

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1272

Chapter 162, Laws of 2021

67th Legislature
2021 Regular Session

DEPARTMENT OF HEALTH—HOSPITALS—DATA REPORTING

EFFECTIVE DATE: July 25, 2021

Passed by the House April 13, 2021
Yeas 57 Nays 41

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 10, 2021
Yeas 27 Nays 21

DENNY HECK

President of the Senate

Approved May 3, 2021 2:16 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1272** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 3, 2021

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1272

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

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; and creating
4 new sections.

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) By January 1, 2023, the department must revise the uniform
9 reporting system to further delineate hospital expenses reported in
10 the other direct expense category in the statement of revenue and
11 expense. The department must include the following additional
12 categories of 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) Except as provided in subsection (c) of this section,
5 beginning January 1, 2023, patient discharge information reported by
6 hospitals to the department must identify patients by race,
7 ethnicity, gender identity, sexual orientation, preferred language,
8 any disability, and zip code of primary residence. The department
9 shall provide guidance on reporting pursuant to this subsection. When
10 requesting demographic information under this subsection, a hospital
11 must inform patients that providing the information is voluntary. If
12 a hospital fails to report demographic information under this
13 subsection because a patient refused to provide the information, the
14 department may not take any action against the hospital for failure
15 to comply with reporting requirements or other licensing standards on
16 that basis.

17 (b) The department must develop a waiver process for the
18 requirements of (a) of this subsection for a hospital that is
19 certified by the centers for medicare and medicaid services as a
20 critical access hospital, is certified by the centers of medicare and
21 medicaid services as a sole community hospital, or qualifies as a
22 medicare dependent hospital due to economic hardship, technological
23 limitations that are not reasonably in the control of the hospital,
24 or other exceptional circumstance demonstrated by the hospital. The
25 waiver must be limited to one year or less, or for any other
26 specified time frame set by the department. Hospitals may apply for
27 waiver extensions.

28 (c) Subject to funding appropriated specifically for this
29 purpose, the department shall establish a process no later than
30 October 1, 2022, for any hospital that is certified by the centers
31 for medicare and medicaid services as a critical access hospital, is
32 certified by the centers for medicare and medicaid services as a sole
33 community hospital, or qualifies as a medicare dependent hospital, to
34 apply for a grant to support updating the hospital's electronic
35 health records system to comply with the requirements of this
36 subsection, subject to the following:

37 (i) A hospital owned or operated by a health system that owns or
38 operates two or more hospitals is not eligible to apply for a grant
39 under this subsection;

1 (ii) In considering a hospital application, the department may
2 consider information about the hospital's need for financial support
3 to alter the hospital's electronic health records system, including,
4 but not limited to, demonstrated costs necessary to update the
5 hospital's current electronic health record system to comply with the
6 requirements in this section and evidence of need for financial
7 assistance. The department may provide grant amounts of varying sizes
8 depending on the need of the applicant hospital;

9 (iii) A hospital that receives a grant under this section must
10 update the hospital's electronic health records system to comply with
11 the requirements of this section before the hospital may make other
12 changes to its electronic health records system, except for changes
13 that are required for security, compliance, or privacy purposes; and

14 (iv) A hospital that receives a grant under this section must
15 comply with subsection (a) of this section no later than July 1,
16 2023.

17 (d) The department shall adopt rules to implement this subsection
18 (6) no later than July 1, 2022.

19 (7) Beginning January 1, 2023, each hospital must report to the
20 department, on a quarterly basis, the number of submitted and
21 completed charity care applications that the hospital received in the
22 prior quarter and the number of charity care applications approved in
23 the prior quarter pursuant to the hospital's charity care policy,
24 consistent with chapter 70.170 RCW. The department shall develop a
25 standard form for hospitals to use in submitting information pursuant
26 to this subsection.

27 (8) 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))~~ (9) The department must maintain the confidentiality of
31 patient discharge data it collects under subsections (1) and (6) of
32 this section. Patient discharge data that includes direct and
33 indirect identifiers is not subject to public inspection and the
34 department may only release such data as allowed for in this section.
35 Any agency that receives patient discharge data under (a) or (b) of
36 this subsection must also maintain the confidentiality of the data
37 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) Beginning July 1, 2022, for a health system operating a
38 hospital licensed under chapter 70.41 RCW, the health system must
39 annually submit to the department a consolidated annual income

1 statement and balance sheet, including hospitals, ambulatory surgical
2 facilities, health clinics, urgent care clinics, physician groups,
3 health-related laboratories, long-term care facilities, home health
4 agencies, dialysis facilities, ambulance services, behavioral health
5 settings, and virtual care 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 shall contract with the University of Washington
16 school of nursing to lead an interdisciplinary study to analyze the
17 impact of the number, type, education, training, and experience of
18 acute care hospital staffing personnel on patient mortality and
19 patient outcomes utilizing scientifically sound research methods most
20 effective for all involved stakeholders. The University of Washington
21 school of nursing must work in collaboration with the other schools
22 in the University of Washington health sciences administration. The
23 study should control for other contributing factors, including but
24 not limited to access to equipment, patients' underlying conditions
25 and diagnoses, patients' demographics information, the trauma level
26 designation of the hospital, transfers from other hospitals, and
27 external factors impacting hospital volumes. The study must be
28 completed by September 1, 2022, and the department shall submit the
29 study to the appropriate committees of the legislature by October 1,
30 2022.

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

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

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

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

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

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

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

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

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

21 (5) For the purposes of this section:

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

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

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

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

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

24 (b)(i) Beginning July 1, 2022, a hospital, other than a hospital
25 designated by medicare as a critical access hospital or sole
26 community hospital, that is subject to the requirements under
27 subsection (1) of this section must annually submit to the department
28 an addendum which details information about activities identified as
29 community health improvement services with a cost of \$5,000 or more.
30 The addendum must include the type of activity, the method in which
31 the activity was delivered, how the activity relates to an identified
32 community need in the community health needs assessment, the target
33 population for the activity, strategies to reach the target
34 population, identified outcome metrics, the cost to the hospital to
35 provide the activity, the methodology used to calculate the
36 hospital's costs, and the number of people served by the activity. If
37 a community health improvement service is administered by an entity
38 other than the hospital, the other entity must be identified in the
39 addendum.

1 (ii) Beginning July 1, 2022, a hospital designated by medicare as
2 a critical access hospital or sole community hospital that is subject
3 to the requirements under subsection (1) of this section must
4 annually submit to the department an addendum which details
5 information about the 10 highest cost activities identified as
6 community health improvement services. The addendum must include the
7 type of activity, the method in which the activity was delivered, how
8 the activity relates to an identified community need in the community
9 health needs assessment, the target population for the activity,
10 strategies to reach the target population, identified outcome
11 metrics, the cost to the hospital to provide the activity, the
12 methodology used to calculate the hospital's costs, and the number of
13 people served by the activity. If a community health improvement
14 service is administered by an entity other than the hospital, the
15 other entity must be identified in the addendum.

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

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

1 workers who work in hospital settings, and community health board
2 associations. The department must post the information submitted to
3 it pursuant to this subsection (2)(b) on its website.

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

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

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

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

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

34 NEW SECTION. Sec. 7. If specific funding for the purposes of
35 this act, referencing this act by bill or chapter number, is not
36 provided by June 30, 2021, in the omnibus appropriations act, this
37 act is null and void.

Passed by the House April 13, 2021.
Passed by the Senate April 10, 2021.
Approved by the Governor May 3, 2021.
Filed in Office of Secretary of State May 3, 2021.

--- **END** ---