

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1616

67th Legislature
2022 Regular Session

Passed by the House March 7, 2022
Yea 65 Nays 33

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1616** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Speaker of the House of Representatives

Passed by the Senate March 4, 2022
Yea 31 Nays 17

Chief Clerk

President of the Senate

Approved

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1616

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Simmons, Cody, Bateman, Valdez, Davis, Macri, Slatter, Pollet, and Taylor; by request of Attorney General)

READ FIRST TIME 01/21/22.

1 AN ACT Relating to the charity care act; amending RCW 70.170.020
2 and 70.170.060; creating new sections; and providing an expiration
3 date.

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

5 **Sec. 1.** RCW 70.170.020 and 2018 c 263 s 1 are each amended to
6 read as follows:

7 As used in this chapter:

8 (1) "Department" means department of health.

9 (2) "Hospital" means any health care institution which is
10 required to qualify for a license under RCW 70.41.020((+7)) (8); or
11 as a psychiatric hospital under chapter 71.12 RCW.

12 (3) "Secretary" means secretary of health.

13 (4) "Charity care" means medically necessary hospital health care
14 rendered to indigent persons when third-party coverage, if any, has
15 been exhausted, to the extent that the persons are unable to pay for
16 the care or to pay deductibles or coinsurance amounts required by a
17 third-party payer, as determined by the department.

18 (5) "Indigent persons" are those patients or their guarantors who
19 qualify for charity care pursuant to section 2(5) of this act based
20 on the federal poverty level, adjusted for family size, and who have
21 exhausted any third-party coverage.

1 (6) "Third-party coverage" means an obligation on the part of an
2 insurance company, health care service contractor, health maintenance
3 organization, group health plan, government program, tribal health
4 benefits, or health care sharing ministry as defined in 26 U.S.C.
5 Sec. 5000A to pay for the care of covered patients and services, and
6 may include settlements, judgments, or awards actually received
7 related to the negligent acts of others which have resulted in the
8 medical condition for which the patient has received hospital health
9 care service. The pendency of such settlements, judgments, or awards
10 must not stay hospital obligations to consider an eligible patient
11 for charity care.

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

19 **Sec. 2.** RCW 70.170.060 and 2018 c 263 s 2 are each amended to
20 read as follows:

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

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

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

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

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

1 Hospitals must follow reasonable procedures in making transfers to
2 other hospitals including confirmation of acceptance of the transfer
3 by the receiving hospital.

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

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

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

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

20 (5) For the purpose of providing charity care, each hospital
21 shall develop, implement, and maintain a ((charity care)) policy
22 which((, consistent with subsection (1) of this section,)) shall
23 enable ((people below the federal poverty level)) indigent persons
24 access to ((appropriate hospital-based medical services, and a
25 sliding fee schedule for determination of discounts from charges for
26 persons who qualify for such discounts by January 1, 1990. The
27 department shall develop specific guidelines to assist hospitals in
28 setting sliding fee schedules required by this section. All persons
29 with family income below one hundred percent of the federal poverty
30 standard shall be deemed charity care patients for the full amount of
31 hospital charges, except to the extent the patient has third-party
32 coverage for those charges.)) charity care. The policy shall include
33 procedures for identifying patients who may be eligible for health
34 care coverage through medical assistance programs under chapter 74.09
35 RCW or the Washington health benefit exchange and actively assisting
36 patients to apply for any available coverage. If a hospital
37 determines that a patient or their guarantor is qualified for
38 retroactive health care coverage through the medical assistance
39 programs under chapter 74.09 RCW, a hospital shall assist the patient
40 or guarantor with applying for such coverage. If a hospital

1 determines that a patient or their guarantor qualifies for
2 retroactive health care coverage through the medical assistance
3 programs under chapter 74.09 RCW, a hospital is not obligated to
4 provide charity care under this section to any patient or their
5 guarantor if the patient or their guarantor fails to make reasonable
6 efforts to cooperate with the hospital's efforts to assist them in
7 applying for such coverage. Hospitals may not impose application
8 procedures for charity care or for assistance with retroactive
9 coverage applications which place an unreasonable burden upon the
10 patient or guarantor, taking into account any physical, mental,
11 intellectual, or sensory deficiencies, or language barriers which may
12 hinder the responsible party's capability of complying with
13 application procedures. It is an unreasonable burden to require a
14 patient to apply for any state or federal program where the patient
15 is obviously or categorically ineligible or has been deemed
16 ineligible in the prior 12 months.

17 (a) At a minimum, a hospital owned or operated by a health system
18 that owns or operates three or more acute hospitals licensed under
19 chapter 70.41 RCW, an acute care hospital with over 300 licensed beds
20 located in the most populous county in Washington, or an acute care
21 hospital with over 200 licensed beds located in a county with at
22 least 450,000 residents and located on Washington's southern border
23 shall grant charity care per the following guidelines:

24 (i) All patients and their guarantors whose income is not more
25 than 300 percent of the federal poverty level, adjusted for family
26 size, shall be deemed charity care patients for the full amount of
27 the patient responsibility portion of their hospital charges;

28 (ii) All patients and their guarantors whose income is between
29 301 and 350 percent of the federal poverty level, adjusted for family
30 size, shall be entitled to a 75 percent discount for the full amount
31 of the patient responsibility portion of their hospital charges,
32 which may be reduced by amounts reasonably related to assets
33 considered pursuant to (c) of this subsection;

34 (iii) All patients and their guarantors whose income is between
35 351 and 400 percent of the federal poverty level, adjusted for family
36 size, shall be entitled to a 50 percent discount for the full amount
37 of the patient responsibility portion of their hospital charges,
38 which may be reduced by amounts reasonably related to assets
39 considered pursuant to (c) of this subsection.

1 (b) At a minimum, a hospital not subject to (a) of this
2 subsection shall grant charity care per the following guidelines:

3 (i) All patients and their guarantors whose income is not more
4 than 200 percent of the federal poverty level, adjusted for family
5 size, shall be deemed charity care patients for the full amount of
6 the patient responsibility portion of their hospital charges;

7 (ii) All patients and their guarantors whose income is between
8 201 and 250 percent of the federal poverty level, adjusted for family
9 size, shall be entitled to a 75 percent discount for the full amount
10 of the patient responsibility portion of their hospital charges,
11 which may be reduced by amounts reasonably related to assets
12 considered pursuant to (c) of this subsection; and

13 (iii) All patients and their guarantors whose income is between
14 251 and 300 percent of the federal poverty level, adjusted for family
15 size, shall be entitled to a 50 percent discount for the full amount
16 of the patient responsibility portion of their hospital charges,
17 which may be reduced by amounts reasonably related to assets
18 considered pursuant to (c) of this subsection.

19 (c)(i) If a hospital considers the existence, availability, and
20 value of assets in order to reduce the discount extended, it must
21 establish and make publicly available a policy on asset
22 considerations and corresponding discount reductions.

23 (ii) If a hospital considers assets, the following types of
24 assets shall be excluded from consideration:

25 (A) The first \$5,000 of monetary assets for an individual or
26 \$8,000 of monetary assets for a family of two, and \$1,500 of monetary
27 assets for each additional family member. The value of any asset that
28 has a penalty for early withdrawal shall be the value of the asset
29 after the penalty has been paid;

30 (B) Any equity in a primary residence;

31 (C) Retirement plans other than 401(k) plans;

32 (D) One motor vehicle and a second motor vehicle if it is
33 necessary for employment or medical purposes;

34 (E) Any prepaid burial contract or burial plot; and

35 (F) Any life insurance policy with a face value of \$10,000 or
36 less.

37 (iii) In considering assets, a hospital may not impose procedures
38 which place an unreasonable burden on the responsible party.
39 Information requests from the hospital to the responsible party for
40 the verification of assets shall be limited to that which is

1 reasonably necessary and readily available to substantiate the
2 responsible party's qualification for charity sponsorship and may not
3 be used to discourage application for such sponsorship. Only those
4 facts relevant to eligibility may be verified and duplicate forms of
5 verification may not be demanded.

6 (A) In considering monetary assets, one current account statement
7 shall be considered sufficient for a hospital to verify a patient's
8 assets.

9 (B) In the event that no documentation for an asset is available,
10 a hospital shall rely upon a written and signed statement from the
11 responsible party.

12 (iv) Asset information obtained by the hospital in evaluating a
13 patient for charity care eligibility shall not be used for collection
14 activities.

15 (v) Nothing in this section prevents a hospital from considering
16 assets as required by the centers for medicare and medicaid services
17 related to medicare cost reporting.

18 (6) Each hospital shall post and prominently display notice of
19 charity care availability. Notice must be posted in all languages
20 spoken by more than ten percent of the population of the hospital
21 service area. Notice must be displayed in at least the following
22 locations:

23 (a) Areas where patients are admitted or registered;
24 (b) Emergency departments, if any; and
25 (c) Financial service or billing areas where accessible to
26 patients.

27 (7) Current versions of the hospital's charity care policy, a
28 plain language summary of the hospital's charity care policy, and the
29 hospital's charity care application form must be available on the
30 hospital's website. The summary and application form must be
31 available in all languages spoken by more than ten percent of the
32 population of the hospital service area.

33 (8)(a) All hospital billing statements and other written
34 communications concerning billing or collection of a hospital bill by
35 a hospital must include the following or a substantially similar
36 statement prominently displayed on the first page of the statement in
37 both English and the second most spoken language in the hospital's
38 service area:

1 You may qualify for free care or a discount on your hospital
2 bill, whether or not you have insurance. Please contact our
3 financial assistance office at [website] and [phone number].

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

7 (9) Hospital obligations under federal and state laws to provide
8 meaningful access for limited English proficiency and non-English-
9 speaking patients apply to information regarding billing and charity
10 care. Hospitals shall develop standardized training programs on the
11 hospital's charity care policy and use of interpreter services, and
12 provide regular training for appropriate staff, including the
13 relevant and appropriate staff who perform functions relating to
14 registration, admissions, or billing.

15 (10) Each hospital shall make every reasonable effort to
16 determine:

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

20 (b) The annual family income of the patient as classified under
21 federal poverty income guidelines as of the time the health care
22 services were provided, or at the time of application for charity
23 care if the application is made within two years of the time of
24 service, the patient has been making good faith efforts towards
25 payment of health care services rendered, and the patient
26 demonstrates eligibility for charity care; and

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

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

34 (12) The department shall monitor the distribution of charity
35 care among hospitals, with reference to factors such as relative need
36 for charity care in hospital service areas and trends in private and
37 public health coverage. The department shall prepare reports that
38 identify any problems in distribution which are in contradiction of
39 the intent of this chapter. The report shall include an assessment of
40 the effects of the provisions of this chapter on access to hospital

1 and health care services, as well as an evaluation of the
2 contribution of all purchasers of care to hospital charity care.

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

6 **NEW SECTION.** **Sec. 3.** (1) The office of the insurance
7 commissioner, in consultation with the Washington health benefit
8 exchange, shall study and analyze how increasing eligibility for
9 charity care impacts enrollment in health plans with high deductibles
10 over a four-year time period.

11 (2) By November 1, 2026, the office of the insurance commissioner
12 shall report to the health care committees of the legislature
13 enrollment trends in health plans with high deductibles from January
14 1, 2023, through June 30, 2026. The one-time report shall include the
15 number of individuals enrolled in high deductible plans for each year
16 and by each county.

17 (3) This section expires January 1, 2027.

18 **NEW SECTION.** **Sec. 4.** This act applies prospectively only to
19 care provided on or after July 1, 2022. This act does not affect the
20 ability of a patient who received care prior to July 1, 2022, to
21 receive charity care under RCW 70.170.020 and 70.170.060 as the
22 sections existed before that date.

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