

---

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1160

---

State of Washington

67th Legislature

2021 Regular Session

By House Appropriations (originally sponsored by Representatives  
Cody, Macri, and Pollet)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to health provider contracts; adding new sections  
2 to chapter 48.43 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43  
5 RCW to read as follows:

6 (1) Beginning January 1, 2022, a contract between a hospital or  
7 any affiliate of a hospital and a health carrier may not, directly or  
8 indirectly, do any of the following:

9 (a) Set provider compensation agreements or other terms for  
10 affiliates of the hospital that are out of the carrier's network;

11 (b) Require the health carrier to contract with multiple  
12 hospitals owned or controlled by the same single entity. This  
13 subsection (1)(b) does not prohibit a health carrier from voluntarily  
14 agreeing to contract with other hospitals owned or controlled by the  
15 same single entity. If a health carrier voluntarily agrees to  
16 contract with other hospitals owned or controlled by the same single  
17 entity under this subsection (1)(b), the health carrier must file an  
18 attestation with the office of the insurance commissioner that  
19 complies with the filing requirements of RCW 48.43.730;

20 (c) To the extent that a health plan varies enrollee cost-sharing  
21 based upon placing participating providers into tiered provider

1 networks, require health carriers to place the hospital or any  
2 affiliate in the tier reflecting the lowest or lower enrollee cost-  
3 sharing amounts;

4 (d) Require the health carrier to keep the contract's payment  
5 rates confidential from any existing or potential payor that is or  
6 may become financially responsible for the payments. This subsection  
7 (1)(d) does not prohibit a requirement that any communication of the  
8 contract's payment rates to an existing or potential payor be subject  
9 to a reasonable nondisclosure agreement.

10 (2) The attorney general may enforce this section under the  
11 consumer protection act, chapter 19.86 RCW. For actions brought by  
12 the attorney general to enforce this section, the legislature finds  
13 that the practices covered by this section are matters vitally  
14 affecting the public interest for the purpose of applying the  
15 consumer protection act, chapter 19.86 RCW, and that a violation of  
16 this section is not reasonable in relation to the development and  
17 preservation of business and is an unfair or deceptive act in trade  
18 or commerce and an unfair method of competition for the purpose of  
19 applying the consumer protection act, chapter 19.86 RCW.

20 (3) This section does not prohibit a hospital certified as a  
21 critical access hospital by the centers for medicare and medicaid  
22 services or an independent hospital certified as a sole community  
23 hospital by the centers for medicare and medicaid services from  
24 negotiating payment rates and methodologies on behalf of an  
25 individual health care practitioner or a medical group that the  
26 hospital is affiliated with.

27 (4) This section does not apply to the extent that it impairs the  
28 ability of a hospital, provider, or health carrier to participate in  
29 a state-sponsored, federally funded program, or grant opportunity.

30 (5) For the purposes of this section:

31 (a) "Affiliate" means a person who directly or indirectly through  
32 one or more intermediaries, controls or is controlled by, or is under  
33 common control with, another specified person.

34 (b) "Control" means the possession, directly or indirectly, of  
35 the power to direct or cause the direction of the management and  
36 policies of a person, whether through ownership of voting securities,  
37 membership rights, by contract, or otherwise.

38 (c) "Provider" means:

39 (i) A health care provider as defined in RCW 48.43.005;

40 (ii) A participating provider as defined in RCW 48.44.010;

1 (iii) A health care facility as defined in RCW 48.43.005; and  
2 (iv) Intermediaries that have agreed in writing with a carrier to  
3 provide access to providers as defined under this subsection (5)(c)  
4 who render covered services to enrollees of a carrier.

5 (d) "Provider compensation agreement" means any written agreement  
6 that includes specific information about payment methodology, payment  
7 rates, and other terms that determine the remuneration a carrier will  
8 pay to a provider.

9 (e) "Tiered provider network" means a network that identifies and  
10 groups providers and facilities into specific groups to which  
11 different provider reimbursement, enrollee cost sharing, or provider  
12 access requirements, or any combination thereof, apply as a means to  
13 manage cost, utilization, quality, or to otherwise incentivize  
14 enrollee or provider behavior.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43  
16 RCW to read as follows:

17 (1) Beginning January 1, 2022, health provider contracts between  
18 a health carrier and a provider, may not contain a provision that  
19 prohibits the disclosure of health care service claims data to  
20 employers providing the coverage. However, any disclosure of claims  
21 data must comply with state and federal health privacy laws.

22 (2) The attorney general may enforce this section under the  
23 consumer protection act, chapter 19.86 RCW. For actions brought by  
24 the attorney general to enforce this section, the legislature finds  
25 that the practices covered by this section are matters vitally  
26 affecting the public interest for the purpose of applying the  
27 consumer protection act, chapter 19.86 RCW, and that a violation of  
28 this section is not reasonable in relation to the development and  
29 preservation of business and is an unfair or deceptive act in trade  
30 or commerce and an unfair method of competition for the purpose of  
31 applying the consumer protection act, chapter 19.86 RCW.

32 (3) For the purposes of this section, "provider" means:

33 (a) A health care provider as defined in RCW 48.43.005;

34 (b) A participating provider as defined in RCW 48.44.010;

35 (c) A health care facility as defined in RCW 48.43.005; and

36 (d) Intermediaries that have agreed in writing with a carrier to  
37 provide access to providers as defined under this subsection who  
38 render covered services to enrollees of a carrier.

1        NEW SECTION.    **Sec. 3.**    The insurance commissioner may adopt rules  
2    necessary to implement this act.

--- END ---