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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1272

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State of Washington

67th Legislature

2021 Regular Session

**By** House Appropriations (originally sponsored by Representatives Macri, Cody, Fitzgibbon, Davis, Hackney, Thai, Kloba, Rule, Simmons, Pollet, Dolan, Slatter, Riccelli, and Harris-Talley)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to health system transparency; amending RCW  
2 43.70.052, 70.01.040, and 70.41.470; adding a new section to chapter  
3 43.70 RCW; adding a new section to chapter 70.41 RCW; creating new  
4 sections; and providing an effective date.

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

6 **Sec. 1.** RCW 43.70.052 and 2014 c 220 s 2 are each amended to  
7 read as follows:

8 (1) (a) To promote the public interest consistent with the  
9 purposes of chapter 492, Laws of 1993 as amended by chapter 267, Laws  
10 of 1995, the department shall ~~((continue to))~~ require hospitals to  
11 submit hospital financial and patient discharge information,  
12 including any applicable information reported pursuant to section 2  
13 of this act, which shall be collected, maintained, analyzed, and  
14 disseminated by the department. The department shall, if deemed cost-  
15 effective and efficient, contract with a private entity for any or  
16 all parts of data collection. Data elements shall be reported in  
17 conformance with a uniform reporting system established by the  
18 department. This includes data elements identifying each hospital's  
19 revenues, expenses, contractual allowances, charity care, bad debt,  
20 other income, total units of inpatient and outpatient services, and

1 other financial and employee compensation information reasonably  
2 necessary to fulfill the purposes of this section.

3 (b) Data elements relating to use of hospital services by  
4 patients shall be the same as those currently compiled by hospitals  
5 through inpatient discharge abstracts. The department shall encourage  
6 and permit reporting by electronic transmission or hard copy as is  
7 practical and economical to reporters.

8 (c) The department must revise the uniform reporting system to  
9 further delineate hospital expenses reported in the other direct  
10 expense category in the statement of revenue and expense. The  
11 department must include the following additional categories of  
12 expenses within the other direct expenses category:

13 (i) Blood supplies;

14 (ii) Contract staffing;

15 (iii) Information technology, including licenses and maintenance;

16 (iv) Insurance and professional liability;

17 (v) Laundry services;

18 (vi) Legal, audit, and tax professional services;

19 (vii) Purchased laboratory services;

20 (viii) Repairs and maintenance;

21 (ix) Shared services or system office allocation;

22 (x) Staff recruitment;

23 (xi) Training costs;

24 (xii) Taxes;

25 (xiii) Utilities; and

26 (xiv) Other noncategorized expenses.

27 (d) The department must revise the uniform reporting system to  
28 further delineate hospital revenues reported in the other operating  
29 revenue category in the statement of revenue and expense. The  
30 department must include the following additional categories of  
31 revenues within the other operating revenues category:

32 (i) Donations;

33 (ii) Grants;

34 (iii) Joint venture revenue;

35 (iv) Local taxes;

36 (v) Outpatient pharmacy;

37 (vi) Parking;

38 (vii) Quality incentive payments;

39 (viii) Reference laboratories;

40 (ix) Rental income;

1 (x) Retail cafeteria; and

2 (xi) Other noncategorized revenues.

3 (e)(i) A hospital, other than a hospital designated by medicare  
4 as a critical access hospital or sole community hospital, must report  
5 line items and amounts for any expenses or revenues in the other  
6 noncategorized expenses category in (c)(xiv) of this subsection or  
7 the other noncategorized revenues category in (d)(xi) of this  
8 subsection that either have a value: (A) Of \$1,000,000 or more; or  
9 (B) representing one percent or more of the total expenses or total  
10 revenues; or

11 (ii) A hospital designated by medicare as a critical access  
12 hospital or sole community hospital must report line items and  
13 amounts for any expenses or revenues in the other noncategorized  
14 expenses category in (c)(xiv) of this subsection or the other  
15 noncategorized revenues category in (d)(xi) of this subsection that  
16 represent the greater of: (A) \$1,000,000; or (B) one percent or more  
17 of the total expenses or total revenues.

18 (f) A hospital must report any money, including loans, received  
19 by the hospital or a health system to which it belongs from a  
20 federal, state, or local government entity in response to a national  
21 or state-declared emergency, including a pandemic. Hospitals must  
22 report this information as it relates to federal, state, or local  
23 money received after January 1, 2020, in association with the  
24 COVID-19 pandemic. The department shall provide guidance on reporting  
25 pursuant to this subsection.

26 (2) In identifying financial reporting requirements, the  
27 department may require both annual reports and condensed quarterly  
28 reports from hospitals, so as to achieve both accuracy and timeliness  
29 in reporting, but shall craft such requirements with due regard of  
30 the data reporting burdens of hospitals.

31 (3)(a) Beginning with compensation information for 2012, unless a  
32 hospital is operated on a for-profit basis, the department shall  
33 require a hospital licensed under chapter 70.41 RCW to annually  
34 submit employee compensation information. To satisfy employee  
35 compensation reporting requirements to the department, a hospital  
36 shall submit information as directed in (a)(i) or (ii) of this  
37 subsection. A hospital may determine whether to report under (a)(i)  
38 or (ii) of this subsection for purposes of reporting.

39 (i) Within one hundred thirty-five days following the end of each  
40 hospital's fiscal year, a nonprofit hospital shall file the

1 appropriate schedule of the federal internal revenue service form 990  
2 that identifies the employee compensation information with the  
3 department. If the lead administrator responsible for the hospital or  
4 the lead administrator's compensation is not identified on the  
5 schedule of form 990 that identifies the employee compensation  
6 information, the hospital shall also submit the compensation  
7 information for the lead administrator as directed by the  
8 department's form required in (b) of this subsection.

9 (ii) Within one hundred thirty-five days following the end of  
10 each hospital's calendar year, a hospital shall submit the names and  
11 compensation of the five highest compensated employees of the  
12 hospital who do not have any direct patient responsibilities.  
13 Compensation information shall be reported on a calendar year basis  
14 for the calendar year immediately preceding the reporting date. If  
15 those five highest compensated employees do not include the lead  
16 administrator for the hospital, compensation information for the lead  
17 administrator shall also be submitted. Compensation information shall  
18 include base compensation, bonus and incentive compensation, other  
19 payments that qualify as reportable compensation, retirement and  
20 other deferred compensation, and nontaxable benefits.

21 (b) To satisfy the reporting requirements of this subsection (3),  
22 the department shall create a form and make it available no later  
23 than August 1, 2012. To the greatest extent possible, the form shall  
24 follow the format and reporting requirements of the portion of the  
25 internal revenue service form 990 schedule relating to compensation  
26 information. If the internal revenue service substantially revises  
27 its schedule, the department shall update its form.

28 (4) The health care data collected, maintained, and studied by  
29 the department shall only be available for retrieval in original or  
30 processed form to public and private requestors pursuant to  
31 subsection ~~((7))~~ (9) of this section and shall be available within  
32 a reasonable period of time after the date of request. The cost of  
33 retrieving data for state officials and agencies shall be funded  
34 through the state general appropriation. The cost of retrieving data  
35 for individuals and organizations engaged in research or private use  
36 of data or studies shall be funded by a fee schedule developed by the  
37 department that reflects the direct cost of retrieving the data or  
38 study in the requested form.

39 (5) The department shall, in consultation and collaboration with  
40 ~~((the federally recognized))~~ tribes, urban or other Indian health

1 service organizations, and the federal area Indian health service,  
2 design, develop, and maintain an American Indian-specific health  
3 data, statistics information system.

4 (6)(a) Patient discharge information reported by hospitals to the  
5 department must identify patients by race, ethnicity, gender  
6 identity, preferred language, any disability, and zip code of primary  
7 residence. The department shall provide guidance on reporting  
8 pursuant to this subsection. When requesting demographic information  
9 under this subsection, a hospital must inform patients that providing  
10 the information is voluntary. If a hospital fails to report  
11 demographic information under this subsection because a patient  
12 refused to provide the information, the department may not take any  
13 action against the hospital for failure to comply with reporting  
14 requirements or other licensing standards on that basis.

15 (b) The department must develop a waiver process for the  
16 requirements of (a) of this subsection to allow hospitals to adopt an  
17 alternative reporting method due to economic hardship, technological  
18 limitations that are not reasonably in the control of the hospital,  
19 or other exceptional circumstance demonstrated by the hospital.

20 (7) Each hospital must report to the department, on a quarterly  
21 basis, the number of submitted and completed charity care  
22 applications that the hospital received in the prior quarter and the  
23 number of charity care applications approved in the prior quarter  
24 pursuant to the hospital's charity care policy, consistent with  
25 chapter 70.170 RCW. The department shall develop a standard form for  
26 hospitals to use in submitting information pursuant to this  
27 subsection.

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

31 ~~((7))~~ (9) The department must maintain the confidentiality of  
32 patient discharge data it collects under subsections (1) and (6) of  
33 this section. Patient discharge data that includes direct and  
34 indirect identifiers is not subject to public inspection and the  
35 department may only release such data as allowed for in this section.  
36 Any agency that receives patient discharge data under (a) or (b) of  
37 this subsection must also maintain the confidentiality of the data  
38 and may not release the data except as consistent with subsection

1 (~~(8)~~) (10)(b) of this section. The department may release the data  
2 as follows:

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

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

7 (ii) Researchers with approval of the Washington state  
8 institutional review board upon receipt of a signed confidentiality  
9 agreement with the department.

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

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

16 (~~(8)~~) (10) Recipients of data under subsection (~~(7)~~) (9)(a)  
17 and (b) of this section must agree in a written data use agreement,  
18 at a minimum, to:

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

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

23 (~~(9)~~) (11) Recipients of data under subsection (~~(7)~~) (9)(b)  
24 and (c) of this section must not attempt to determine the identity of  
25 persons whose information is included in the data set or use the data  
26 in any manner that identifies individuals or their families.

27 (~~(10)~~) (12) For the purposes of this section:

28 (a) "Direct patient identifier" means information that identifies  
29 a patient; and

30 (b) "Indirect patient identifier" means information that may  
31 identify a patient when combined with other information.

32 (~~(11)~~) (13) The department must adopt rules necessary to carry  
33 out its responsibilities under this section. The department must  
34 consider national standards when adopting rules.

35 NEW SECTION. Sec. 2. A new section is added to chapter 43.70  
36 RCW to read as follows:

37 (1)(a) For a health system operating a hospital licensed under  
38 chapter 70.41 RCW, the health system must annually submit to the  
39 department a consolidated annual income statement and balance sheet,

1 including hospitals, ambulatory surgical facilities, health clinics,  
2 urgent care clinics, physician groups, health-related laboratories,  
3 long-term care facilities, home health agencies, dialysis facilities,  
4 ambulance services, behavioral health settings, and virtual care  
5 entities that are operated in Washington.

6 (b) The state auditor's office shall provide the department with  
7 audited financial statements for all hospitals owned or operated by a  
8 public hospital district under chapter 70.44 RCW. Public hospital  
9 districts are not required to submit additional information to the  
10 department under this subsection.

11 (2) The department must make information submitted under this  
12 section available in the same manner as hospital financial data.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.41  
14 RCW to read as follows:

15 The department, in collaboration with hospitals, health care  
16 workers, purchasers, and communities with lived experience of  
17 systemic health inequities, shall select a qualified research entity  
18 to analyze the impact of the number, type, education, training, and  
19 experience of acute care hospital staffing personnel on patient  
20 mortality and patient outcomes utilizing scientifically sound  
21 research methods most effective for all involved stakeholders. The  
22 study should control for other contributing factors, including but  
23 not limited to access to equipment, patients' underlying conditions  
24 and diagnoses, patients' demographics information, the trauma level  
25 designation of the hospital, transfers from other hospitals, and  
26 external factors impacting hospital volumes. The study must be  
27 completed by September 1, 2022, and the department shall submit the  
28 study to the appropriate committees of the legislature by October 1,  
29 2022.

30 **Sec. 4.** RCW 70.01.040 and 2012 c 184 s 1 are each amended to  
31 read as follows:

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

37 (2) Each health care facility must post prominently in locations  
38 easily accessible to and visible by patients, including its website,

1 a statement that the provider-based clinic is licensed as part of the  
2 hospital and the patient may receive a separate charge or billing for  
3 the facility, which may result in a higher out-of-pocket expense.

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

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

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

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

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

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

19 (5) For the purposes of this section:

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

25 (b) "Provider-based clinic" means the site of an off-campus  
26 clinic or provider office (~~located at least two hundred fifty yards~~  
27 ~~from the main hospital buildings or as determined by the centers for~~  
28 ~~medicare and medicaid services,~~) that is owned by a hospital  
29 licensed under chapter 70.41 RCW or a health system that operates one  
30 or more hospitals licensed under chapter 70.41 RCW, is licensed as  
31 part of the hospital, and is primarily engaged in providing  
32 diagnostic and therapeutic care including medical history, physical  
33 examinations, assessment of health status, and treatment monitoring.  
34 This does not include clinics exclusively designed for and providing  
35 laboratory, X-ray, testing, therapy, pharmacy, or educational  
36 services and does not include facilities designated as rural health  
37 clinics.

38 **Sec. 5.** RCW 70.41.470 and 2012 c 103 s 1 are each amended to  
39 read as follows:



1 (1) As of January 1, 2013, each hospital that is recognized by  
2 the internal revenue service as a 501(c)(3) nonprofit entity must  
3 make its federally required community health needs assessment widely  
4 available to the public and submit it to the department within  
5 fifteen days of submission to the internal revenue service. Following  
6 completion of the initial community health needs assessment, each  
7 hospital in accordance with the internal revenue service((7)) shall  
8 complete and make widely available to the public and submit to the  
9 department an assessment once every three years. The department must  
10 post the information submitted to it pursuant to this subsection on  
11 its website.

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

22 (b)(i) A hospital, other than a hospital designated by medicare  
23 as a critical access hospital or sole community hospital, that is  
24 subject to the requirements under subsection (1) of this section must  
25 annually submit to the department an addendum which details  
26 information about activities identified as community health  
27 improvement services with a cost of \$5,000 or more. The addendum must  
28 include the type of activity, the method in which the activity was  
29 delivered, how the activity relates to an identified community need  
30 in the community health needs assessment, the target population for  
31 the activity, strategies to reach the target population, identified  
32 outcome metrics, the cost to the hospital to provide the activity,  
33 the methodology used to calculate the hospital's costs, and the  
34 number of people served by the activity. If a community health  
35 improvement service is administered by an entity other than the  
36 hospital, the other entity must be identified in the addendum.

37 (ii) A hospital designated by medicare as a critical access  
38 hospital or sole community hospital that is subject to the  
39 requirements under subsection (1) of this section must annually  
40 submit to the department an addendum which details information about

1 the 10 highest cost activities identified as community health  
2 improvement services. The addendum must include the type of activity,  
3 the method in which the activity was delivered, how the activity  
4 relates to an identified community need in the community health needs  
5 assessment, the target population for the activity, strategies to  
6 reach the target population, identified outcome metrics, the cost to  
7 the hospital to provide the activity, the methodology used to  
8 calculate the hospital's costs, and the number of people served by  
9 the activity. If a community health improvement service is  
10 administered by an entity other than the hospital, the other entity  
11 must be identified in the addendum.

12 (iii) The department shall require the reporting of demographic  
13 information about participant race, ethnicity, any disability, gender  
14 identity, preferred language, and zip code of primary residency. The  
15 department, in consultation with interested entities, may revise the  
16 required demographic information according to an established six-year  
17 review cycle about participant race, ethnicity, disabilities, gender  
18 identity, preferred language, and zip code of primary residence that  
19 must be reported under (b) (i) and (ii) of this subsection (2). At a  
20 minimum, the department's consultation process shall include  
21 community organizations that provide community health improvement  
22 services, communities impacted by health inequities, health care  
23 workers, hospitals, and the governor's interagency coordinating  
24 council on health disparities. The department shall establish a six-  
25 year cycle for the review of the information requested under this  
26 subsection (2) (b) (iii).

27 (iv) The department shall provide guidance on participant data  
28 collection and the reporting requirements under this subsection  
29 (2) (b). The guidance shall include a standard form for the reporting  
30 of information under this subsection (2) (b). The standard form must  
31 allow for the reporting of community health improvement services that  
32 are repeated within a reporting period to be combined within the  
33 addendum as a single project with the number of instances of the  
34 services listed. The department must develop the guidelines in  
35 consultation with interested entities, including an association  
36 representing hospitals in Washington, labor unions representing  
37 workers who work in hospital settings, and community health board  
38 associations. The department must post the information submitted to  
39 it pursuant to this subsection (2) (b) on its website.

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

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

17 (4) When requesting demographic information under subsection  
18 (2) (b) of this section, a hospital must inform participants that  
19 providing the information is voluntary. If a hospital fails to report  
20 demographic information under subsection (2) (b) of this section  
21 because a participant refused to provide the information, the  
22 department may not take any action against the hospital for failure  
23 to comply with reporting requirements or other licensing standards on  
24 that basis.

25 (5) For the purposes of this section, the term "widely available  
26 to the public" has the same meaning as in the internal revenue  
27 service guidelines.

28 NEW SECTION. Sec. 6. The department of health shall develop any  
29 forms or guidance required in this act at least 60 days before  
30 hospitals are required to utilize the form or guidance.

31 NEW SECTION. Sec. 7. This act takes effect July 1, 2022.

32 NEW SECTION. Sec. 8. If specific funding for the purposes of  
33 this act, referencing this act by bill or chapter number, is not  
34 provided by June 30, 2021, in the omnibus appropriations act, this  
35 act is null and void.

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