

2 **ESHB 2568** - S AMD

3 By Senators West and Hayner

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5 On page 10, after line 18, insert the following:

6 "Sec. 7. RCW 70.170.010 and 1989 1st ex.s. c 9 s 501 are each
7 amended to read as follows:

8 (1) The legislature finds and declares that there is a need for
9 health care information that helps the general public understand health
10 care issues and how they can be better consumers and that is useful to
11 purchasers, payers, and providers in making health care choices,
12 determining and monitoring the quality of health care services, and
13 ((negotiating payments)) making health care purchasing decisions. It
14 is the purpose and intent of this chapter to establish a hospital data
15 collection, storage, and retrieval system which supports these data
16 needs and which also provides public officials and others engaged in
17 the development of state health policy the information necessary for
18 the analysis of health care issues.

19 (2) The legislature finds that rising health care costs and access
20 to health care services are of vital concern to the people of this
21 state. It is, therefore, essential that strategies be explored that
22 moderate health care costs and promote access to health care services.

23 (3) The legislature further finds that access to health care is
24 among the state's goals and the provision of such care should be among
25 the purposes of health care providers and facilities. Therefore, the
26 legislature intends that charity care requirements and related
27 enforcement provisions for hospitals be explicitly established.

1 (4) The lack of reliable statistical information about the delivery
2 of charity care is a particular concern that should be addressed. It
3 is the purpose and intent of this chapter to require hospitals to
4 provide, and report to the state, charity care to persons with acute
5 care needs, and to have a state agency both monitor and report on the
6 relative commitment of hospitals to the delivery of charity care
7 services, as well as the relative commitment of public and private
8 purchasers or payers to charity care funding.

9 (5) The intent of the information collection activities authorized
10 under this chapter is to insure that:

11 (a) A comprehensive data system that meets the objectives of this
12 section be developed in the most efficient, accurate, and unbiased
13 manner possible;

14 (b) All public and private providers and purchasers of health care
15 services regularly supply the types of relevant data necessary to
16 insure a complete, comprehensive, and accurate data system;

17 (c) The data system shall not by design or operation result in any
18 provider or purchaser of health care being placed at a competitive
19 advantage over any other provider or purchasing of health care;

20 (d) Providers, health care purchasers, consumers, public agencies,
21 and others have equal access to the system's data; and

22 (e) Providers, health care purchasers, consumers, public agencies,
23 and others have access to useful information developed from the
24 system's data that enables them to make the comparative decisions
25 necessary to fulfill the health care purchasing, provider selection,
26 and quality assurance objectives set forth in this section."

27 "Sec. 8. RCW 70.170.020 and 1989 1st ex.s. c 9 s 502 are each
28 amended to read as follows:

29 As used in this chapter:

1 (1) "Council" means the health care access and cost control council
2 created by this chapter.

3 (2) "Department" means department of health.

4 (3) "Hospital" means any health care institution which is required
5 to qualify for a license under RCW 70.41.020(2); or as a psychiatric
6 hospital under chapter 71.12 RCW.

7 (4) "Secretary" means secretary of health.

8 (5) "Charity care" means necessary hospital health care rendered to
9 indigent persons, to the extent that the persons are unable to pay for
10 the care or to pay deductibles or co-insurance amounts required by a
11 third-party payer, as determined by the department.

12 (6) "Sliding fee schedule" means a hospital-determined, publicly
13 available schedule of discounts to charges for persons deemed eligible
14 for charity care; such schedules shall be established after
15 consideration of guidelines developed by the department.

16 (7) "Special studies" means studies which have not been funded
17 through the department's biennial or other legislative appropriations.

18 (8) "Health care" means all care, goods, technologies, or services
19 provided to persons by providers of care intended to ascertain,
20 improve, or maintain the health of such persons. It specifically
21 includes the care, goods, technologies, or services of health care
22 practitioners, programs, facilities, or other health care entities
23 regulated by Title 18 or 70 RCW.

24 (9) "Providers" means all health care practitioners, programs,
25 facilities, or other health care entities regulated pursuant to Title
26 18 or 70 RCW.

27 (10) "Health care payors" includes all state health care payment
28 programs; all disability insurers, health care service contractors, and
29 health maintenance organizations subject to the jurisdiction of the

1 insurance commissioner pursuant to Title 48 RCW; and all employers who
2 provide health care benefits to employees through self-insurance.

3 (11) "Reporters" means providers and health care payors."

4 **"Sec. 9.** RCW 70.170.030 and 1989 1st ex.s. c 9 s 503 are each
5 amended to read as follows:

6 (1) There is created the health care access and cost control
7 council within the department of health consisting of the following:
8 The director of the department of labor and industries; the
9 administrator of the health care authority; the secretary of social and
10 health services; the administrator of the basic health plan; a person
11 representing the governor on matters of health policy; the secretary of
12 health; and ~~((one member from the public at large to be selected by the~~
13 ~~governor who shall represent individual consumers of health care. The~~
14 ~~public member shall not have any fiduciary obligation to any health~~
15 ~~care facility or any financial interest in the provision of health care~~
16 ~~services.))~~ nine public members. Public members shall be appointed by
17 the governor with consent of the senate. In selecting public members,
18 the governor shall assure that the council collectively has the
19 technical expertise in health care data systems design, data
20 collection, and other technical areas relevant to the design and
21 operation of a health care data system and also reflects the
22 perspectives of the users and reporters of data. In its confirmation
23 of gubernatorial nomination, the senate should verify the technical
24 qualifications of appointments. Public members shall serve two-year
25 terms and the governor shall designate four of the initial appointees
26 to serve one-year terms in order to provide staggered terms; thereafter
27 all public members shall serve two-year terms. All persons appointed
28 to fill vacancies shall be appointed in the same manner as the persons
29 they are replacing. Members employed by the state shall serve without

1 pay and participation in the council's work shall be deemed performance
2 of their employment. The public members shall be compensated in
3 accordance with RCW 43.03.240 and shall be reimbursed for related
4 travel expenses in accordance with RCW 43.03.050 and 43.03.060.

5 (2) A member of the council designated by the governor shall serve
6 as chairman. The council shall elect a vice-chairman from its members
7 biennially. Meetings of the council shall be held as frequently as its
8 duties require. The council shall keep minutes of its meetings and
9 adopt procedures for the governing of its meetings, minutes, and
10 transactions.

11 (3) (~~Four~~) Eight members shall constitute a quorum, but (~~a~~
12 ~~vacancy on the council shall not impair its power to act~~) at least
13 four of that number shall be public members. No action of the council
14 shall be effective unless four members concur therein."

15 "Sec. 10. RCW 70.170.040 and 1989 1st ex.s. c 9 s 504 are each
16 amended to read as follows:

17 (1) In order to advise the department and the board of health in
18 preparing executive request legislation and the state health report
19 according to RCW 43.20.050, and, in order to represent the public
20 interest, the council shall monitor and evaluate hospital and related
21 health care services consistent with RCW 70.170.010. In fulfilling its
22 responsibilities, the council shall have complete access to all the
23 department's data and information systems.

24 (2) The council shall advise the department on the (~~hospital~~)
25 health care data collection system required by this chapter.

26 (3) The council, in addition to participation in the development of
27 the state health report, shall, from time to time, report to the
28 governor and the appropriate committees of the legislature with

1 proposed changes in hospital and related health care services,
2 consistent with the findings in RCW 70.170.010.

3 ~~((4) The department may undertake, with advice from the council
4 and within available funds, the following studies:~~

5 ~~(a) Recommendations regarding health care cost containment, and the
6 assurance of access and maintenance of adequate standards of care;~~

7 ~~(b) Analysis of the effects of various payment methods on health
8 care access and costs;~~

9 ~~(c) The utility of the certificate of need program and related
10 health planning process;~~

11 ~~(d) Methods of permitting the inclusion of advance medical
12 technology on the health care system, while controlling inappropriate
13 use;~~

14 ~~(e) The appropriateness of allocation of health care services;~~

15 ~~(f) Professional liabilities on health care access and costs, to
16 include:~~

17 ~~(i) Quantification of the financial effects of professional
18 liability on health care reimbursement;~~

19 ~~(ii) Determination of the effects, if any, of nonmonetary factors
20 upon the availability of, and access to, appropriate and necessary
21 basic health services such as, but not limited to, prenatal and
22 obstetrical care; and~~

23 ~~(iii) Recommendation of proposals that would mitigate cost and
24 access impacts associated with professional liability.~~

25 The department shall report its findings and recommendations to the
26 governor and the appropriate committees of the legislature not later
27 than July 1, 1991.))"

28 "Sec. 11. RCW 70.170.050 and 1989 1st ex.s. c 9 s 505 are each
29 amended to read as follows:

1 The ((department)) council shall have the authority to respond to
2 requests ((of others)) for data, special studies, or analysis. The
3 ((department)) council may require ((such sponsors to pay)) payment of
4 any or all of the reasonable costs associated with such requests that
5 might be approved, but in no event may costs directly associated with
6 any such special study be charged against the funds generated by the
7 assessment authorized under ((RCW 70.170.080)) section 20 of this act."

8 "**Sec. 12.** RCW 70.170.070 and 1989 1st ex.s. c 9 s 507 are each
9 amended to read as follows:

10 (1) Every person who shall violate or knowingly aid and abet the
11 violation of RCW 70.170.060 (5) or (6), ((70.170.080)) section 20 of
12 this act, or 70.170.100, or any valid orders or rules adopted pursuant
13 to these sections, or who fails to perform any act which it is herein
14 made his or her duty to perform, shall be guilty of a misdemeanor.
15 Following official notice to the accused by the department of the
16 existence of an alleged violation, each day of noncompliance upon which
17 a violation occurs shall constitute a separate violation. Any person
18 violating the provisions of this chapter may be enjoined from
19 continuing such violation. The department has authority to levy civil
20 penalties not exceeding one thousand dollars for violations of this
21 chapter and determined pursuant to this section.

22 (2) Every person who shall violate or knowingly aid and abet the
23 violation of RCW 70.170.060 (1) or (2), or any valid orders or rules
24 adopted pursuant to such section, or who fails to perform any act which
25 it is herein made his or her duty to perform, shall be subject to the
26 following criminal and civil penalties:

27 (a) For any initial violations: The violating person shall be
28 guilty of a misdemeanor, and the department may impose a civil penalty

1 not to exceed one thousand dollars as determined pursuant to this
2 section.

3 (b) For a subsequent violation of RCW 70.170.060 (1) or (2) within
4 five years following a conviction: The violating person shall be
5 guilty of a misdemeanor, and the department may impose a penalty not to
6 exceed three thousand dollars as determined pursuant to this section.

7 (c) For a subsequent violation with intent to violate RCW
8 70.170.060 (1) or (2) within five years following a conviction: The
9 criminal and civil penalties enumerated in (a) of this subsection; plus
10 up to a three-year prohibition against the issuance of tax exempt bonds
11 under the authority of the Washington health care facilities authority;
12 and up to a three-year prohibition from applying for and receiving a
13 certificate of need.

14 (d) For a violation of RCW 70.170.060 (1) or (2) within five years
15 of a conviction under (c) of this subsection: The criminal and civil
16 penalties and prohibition enumerated in (a) and (b) of this subsection;
17 plus up to a one-year prohibition from participation in the state
18 medical assistance or medical care services authorized under chapter
19 74.09 RCW.

20 (3) The provisions of chapter 34.05 RCW shall apply to all
21 noncriminal actions undertaken by the department of health, the
22 department of social and health services, and the Washington health
23 care facilities authority pursuant to chapter 9, Laws of 1989 1st ex.
24 sess. (this act)."

25 "NEW SECTION. Sec. 13. A new section is added to chapter 70.170
26 RCW to read as follows:

27 The council shall fund the creation and maintenance of the data
28 base and studies provided for in RCW 70.170.100 and 70.170.110 from a
29 surcharge levied on the data acquired in whatever manner it deems to be

1 efficient and fair by rule. No such assessment shall amount to more
2 than four one-hundredths of one percent of the gross billed amount for
3 the service that is the subject matter of the data. The council may
4 accept gifts, donations, grants, and other funds received by the
5 council. All moneys collected under this section shall be deposited by
6 the state treasurer in the health care data collection account which is
7 hereby created in the state treasury. This account is the successor to
8 the hospital data collection account, the balance of which shall be
9 placed in the health care data collection account. The council may
10 also charge, receive, and dispense funds or authorize any contractor or
11 outside sponsor to charge for and reimburse the costs associated with
12 special studies as specified in RCW 70.170.050.

13 Any amounts raised by the collection of assessments provided for in
14 this section that are not required to meet appropriations in the budget
15 act for the current fiscal year shall be available to the council in
16 succeeding years."

17 "Sec. 14. RCW 70.170.100 and 1990 c 269 s 12 are each amended to
18 read as follows:

19 (1) The ~~((department))~~ council is responsible for the development,
20 implementation, and custody of a state-wide ~~((hospital))~~ health care
21 data system. As part of the design stage for development of the
22 system, the ~~((department))~~ council shall undertake a needs assessment
23 of the types of, and format for, ~~((hospital))~~ health care data needed
24 by consumers, purchasers, ~~((payers, hospitals))~~ health care payors,
25 providers, and state government as consistent with the intent of this
26 chapter. The ~~((department))~~ council shall identify a set of
27 ~~((hospital))~~ health care data elements and report specifications which
28 satisfy these needs. The council shall ~~((review the design of the data~~
29 ~~system and may direct the department to))~~ contract with a private

1 vendor (~~((for assistance in the design of the data system))~~) in the state
2 of Washington for all work to be performed under this section. The
3 data elements, specifications, and other (~~((design))~~) distinguishing,
4 features of this data system shall be made available for public review
5 and comment and shall be published, with comments, as the
6 (~~((department's first))~~) council's data plan by (~~((January 1, 1990))~~) July
7 1, 1993.

8 (2) (~~((Subsequent to the initial development of the data system as~~
9 ~~published as the department's first data plan, revisions to the data~~
10 ~~system shall be considered through the department's development of a~~
11 ~~biennial data plan, as proposed to, and funded by, the legislature~~
12 ~~through the biennial appropriations process. Costs of data activities~~
13 ~~outside of these data plans except for special studies shall be funded~~
14 ~~through legislative appropriations.~~

15 (3)) In designing the state-wide (~~((hospital))~~) health care data
16 system and any data plans, the (~~((department))~~) council shall identify
17 (~~((hospital))~~) health care data elements relating to (~~((both hospital~~
18 ~~finances))~~) health care costs, the quality of health care services and
19 (~~((the))~~) use of (~~((services by patients))~~) health care by consumers. Data
20 elements (~~((relating to hospital finances))~~) shall be reported (~~((by~~
21 ~~hospitals))~~) as the council directs by reporters in conformance with a
22 uniform (~~((system of))~~) reporting (~~((as specified by the department and~~
23 ~~shall))~~) system established by the council, which shall be adopted by
24 reporters. In the case of hospitals this includes data elements
25 identifying each hospital's revenues, expenses, contractual allowances,
26 charity care, bad debt, other income, total units of inpatient and
27 outpatient services, and other financial information reasonably
28 necessary to fulfill the purposes of this chapter, for hospital
29 activities as a whole and, as feasible and appropriate, for specified
30 classes of hospital purchasers and payers. Data elements relating to

1 use of hospital services by patients shall, at least initially, be the
2 same as those currently compiled by hospitals through inpatient
3 discharge abstracts (~~and reported to the Washington state hospital~~
4 ~~commission~~). The council shall permit reporting by electronic
5 transmission or hard copy as is practical and economical to reporters.

6 ~~((4))~~ (3) The state-wide (~~hospital~~) health care data system
7 shall be uniform in its identification of reporting requirements for
8 (~~hospitals~~) reporters across the state to the extent that such
9 uniformity is (~~necessary~~) useful to fulfill the purposes of this
10 chapter. Data reporting requirements may reflect differences (~~in~~
11 ~~hospital size; urban or rural location; scope, type, and method of~~
12 ~~providing service; financial structure; or other pertinent~~
13 ~~distinguishing factors~~) that involve pertinent distinguishing features
14 as determined by the council by rule. So far as (~~possible~~) is
15 practical, the data system shall be coordinated with any requirements
16 of the trauma care data registry as authorized in RCW 70.168.090, the
17 federal department of health and human services in its administration
18 of the medicare program, (~~and~~) the state in its role of gathering
19 public health statistics, or any other payor program of consequence, so
20 as to minimize any unduly burdensome reporting requirements imposed on
21 (~~hospitals~~) reporters.

22 ~~((5))~~ (4) In identifying financial reporting requirements under
23 the state-wide (~~hospital~~) health care data system, the (~~department~~)
24 council may require both annual reports and condensed quarterly reports
25 from reporters, so as to achieve both accuracy and timeliness in
26 reporting, but shall craft such requirements with due regard of the
27 data reporting burdens of reporters.

28 ~~((6) In designing the initial state-wide hospital data system as~~
29 ~~published in the department's first data plan, the department shall~~
30 ~~review all existing systems of hospital financial and utilization~~

1 reporting used in this state to determine their usefulness for the
2 purposes of this chapter, including their potential usefulness as
3 revised or simplified.

4 (7) ~~Until such time as the state wide hospital data system and~~
5 ~~first data plan are developed and implemented and hospitals are able to~~
6 ~~comply with reporting requirements, the department shall require~~
7 ~~hospitals to continue to submit the hospital financial and patient~~
8 ~~discharge information previously required to be submitted to the~~
9 ~~Washington state hospital commission. Upon publication of the first~~
10 ~~data plan, hospitals shall have a reasonable period of time to comply~~
11 ~~with any new reporting requirements and, even in the event that new~~
12 ~~reporting requirements differ greatly from past requirements, shall~~
13 ~~comply within two years of July 1, 1989.~~

14 (8)) (5) The ~~((hospital))~~ health care data collected ~~((and))~~,
15 maintained, and studied by the ~~((department))~~ council shall be
16 available for retrieval in original or processed form to public and
17 private requestors within a reasonable period of time after the date of
18 request. The cost of retrieving data for state officials and agencies
19 shall be funded through the state general appropriation. The cost of
20 retrieving data for individuals and organizations engaged in research
21 or private use of data or studies shall be funded by a fee schedule
22 developed by the ~~((department which))~~ council that reflects the direct
23 cost of retrieving the data or study in the requested form.

24 (6) All persons subject to this chapter shall comply with council
25 requirements established by rule in the acquisition of data. The
26 council shall each December 1 of even-numbered years report to the
27 senate and house of representatives policy committees on health care on
28 the status of the data system, the level of participation by payor and
29 provider groups and recommended statutory changes necessary to meet the
30 objectives established in this chapter."

1 **"Sec. 15.** RCW 70.170.110 and 1989 1st ex.s. c 9 s 511 are each
2 amended to read as follows:

3 The ~~((department shall provide, or))~~ council may contract with a
4 private ~~((entity to provide, hospital analyses and reports))~~ vendor in
5 the state of Washington to provide any studies or reports it chooses to
6 conduct consistent with the purposes of this chapter. ~~((Prior to~~
7 ~~release, the department shall provide affected hospitals with an~~
8 ~~opportunity to review and comment on reports which identify individual~~
9 ~~hospital data with respect to accuracy and completeness, and otherwise~~
10 ~~shall focus on aggregate reports of hospital performance. These~~
11 ~~reports shall))~~ The department may perform such studies or any other
12 studies consistent with the purposes of this chapter. These reports
13 may include:

14 (1) Consumer guides on purchasing ~~((hospital care services and))~~ or
15 consuming health care and publications providing verifiable and useful
16 comparative information to ~~((consumers on hospitals and hospital))~~ the
17 public on health care services and the quality of health care
18 providers;

19 (2) Reports for use by classes of purchasers, ~~((payers))~~ health
20 care payors, and providers as specified for content and format in the
21 state-wide data system and data plan; ~~((and))~~

22 (3) Reports on relevant ~~((hospital))~~ health care policy ~~((issues))~~
23 including the distribution of hospital charity care obligations among
24 hospitals; absolute and relative rankings of Washington and other
25 states, regions, and the nation with respect to expenses, net revenues,
26 and other key indicators; ~~((hospital))~~ provider efficiencies; and the
27 effect of medicare, medicaid, and other public health care programs on
28 rates paid by other purchasers of ~~((hospital))~~ health care; and

1 (4) Any other reports the council deems useful to assist the public
2 in understanding the prudent and cost-effective use of the health care
3 delivery system."

4 "NEW SECTION. Sec. 16. A new section is added to chapter 70.170
5 RCW to read as follows:

6 The council shall by rule adopt a uniform approach to health care
7 claims processing, information requirements, definition of terms
8 coding, and submission and payment mechanisms to be used by all
9 providers and health care payors subject to this chapter."

10 "NEW SECTION. Sec. 17. RCW 70.170.080 and 1991 sp.s. c 13 s 71
11 and 1989 1st ex.s. c 9 s 508 are each repealed."

12 **ESHB 2568** - S AMD
13 By Senators West and Hayner

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15 On page 1, line 1 of the title, after "records;" strike "and"

16 On page 1, line 2 of the title, strike "and 70.02.080" and insert
17 "70.02.080, 70.170.010, 70.170.020, 70.170.030, 70.170.040, 70.170.050,
18 70.170.070, 70.170.100, and 70.170.110; adding new sections to chapter
19 70.170 RCW; and repealing RCW 70.170.080"