
HOUSE BILL 1072

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By Representatives Walen, Leavitt, Reeves, Berg, Ryu, Ramel, Reed, Callan, Goodman, Pollet, Nance, Ormsby, Lekanoff, and Hill

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1 AN ACT Relating to preserving access to protected health care
2 services by requiring department of health review of certain health
3 care business transactions which could affect access to protected
4 health care services while balancing access to community health
5 services; giving authority to the department of health to approve,
6 approve with conditions or modifications, or deny health care
7 business transactions, and establishing the process and requirements
8 for such determination; giving authority to the attorney general to
9 enjoin qualifying health care business transactions not approved or
10 approved with conditions or modifications by the department of
11 health; and directing the collection of data and provision of
12 information, analysis, and reporting regarding access to protected
13 health care services; amending RCW 43.370.030; adding a new chapter
14 to Title 70 RCW; and providing effective dates.

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

16 **PART I**

17 **FINDINGS, INTENT, AND DEFINITIONS**

18 NEW SECTION. **Sec. 1.** The legislature finds that protecting the
19 accessibility of reproductive health care, end-of-life care, and
20 gender-affirming care in communities across the state requires

1 additional analysis and scrutiny. It is the intent of the legislature
2 to ensure that residents have access to these services in the
3 communities in which they live. In order to provide communities,
4 health care providers, and state regulators the information they need
5 to ensure adequate access to these protected services, the
6 legislature intends to update the statewide health resource strategy
7 to specifically include ongoing analysis of the availability of these
8 services. Additionally, the legislature intends to empower the
9 department of health to scrutinize health care transactions that
10 would directly affect access to care that is the subject of the
11 reproductive privacy act, care that is the subject of the death with
12 dignity act, and gender affirming health care. In considering the
13 effect of health care transactions, the legislature is also aware
14 that denial or delay of such transactions may lead to health care
15 service disruption or loss of critically important community health
16 care services including hospital care, emergency care, specialty
17 care, primary care, obstetric care, or other services. The
18 legislature intends that regulation of such transactions by the
19 department in order to protect access to these sensitive health care
20 services is additive and complementary to the existing powers given
21 to the attorney general to review transactions for anticompetitive
22 conduct and consumer harm.

23 NEW SECTION. **Sec. 2.** The definitions in this section apply
24 throughout this chapter unless the context clearly requires
25 otherwise.

26 (1) "Community health care services" means hospital care,
27 emergency care, specialty care, primary care, obstetric care, or
28 other health services important to the community.

29 (2) "Department" means the Washington state department of health.

30 (3) "Gender affirming health care" means care for an individual
31 to support and affirm the individual's gender identity. Gender
32 affirming treatment includes, but is not limited to, treatment for
33 gender dysphoria. Gender affirming health care can be prescribed to
34 two spirit, transgender, nonbinary, and other gender diverse
35 individuals.

36 (4) "Health care entity" means:

37 (a) Provider organizations;

38 (b) Hospitals;

39 (c) Health systems; or

1 (d) Carriers or insurance holding company systems as defined in
2 RCW 48.31B.005.

3 (5) "Health care transaction" or "transaction" means a business
4 transaction by purchase, merger, or joint venture where one party is
5 a health care entity.

6 (6) "Health district" has the same meaning as in RCW 70.05.010.

7 (7) "Health system" means:

8 (a) A parent corporation of one or more hospitals and any entity
9 affiliated with such parent corporation through ownership or control;
10 or

11 (b) A hospital and any entity affiliated with such hospital
12 through ownership.

13 (8) "Hospital" means any entity that is licensed under chapter
14 70.41 or 71.12 RCW.

15 (9) "Person" means an individual, a trust or estate, a
16 partnership, a corporation including associations, limited liability
17 companies, joint stock companies, and insurance companies.

18 (10)(a) "Protected health care services" means:

19 (i) Reproductive services that are the subject of the
20 reproductive privacy act established pursuant to Initiative Measure
21 No. 120, approved November 5, 1991;

22 (ii) Death with dignity services that are the subject of the
23 Washington death with dignity act established pursuant to Initiative
24 Measure No. 1000, approved November 4, 2008; and

25 (iii) Gender affirming health care.

26 (b) Protected health care services may be provided virtually, on
27 demand, or in brick-and-mortar settings.

28 (11) "Provider" means a natural person who (a) has primary
29 responsibility for the care of a patient receiving protected health
30 care services within the person's scope of practice and (b) practices
31 a profession identified in RCW 18.130.040.

32 (12) "Provider organization" means a corporation, partnership,
33 business trust, association, or organized group of persons, whether
34 incorporated or not, which is in the business of health care delivery
35 or management and that represents seven or more health care providers
36 in contracting with carriers or third-party administrators for the
37 payments of health care services. A "provider organization" includes
38 physician organizations, physician-hospital organizations,
39 independent practice associations, provider networks, and accountable
40 care organizations.

1 **PART II**

2 **TRANSACTION APPLICATION AND REVIEW**

3 NEW SECTION. **Sec. 3.** (1) A health care entity that provides
4 protected health care services may not engage in a health care
5 transaction which may as of the time of the transaction affect access
6 to protected health care services in one or more health districts
7 without the transaction first having received the approval of the
8 department under this chapter.

9 (2) Not less than 60 days prior to the effective date of a
10 transaction subject to this section, a party to the transaction must
11 submit an application to the department on forms provided by the
12 department. The forms provided by the department must require the
13 following:

14 (a) The name of the health care entities;

15 (b) A brief description of the transaction;

16 (c) A brief description of how protected health care services
17 will be unchanged, increased, limited, or reduced as a result of the
18 health care transaction, including the geographic areas affected;

19 (d) If applicable, a description of how the transaction will
20 promote access to community health care services; and

21 (e) The health entity's or entities' proposed plan to address any
22 reduction or limitation to access to protected health care services.

23 (3) The applications and all supporting documents submitted to
24 the department are considered public records for purposes of chapter
25 42.56 RCW.

26 (4) The department shall charge an application fee sufficient to
27 cover the costs of implementing this chapter.

28 NEW SECTION. **Sec. 4.** (1) The department shall determine if the
29 application required under section 3 of this act is complete for the
30 purposes of review. The department may find that an application is
31 incomplete if a question on the application form has not been
32 answered in whole or in part or has been answered in a manner that
33 does not fairly meet the question addressed. If the department
34 determines that an application is incomplete, the department shall
35 notify the applicant within 15 working days after the date the
36 application was received stating the reasons for its determination of
37 incompleteness, with reference to the particular questions for which
38 a deficiency is noted.

1 (2) Within five working days of receipt of a completed
2 application, the department shall publish notice of the application
3 on the department's publicly accessible website and in a newspaper of
4 general circulation in the county or counties where the health care
5 entity is located and shall notify by first-class United States mail,
6 email, or fax any person who has requested notice of the filing of
7 such applications. The notice must state that an application has been
8 received, state the names of the intended parties, describe the
9 contents of the application, state the date and location of any
10 public hearings, and state the date by which a person may submit
11 written comments about the application to the department.

12 (3) Within five working days of receipt of a completed
13 application, the department must provide the completed application to
14 the attorney general.

15 NEW SECTION. **Sec. 5.** (1) Upon receipt of a completed
16 application under this chapter, the department must conduct a review
17 and issue a final determination within 60 days. If the department
18 fails to issue a final determination within 60 days, the health care
19 transaction is deemed approved.

20 (2)(a) The department may conduct up to two public hearings
21 during the course of review, at least one of which must be in the
22 health district most affected by the proposed health care
23 transaction.

24 (b) The department must allow individuals to participate remotely
25 in public hearings.

26 (c) At a public hearing, anyone may file written comments and
27 exhibits or appear and make a statement.

28 (d) A public hearing must be held not later than 30 days after
29 receipt of a completed application. All public hearings must be
30 completed not later than 45 days after receipt of a completed
31 application. At least 10 days' public notice must be given before the
32 holding of a public hearing.

33 (3) The department shall consult with the attorney general to
34 ensure that the applicants are also in compliance with chapter 19.390
35 RCW.

36 (4) The department shall consult with the health district or
37 districts affected by the proposed transaction to evaluate the
38 application and its foreseeable effects to protected health care

1 services and community health care services under the standards
2 established in section 6 of this act.

3 **PART III**

4 **TRANSACTION APPROVAL STANDARDS AND FINAL DETERMINATION**

5 NEW SECTION. **Sec. 6.** (1) The department shall only approve or
6 approve with conditions or modifications an application under this
7 chapter if the department determines that:

8 (a) The health care transaction subject to review under this
9 chapter will not, at the time of transaction, foreseeably and
10 meaningfully reduce access to protected health care services in one
11 or more health districts;

12 (b) The health care entity engaging in the health care
13 transaction subject to review under this chapter has or plans to take
14 sufficient safeguards to address any reduction in access to protected
15 health care services such that the health care transaction will not
16 meaningfully reduce the continued existence of protected health
17 services within one or more health districts, or that sufficient
18 alternative sources of care are available in the health district; or

19 (c) The health care transaction is necessary to preserve access
20 to community health care services because, without the transaction,
21 the residents of one or more health districts are more likely than
22 not to lose community health care services that would meaningfully
23 reduce access to care for these residents, including hospital care,
24 emergency care, specialty care, primary care, obstetric services, or
25 other services important to the community.

26 (2) In determining whether to approve, approve with conditions or
27 modifications, or deny an application under this section, the
28 department shall consider the following information alongside the
29 application received from the parties of the health care transaction:

30 (a) Information and analysis provided in the report required
31 under section 11 of this act regarding existing access to protected
32 health care services in the health district or districts that would
33 be affected by the transaction, and the effect of the health care
34 transaction on existing access;

35 (b) If applicable, information provided in the most recent
36 community health needs assessment under Title 26 U.S.C. Sec. 501
37 relevant to protected health care services;

1 (c) Comments, information, and statements provided at public
2 hearings pursuant to section 5 of this act;

3 (d) The share of residents within the health district or
4 districts who would have their current site of care for protected
5 health care services or community health care services relocated, and
6 whether such relocation would add barriers to accessing protected
7 health care services or community health care services to those
8 residents; and

9 (e) The share of residents within the health district or
10 districts who would have the modality of accessing protected health
11 care services or community health care services changed from only
12 brick-and-mortar to only virtual or on demand, and whether such
13 residents would have adequate access to necessary resources to access
14 virtual or on demand services.

15 NEW SECTION. **Sec. 7.** (1) The department shall make a final
16 determination regarding an application subject to review under this
17 chapter, with or without any specific modifications or conditions
18 based on the standards established in section 6 of this act.

19 (2) (a) Within 60 days of receipt of a completed application under
20 this chapter, the department shall make a final determination to:

21 (i) Approve the application in writing, which constitutes a final
22 decision;

23 (ii) Approve the application with conditions or modifications on
24 the transaction to ensure the requirements in section 6 of this act
25 are met. The imposition of such modifications or conditions must be
26 in writing and constitutes a final decision; or

27 (iii) Disapprove the application in writing, which constitutes a
28 final decision.

29 (b) The department shall make its final determination in writing
30 provided to all parties in the transaction, including findings and
31 justification of its determination related to the standards
32 established in section 6 of this act.

33 (c) The final determination must adhere to the notice
34 requirements in the same manner as under section 4(2) of this act.

35 (3) (a) The department may not make its decision subject to any
36 condition not directly related to the requirements of this chapter,
37 and any condition or modification, including the cost associated with
38 such condition or modification, must be reasonable and bear a direct
39 and rational relationship to the application under review.

1 (b) Any modifications or conditions imposed by the department
2 must:

3 (i) Align with the relevant applicable standards of care for the
4 specific service or services affected by the modifications or
5 conditions;

6 (ii) Relate to the specific application and consider preservation
7 of access to health care services; and

8 (iii) Not impose undue financial burden to the parties such that
9 provision of health care services provided by the health care entity
10 cannot be done in a financially feasible manner.

11 (c) The decision to approve, approve with conditions or
12 modifications, or disapprove an application must take into account
13 whether disapproval of a plan, or specific conditions or
14 modifications, may lead to health care service disruption or loss of
15 community health care services to the community.

16 (4) A health care entity engaged in a health care transaction
17 subject to this chapter and affected by a final decision of the
18 department to approve, approve with conditions or modifications, or
19 disapprove an application has the right to an adjudicative proceeding
20 under chapter 34.05 RCW.

21 **PART IV**

22 **ENFORCEMENT, RULE MAKING, AND CONTRACTING AUTHORITY**

23 NEW SECTION. **Sec. 8.** The attorney general may seek an
24 injunction to prevent any health care transaction required to seek
25 and receive approval pursuant to section 3 of this act that is not
26 approved or approved with conditions or modifications by the
27 department under this chapter.

28 NEW SECTION. **Sec. 9.** (1) The department shall require annual
29 reports from the parties to a health care transaction that was
30 subject to review and approved or approved with conditions or
31 modifications under this chapter for the purpose of ensuring
32 compliance with the parties' application, the department's approval,
33 and this chapter.

34 (2) The department shall require annual reports under this
35 section for a period of not more than three years after the
36 completion of a transaction approved or approved with conditions or
37 modifications.

1 (a) That excess capacity of health services and facilities place
2 considerable economic burden on the public who pay for the
3 construction and operation of these facilities as patients, health
4 insurance purchasers, carriers, and taxpayers; and

5 (b) That the development and ongoing maintenance of current and
6 accurate health care information and statistics related to cost and
7 quality of health care, as well as projections of need for health
8 facilities and services, are essential to effective strategic health
9 planning.

10 (3) The strategy, with public input by health service areas,
11 shall include:

12 (a) A health system assessment and objectives component that:

13 (i) Describes state and regional population demographics, health
14 status indicators, and trends in health status and health care needs;
15 and

16 (ii) Identifies key policy objectives for the state health system
17 related to access to care, health outcomes, quality, and cost-
18 effectiveness;

19 (b) A health care facilities and services plan that shall assess
20 the demand for health care facilities and services to inform state
21 health planning efforts ~~((and))~~, direct certificate of need
22 determinations((~~r~~)) for those facilities and services subject to
23 certificate of need as provided in chapter 70.38 RCW, and provide
24 information and analysis of protected health care services and
25 community health care services required under section 6 of this act.

26 The plan shall include:

27 (i) An inventory of each geographic region's existing health care
28 facilities and services, with specific analysis of the availability
29 of protected health care services and community health care services
30 as defined in section 2 of this act;

31 (ii) Projections of need for each category of health care
32 facility and service, including those subject to certificate of need;

33 (iii) Policies to guide the addition of new or expanded health
34 care facilities and services to promote the use of quality, evidence-
35 based, cost-effective health care delivery options, including any
36 recommendations for criteria, standards, and methods relevant to the
37 certificate of need review process; and

38 (iv) An assessment of the availability of health care providers,
39 public health resources, transportation infrastructure, and other

1 considerations necessary to support the needed health care facilities
2 and services in each region;

3 (c) A health care data resource plan that identifies data
4 elements necessary to properly conduct planning activities and to
5 review certificate of need applications, including data related to
6 inpatient and outpatient utilization and outcomes information, and
7 financial and utilization information related to charity care,
8 quality, and cost. The plan shall inventory existing data resources,
9 both public and private, that store and disclose information relevant
10 to the health planning process, including information necessary to
11 conduct certificate of need activities pursuant to chapter 70.38 RCW.
12 The plan shall identify any deficiencies in the inventory of existing
13 data resources and the data necessary to conduct comprehensive health
14 planning activities. The plan may recommend that the office be
15 authorized to access existing data sources and conduct appropriate
16 analyses of such data or that other agencies expand their data
17 collection activities as statutory authority permits. The plan may
18 identify any computing infrastructure deficiencies that impede the
19 proper storage, transmission, and analysis of health planning data.
20 The plan shall provide recommendations for increasing the
21 availability of data related to health planning to provide greater
22 community involvement in the health planning process and consistency
23 in data used for certificate of need applications and determinations;

24 (d) An assessment of emerging trends in health care delivery and
25 technology as they relate to access to health care facilities and
26 services, quality of care, and costs of care. The assessment shall
27 recommend any changes to the scope of health care facilities and
28 services covered by the certificate of need program that may be
29 warranted by these emerging trends. In addition, the assessment may
30 recommend any changes to criteria used by the department to review
31 certificate of need applications, as necessary;

32 (e) A rural health resource plan to assess the availability of
33 health resources in rural areas of the state, assess the unmet needs
34 of these communities, and evaluate how federal and state
35 reimbursement policies can be modified, if necessary, to more
36 efficiently and effectively meet the health care needs of rural
37 communities. The plan shall consider the unique health care needs of
38 rural communities, the adequacy of the rural health workforce, and
39 transportation needs for accessing appropriate care.

1 (4) The office shall submit the initial strategy to the governor
2 and the appropriate committees of the senate and house of
3 representatives by January 1, 2010. Every two years the office shall
4 submit an updated strategy. The health care facilities and services
5 plan as it pertains to a distinct geographic planning region may be
6 updated by individual categories on a rotating, biannual schedule.

7 (5) The office shall hold at least one public hearing and allow
8 opportunity to submit written comments prior to the issuance of the
9 initial strategy or an updated strategy. A public hearing shall be
10 held prior to issuing a draft of an updated health care facilities
11 and services plan, and another public hearing shall be held before
12 final adoption of an updated health care facilities and services
13 plan. Any hearing related to updating a health care facilities and
14 services plan for a specific planning region shall be held in that
15 region with sufficient notice to the public and an opportunity to
16 comment.

17 **PART VII**

18 **MISCELLANEOUS PROVISIONS**

19 NEW SECTION. **Sec. 13.** Sections 2 through 11 of this act
20 constitute a new chapter in Title 70 RCW.

21 NEW SECTION. **Sec. 14.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 15.** This act takes effect December 1, 2026,
26 and applies to health care transactions with an effective date on or
27 after the effective date of this act, except for section 9 which
28 takes effect July 1, 2026.

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