any entity that operates a health system must report financial and patient discharge data to the Department for each health care facility component or service within the entity. The entity must also report:

- any financial exchanges between the entity and each health care facility component or service, or between health care facility components and services, including an explanation of the nature of each exchange over $50,000; and
- the total number of full-time equivalent employees at each health care facility component or service.

A "health system" is defined as an entity that owns, operates, is in common control of, or provides financial support for at least one hospital as well as other health care components and services that may be independent of the hospital. These may include ambulatory surgical facilities, health clinics, urgent care clinics, health-related laboratories, long-term care facilities, home health agencies, dialysis facilities, ambulance services, behavioral health settings, and virtual care entities, including electronic applications and telehealth portals.

When reporting data related to revenue, hospitals and health systems or entities directing health care services must include a description of the services provided in exchange for the income or revenue. If a service generates more than $50,000 during the reporting period, the amount for that service must be listed.

In addition to reporting expense data defined by the Department, hospitals and entities operating health systems must provide a description of any expenses that do not meet a defined category of expenses. If an expense costs more than $50,000 during the reporting period, the amount for that expense must be listed.

Each ambulatory surgical facility must submit an annual report to the Department with the following information:

- the number of patient encounters;
- utilization data by services provided, including primary care, specialty care, urgent care, surgery, and virtual care;
- acquisitions of diagnostic and therapeutic equipment during the reporting period with a value over $500,000; and
- projects that were commenced during the reporting period that require a capital expenditure for the facility over $1 million.

Facility Fees.
The exemption for off-campus clinics or providers that are located within 250 yards from the main hospital buildings or as determined by the federal Centers for Medicare and Medicaid Services is eliminated from the definition of "provider-based clinic," as the term relates to providing notice of facility fees and reporting facility fee information.

Community Health Needs Assessments.
Hospitals that must make their community health needs assessments available to the public must also make public an addendum with details about the activities that they identify as community health improvement services. The addendum must specify the type of activity, the method in which the type of activity was provided, the resources used to provide the activity, how the activity may correspond to follow up services offered by the hospital, the cost of providing each type of activity, and any materials provided to activity participants.

Hospital Debt Collection Practices.
In addition to posting the current version of the hospital's charity care policy and application form on its website, each hospital must also make available its debt collection practices. The description of the debt collection practices must identify all entities that are under contract with the hospital to collect debt and any revenue generating agreement between the hospital and any of the contracted debt collection agencies.

The mandatory statement that all hospital billing communications must include related to charity care is expanded to include a message regarding the person's rights with respect to collections actions and whether or not the hospital has a financial relationship with a collection agency. In addition to appearing on the hospital billing communications, the entire statement must be included on the hospital's website.

Substitute Bill Compared to Original Bill:

The substitute bill removes ambulatory surgical facilities, other than those affiliated with a health system, from the requirement to report financial and patient discharge data. The new ambulatory surgical facility reporting requirements are changed: (1) from an inventory of beds and services to the number of patient encounters, and (2) from utilization data by bed

type and service to utilization data by services provided, including primary care, specialty care, urgent care, surgery, and virtual care.

The substitute bill eliminates the requirement that each hospital report the general financial arrangement between the hospital and any debt collection entities and replaces it with the requirement that the hospital report any revenue-generating agreement between the hospital and any debt collection entities. The requirement that hospital billing materials contain a statement about the availability of charity care is expanded to include a statement about the person's rights with respect to collections actions and if the hospital has a financial relationship with a collection agency. The entire statement must be included on the hospital's website.

The substitute bill requires hospitals to make public, rather than submit to the Department, the addendum information regarding community health improvement services.

The substitute bill expands the definition of a "health system" to include entities that own, operate, are in common control of, or provide financial support for at least one or more hospitals and other health care facilities, not just entities that are financially responsible for them.

The effective date is extended by one year.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on January 1, 2021.

Staff Summary of Public Testimony:

(In support) Hospital care has the fastest rate of growth in health care expenses, and this bill attempts to get better clarity on the reasons for that. Health care costs are rising, and this raises questions for all purchasers about how to maintain spending over time. Health care purchasers are interested in the success of the health care system; however, it is not clear how resources are being used. Rising health care costs make it difficult for patients to access needed care.

As there is more integration in the health care delivery system, it is important to understand how all of the players in the system interact. The health care system is growing increasingly complex and consolidated which makes it hard to assess the right way to cut costs and assure accountability. People have questions about the financial and care relationships that exist in the health system. It is essential to modernize the oversight of the health care system to follow where the health care delivery is going. Other states have standards that allow them to understand hospital revenues and spending and how money is exchanged between affiliated organizations. It is difficult to maintain a stable provider network with so many rapid changes in the market. The health care system is increasingly clinic-based which is

primarily staffed by communities of color and women, and it is not fair to them to not have oversight for the work that is happening there.

Current end-of-year financial reports include a statement related to other revenue or expenses which may have millions of dollars that are not further detailed. When "other expenses" is the largest category of expenses for a hospital, this raises concerns about how the hospitals are spending the community's money. Hospitals report on the financial aspects of their operations in many ways, but the reports do not present a complete picture. One hospital system lists $700 million in "other expenses," but there is no information about what those expenses are. One hospital reported $40 million in facility fees in one year, and it is not known what this money is or where it is going.

There have been lawsuits based on charity care lately that have led some to ask what the financial relationship is between the hospital and the debt collection agency. This bill will help patients get the care that they need without having to worry about financial stability. The public needs information about hospitals' financial practices to help patients make better decisions about where to seek care.

Some hospitals use community health needs assessments as a marketing campaign rather than funding needs identified through the community health needs assessments, which are supposed to be the basis for spending on community benefits. The behaviors at the large health systems bleed into the behaviors and costs at the rural level as well.

(Opposed) Hospitals currently report a great deal of information, and it would be helpful to discuss what necessary information is not available. It is not clear what kinds of items would be under the $50,000 threshold regarding uncategorized revenues and expenses. The language about reporting between hospital systems and components is not clear. It is not clear what the definition of a provider-based clinic would be. Community health needs assessment information is already publicly available. The reporting requirement about debt collection practices is not clear. This bill imposes substantial burdens on all hospitals without clear purpose or definitions. This bill requires reporting hospital revenue and expenses at the patient level, but hospitals capture that information in the aggregate. The way the bill is written would not allow for context for the data, such as where some services support other unsubsidized services. There is already a gold standard available to the public that will show all of the requested information, including audited financial statements and reports.

While there is a need for more transparency with regard to hospitals and their debt collection practices, it is not clear what must be disclosed under the general financial agreement. It would be problematic to have to release proprietary information like commission rates. It is becoming difficult for collection agencies in Washington to be competitive with agencies across the country. There are parts of legislation from last year that address the itemization concerns expressed by some.

Procedures at ambulatory surgical facilities cost about half of what they would cost in a hospital, so they are not as big a part of the spending problem as hospitals and should not be included in the bill. Many of the reporting requirements do not apply to ambulatory surgical facilities.

Persons Testifying: (In support) Representative Macri, prime sponsor; Sybill Hyppolite, Washington State Labor Council; Brenda Wiest, Teamsters 117; Jennifer Muhm, Washington State Nurses Association; David Rojas, United Food and Commercial Workers 21; and Rachel Erstad and Lindsey Grad, Service Employees International Union Healthcare 1199 Northwest.

(Opposed) Zosia Stanley, Washington State Hospital Association; Will Callicoat, Mary Bridge Children's Hospital; Kelsi Hamilton, Washington Collectors Association; and Susie Tracy, Washington Ambulatory Surgery Center Association.

Persons Signed In To Testify But Not Testifying: None.