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**SECOND SUBSTITUTE HOUSE BILL 1160**

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**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 nonparticipating affiliates of the hospital;

11 (b) Require the health carrier to contract with any one or more  
12 of the hospital's affiliates.

13 (i) This section does not prohibit a contract from requiring that  
14 the health carrier contract with medical groups with which the  
15 hospital's medical staff is affiliated, or a health carrier from  
16 voluntarily agreeing to contract with other affiliates of the  
17 hospital.

18 (ii) If a health carrier voluntarily agrees to contract with  
19 other affiliates of the hospital under (b)(i) of this subsection, the  
20 health carrier must file an attestation with the office of the

1 insurance commissioner that complies with the filing requirements of  
2 RCW 48.43.730;

3 (c) To the extent that a health plan varies enrollee cost-sharing  
4 based upon placing participating providers into tiered provider  
5 networks, require health carriers to place the hospital or any  
6 affiliate in the tier reflecting the lowest or lower enrollee cost-  
7 sharing amounts;

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

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

24 (3) This section does not prohibit a hospital certified as a  
25 critical access hospital by the centers for medicare and medicaid  
26 services from negotiating payment rates and methodologies on behalf  
27 of a provider or medical groups that the hospital is affiliated with.

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

31 (5) For the purposes of this section:

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

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

39 (c) "Provider" means:

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

1 (ii) A participating provider as defined in RCW 48.44.010;  
2 (iii) A health care facility as defined in RCW 48.43.005; and  
3 (iv) Intermediaries that have agreed in writing with a carrier to  
4 provide access to providers as defined under this subsection (5)(c)  
5 who render covered services to enrollees of a carrier.

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

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

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

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

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

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

34 (a) A health care provider as defined in RCW 48.43.005;  
35 (b) A participating provider as defined in RCW 48.44.010;  
36 (c) A health care facility as defined in RCW 48.43.005; and  
37 (d) Intermediaries that have agreed in writing with a carrier to  
38 provide access to providers as defined under this subsection who  
39 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.

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