
HOUSE BILL 2036

State of Washington

66th Legislature

2019 Regular Session

By Representatives Macri, Ormsby, Riccelli, and Pollet

Read first time 02/14/19. Referred to Committee on Health Care & Wellness.

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 ambulatory
10 surgery facilities licensed under chapter 70.230 RCW and hospitals to
11 submit ambulatory surgical facility and hospital financial and
12 patient discharge information, which shall be collected, maintained,
13 analyzed, and disseminated by the department. The department shall,
14 if deemed cost-effective and efficient, contract with a private
15 entity for any or all parts of data collection.

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

1 same as those currently compiled by hospitals through inpatient
2 discharge abstracts. The department shall encourage and permit
3 reporting by electronic transmission or hard copy as is practical and
4 economical to reporters.

5 (ii) Data elements must identify each ambulatory surgical
6 facility's or hospital's:

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

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

20 (C) Contractual allowances;

21 (D) Charity care;

22 (E) Bad debt;

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

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

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

1 (2) In identifying financial reporting requirements, the
2 department may require both annual reports and condensed quarterly
3 reports from ambulatory surgical facilities and hospitals, so as to
4 achieve both accuracy and timeliness in reporting, but shall craft
5 such requirements with due regard of the data reporting burdens of
6 ambulatory surgical facilities and hospitals.

7 (3) (a) Beginning with compensation information for 2012, unless
8 ((a)) an ambulatory surgical facility or hospital is operated on a
9 for-profit basis, the department shall require an ambulatory surgical
10 facility licensed under chapter 70.230 RCW or a hospital licensed
11 under chapter 70.41 RCW to annually submit employee compensation
12 information. To satisfy employee compensation reporting requirements
13 to the department, ((a)) an ambulatory surgical facility or hospital
14 shall submit information as directed in (a)(i) or (ii) of this
15 subsection. ((A)) An ambulatory surgical facility or hospital may
16 determine whether to report under (a)(i) or (ii) of this subsection
17 for purposes of reporting.

18 (i) Within one hundred thirty-five days following the end of each
19 ambulatory surgical facility's or hospital's fiscal year, a nonprofit
20 ambulatory surgical facility or hospital shall file the appropriate
21 schedule of the federal internal revenue service form 990 that
22 identifies the employee compensation information with the department.
23 If the lead administrator responsible for the ambulatory surgical
24 facility or hospital or the lead administrator's compensation is not
25 identified on the schedule of form 990 that identifies the employee
26 compensation information, the ambulatory surgical facility or
27 hospital shall also submit the compensation information for the lead
28 administrator as directed by the department's form required in (b) of
29 this subsection.

30 (ii) Within one hundred thirty-five days following the end of
31 each hospital's calendar year, ((a)) an ambulatory surgical facility
32 or hospital shall submit the names and compensation of the five
33 highest compensated employees of the ambulatory surgical facility or
34 hospital who do not have any direct patient responsibilities.
35 Compensation information shall be reported on a calendar year basis
36 for the calendar year immediately preceding the reporting date. If
37 those five highest compensated employees do not include the lead
38 administrator for the ambulatory surgical facility or hospital,
39 compensation information for the lead administrator shall also be
40 submitted. Compensation information shall include base compensation,

1 bonus and incentive compensation, other payments that qualify as
2 reportable compensation, retirement and other deferred compensation,
3 and nontaxable benefits.

4 (b) To satisfy the reporting requirements of this subsection (3),
5 the department shall create a form and make it available no later
6 than August 1, 2012. To the greatest extent possible, the form shall
7 follow the format and reporting requirements of the portion of the
8 internal revenue service form 990 schedule relating to compensation
9 information. If the internal revenue service substantially revises
10 its schedule, the department shall update its form.

11 (4) The health care data collected, maintained, and studied by
12 the department shall only be available for retrieval in original or
13 processed form to public and private requestors pursuant to
14 subsection (7) of this section and shall be available within a
15 reasonable period of time after the date of request. The cost of
16 retrieving data for state officials and agencies shall be funded
17 through the state general appropriation. The cost of retrieving data
18 for individuals and organizations engaged in research or private use
19 of data or studies shall be funded by a fee schedule developed by the
20 department that reflects the direct cost of retrieving the data or
21 study in the requested form.

22 (5) The department shall, in consultation and collaboration with
23 the federally recognized tribes, urban or other Indian health service
24 organizations, and the federal area Indian health service, design,
25 develop, and maintain an American Indian-specific health data,
26 statistics information system.

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

30 (7) The department must maintain the confidentiality of patient
31 discharge data it collects under subsection (1) of this section.
32 Patient discharge data that includes direct and indirect identifiers
33 is not subject to public inspection and the department may only
34 release such data as allowed for in this section. Any agency that
35 receives patient discharge data under (a) or (b) of this subsection
36 must also maintain the confidentiality of the data and may not
37 release the data except as consistent with subsection (8)(b) of this
38 section. The department may release the data as follows:

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

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

3 (ii) Researchers with approval of the Washington state
4 institutional review board upon receipt of a signed confidentiality
5 agreement with the department.

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

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

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

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

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

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

22 (10) For the purposes of this section:

23 (a) "Direct patient identifier" means information that identifies
24 a patient; (~~and~~)

25 (b) "Health system" means an entity that is financially
26 responsible for at least one hospital as well as other health care
27 facility components and services that may be independent of any
28 hospital or hospitals, including ambulatory surgical facilities,
29 health clinics, urgent care clinics, health-related laboratories,
30 long-term care facilities, home health agencies, dialysis facilities,
31 ambulance services, behavioral health settings, and virtual care
32 entities including, but not limited to, electronic applications and
33 telehealth portals; and

34 (c) "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 **Sec. 2.** RCW 70.01.040 and 2012 c 184 s 1 are each amended to
2 read as follows:

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

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

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

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

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

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

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

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

28 (5) For the purposes of this section:

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

34 (b) "Provider-based clinic" means the site of an off-campus
35 clinic or provider office (~~located at least two hundred fifty yards~~
36 ~~from the main hospital buildings or as determined by the centers for~~
37 ~~medicare and medicaid services,~~) that is owned or operated by a
38 hospital licensed under chapter 70.41 RCW or a health system that
39 operates one or more hospitals licensed under chapter 70.41 RCW, is
40 licensed as part of the hospital, and is primarily engaged in

1 providing diagnostic and therapeutic care including medical history,
2 physical examinations, assessment of health status, and treatment
3 monitoring. This does not include clinics exclusively designed for
4 and providing laboratory, x-ray, testing, therapy, pharmacy, or
5 educational services and does not include facilities designated as
6 rural health clinics.

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

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

17 (2) (a) Unless contained in the community health needs assessment
18 under subsection (1) of this section, a hospital subject to the
19 requirements under subsection (1) of this section shall make public a
20 description of the community served by the hospital, including both a
21 geographic description and a description of the general population
22 served by the hospital; and demographic information such as leading
23 causes of death, levels of chronic illness, and descriptions of the
24 medically underserved, low-income, and minority, or chronically ill
25 populations in the community.

26 (b) Each hospital subject to the requirements under subsection
27 (1) of this section must submit an addendum which details information
28 about activities identified as community health improvement services.
29 The information must specify the type of activity, the method in
30 which each type of activity was provided, the resources used to
31 provide the activity, how each activity may correspond to follow-up
32 services offered by the hospital, the cost of providing each type of
33 activity, and any materials provided to activity participants.
34 Information related to the resources used to provide the activity
35 includes, but is not limited to, labor provided and whether the
36 location was rented or provided by the hospital.

37 (3) (a) Each hospital subject to the requirements of subsection
38 (1) of this section shall make widely available to the public a
39 community benefit implementation strategy within one year of

1 completing its community health needs assessment. In developing the
2 implementation strategy, hospitals shall consult with community-based
3 organizations and stakeholders, and local public health
4 jurisdictions, as well as any additional consultations the hospital
5 decides to undertake. Unless contained in the implementation strategy
6 under this subsection (3)(a), the hospital must provide a brief
7 explanation for not accepting recommendations for community benefit
8 proposals identified in the assessment through the stakeholder
9 consultation process, such as excessive expense to implement or
10 infeasibility of implementation of the proposal.

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

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

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

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

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

24 (b) A significant reduction in the proportion of individuals
25 admitted for inpatient hospital services for which payment is, or is
26 likely to be, less than the anticipated charges for or costs of such
27 services; or

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

32 (2) No hospital shall adopt or maintain practices or policies
33 which would deny access to emergency care based on ability to pay. No
34 hospital which maintains an emergency department shall transfer a
35 patient with an emergency medical condition or who is in active labor
36 unless the transfer is performed at the request of the patient or is
37 due to the limited medical resources of the transferring hospital.
38 Hospitals must follow reasonable procedures in making transfers to

1 other hospitals including confirmation of acceptance of the transfer
2 by the receiving hospital.

3 (3) The department shall develop definitions by rule, as
4 appropriate, for subsection (1) of this section and, with reference
5 to federal requirements, subsection (2) of this section. The
6 department shall monitor hospital compliance with subsections (1) and
7 (2) of this section. The department shall report individual instances
8 of possible noncompliance to the state attorney general or the
9 appropriate federal agency.

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

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

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

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

31 (6) Each hospital shall post and prominently display notice of
32 charity care availability. Notice must be posted in all languages
33 spoken by more than ten percent of the population of the hospital
34 service area. Notice must be displayed in at least the following
35 locations:

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

37 (b) Emergency departments, if any; and

38 (c) Financial service or billing areas where accessible to
39 patients.

1 (7) Current versions of the hospital's charity care policy, a
2 plain language summary of the hospital's charity care policy, the
3 hospital's debt collection practices, and the hospital's charity care
4 application form must be available on the hospital's web site. The
5 description of the hospital's debt collection practices must identify
6 all entities under contract with the hospital to collect debt and the
7 general financial arrangement between the hospital and the contracted
8 debt collection entity. The summary and application form must be
9 available in all languages spoken by more than ten percent of the
10 population of the hospital service area.

11 (8)(a) All hospital billing statements and other written
12 communications concerning billing or collection of a hospital bill by
13 a hospital must include the following or a substantially similar
14 statement prominently displayed on the first page of the statement in
15 both English and the second most spoken language in the hospital's
16 service area:

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

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

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

31 (10) Each hospital shall make every reasonable effort to
32 determine:

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

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

1 payment of health care services rendered, and the patient
2 demonstrates eligibility for charity care; and

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

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

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

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

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

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

- 27 (1) A current inventory of beds and services;
28 (2) Utilization data by bed type and service;
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, 2020.

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