

CHAPTER 52

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 19-1001

BY REPRESENTATIVE(S) Kennedy, Arndt, Benavidez, Bird, Buckner, Caraveo, Coleman, Cutter, Duran, Esgar, Galindo, Garnett, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Jaquez Lewis, Kipp, Kraft-Tharp, Lontine, McCluskie, Melton, Michaelson Jenet, Roberts, Singer, Sirota, Snyder, Tipper, Weissman, Becker, Buentello, Exum, Froelich, Jackson, Mullica, Sullivan, Titone, Valdez A.;
also SENATOR(S) Moreno and Rankin, Bridges, Coram, Court, Danielson, Donovan, Fenberg, Ginal, Lee, Pettersen, Rodriguez, Todd, Williams A., Winter, Garcia.

AN ACT

CONCERNING HOSPITAL TRANSPARENCY MEASURES REQUIRED TO ANALYZE THE EFFICACY OF HOSPITAL DELIVERY SYSTEM REFORM INCENTIVE PAYMENTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25.5-4-402.4, **add** (7)(e.5) as follows:

25.5-4-402.4. Hospitals - healthcare affordability and sustainability fee - legislative declaration - Colorado healthcare affordability and sustainability enterprise - federal waiver - fund created - rules - reports. (7) Colorado healthcare affordability and sustainability enterprise board. (e.5) THE ENTERPRISE BOARD SHALL CALCULATE THE ESTIMATES DESCRIBED IN SUBSECTION (7)(e)(V) OF THIS SECTION BY USING APPROPRIATE INFORMATION PROVIDED TO THE STATE DEPARTMENT BY HOSPITALS AND ANY STATE DEPARTMENT ANALYSIS OF THAT INFORMATION.

SECTION 2. In Colorado Revised Statutes, **add** 25.5-4-402.8 as follows:

25.5-4-402.8. Hospital expenditure report - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ACQUIRED" MEANS THE PURCHASE BY A HOSPITAL, OR ENTITY THAT IS OWNED BY OR UNDER COMMON OWNERSHIP AND CONTROL WITH THE HOSPITAL, OF ALL OR SUBSTANTIALLY ALL OF AN ORGANIZATION SUBJECT TO SUBSECTION (1)(b)(I)

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

OR (1)(b)(II) OF THIS SECTION THROUGH AN ASSET, EQUITY, OR SIMILAR PURCHASE AGREEMENT THAT IS A SINGLE TRANSACTION OR SERIES OF TRANSACTIONS.

(b) "AFFILIATED" OR "AFFILIATE" MEANS THERE IS A CONTRACTUAL RELATIONSHIP BETWEEN A HOSPITAL OR AN ENTITY THAT IS OWNED BY OR UNDER COMMON OWNERSHIP AND CONTROL WITH THE HOSPITAL WHERE THE CONTRACTUAL RELATIONSHIP ENABLES THE HOSPITAL OR AN ENTITY THAT IS OWNED BY OR UNDER COMMON OWNERSHIP AND CONTROL WITH THE HOSPITAL TO EXERCISE CONTROL OVER ONE OF THE FOLLOWING ENTITIES:

(I) ANOTHER HOSPITAL;

(II) AN ENTITY OWNED BY OR UNDER COMMON OWNERSHIP AND CONTROL WITH ANOTHER HOSPITAL; OR

(III) A PHYSICIAN GROUP PRACTICE.

(c) "CONTROL" MEANS THE POSSESSION, DIRECT OR INDIRECT, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF MANAGEMENT AND POLICIES OF AN AFFILIATE, WHETHER THROUGH THE OWNERSHIP OF EQUITY OR MEMBERSHIP, BY CONTRACT OR OTHERWISE.

(d) "MAJOR PAYER GROUP" INCLUDES COMMERCIAL INSURERS, MEDICARE, MEDICAID, INDIVIDUALS WHO SELF-PAY, A FINANCIAL ASSISTANCE PLAN, AND THE "COLORADO INDIGENT CARE PROGRAM", ESTABLISHED IN PART 1 OF ARTICLE 3 OF THIS TITLE 25.5.

(2)(a) THE STATE DEPARTMENT SHALL ANNUALLY PREPARE A WRITTEN HOSPITAL EXPENDITURE REPORT DETAILING UNCOMPENSATED HOSPITAL COSTS AND THE DIFFERENT CATEGORIES OF EXPENDITURES, BY MAJOR PAYER GROUP, MADE BY HOSPITALS IN THE STATE. THE STATE DEPARTMENT SHALL CONSULT WITH THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE BOARD, CREATED PURSUANT TO SECTION 25.5-4-402.4(7) AND REFERRED TO IN THIS SECTION AS THE "ENTERPRISE BOARD", IN DEVELOPING THE HOSPITAL EXPENDITURE REPORT. THE STATE DEPARTMENT MAY SHARE ANY INFORMATION IT RECEIVES FROM HOSPITALS WITH THE ENTERPRISE BOARD. THE STATE DEPARTMENT MAY INCLUDE INFORMATION IT RECEIVES FROM HOSPITALS IN ACCORDANCE WITH SUBSECTION (2)(b) OF THIS SECTION AND THAT IS NOT OTHERWISE PUBLICLY AVAILABLE IN THE EXPENDITURE REPORT AND SHARE SUCH INFORMATION WITH THE ENTERPRISE BOARD; EXCEPT THAT INFORMATION THE STATE DEPARTMENT RECEIVES FROM HOSPITALS IN ACCORDANCE WITH SUBSECTION (2)(b)(III)(N) OF THIS SECTION IS CONFIDENTIAL, PROPRIETARY, CONTAINS TRADE SECRETS, AND IS NOT A PUBLIC RECORD PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24. THE STATE DEPARTMENT SHALL NOT INCLUDE IN THE EXPENDITURE REPORT, SHARE WITH THE ENTERPRISE BOARD, OR OTHERWISE PUBLISH OR DISTRIBUTE INFORMATION DERIVED FROM REPORTS PURSUANT TO SUBSECTION (2)(b)(III)(N) OF THIS SECTION, ALTHOUGH THE STATE DEPARTMENT MAY SHARE THIS INFORMATION IF SUCH INFORMATION HAS BEEN DE-IDENTIFIED AND AGGREGATED IN A MANNER TO PREVENT IDENTIFICATION OF THE TRANSACTION PRICE OF ANY INDIVIDUAL ACQUISITION OR AFFILIATION. A HOSPITAL SHALL NOT BE IN VIOLATION OF THIS SECTION IF THE HOSPITAL MAKES A GOOD FAITH EFFORT TO COMPLY WITH THE REPORTING REQUIREMENTS OF THIS SECTION.

(b) EXCEPT AS PROVIDED IN SUBSECTION (2)(c) OF THIS SECTION, EACH HOSPITAL LICENSED PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 25, OR CERTIFIED PURSUANT TO SECTION 25-1.5-103 (1)(a)(II), SHALL MAKE INFORMATION AVAILABLE TO THE STATE DEPARTMENT FOR PURPOSES OF PREPARING THE ANNUAL HOSPITAL EXPENDITURE REPORT. THE STATE BOARD SHALL ESTABLISH THE FORMAT OF THE INFORMATION PROVIDED BY EACH HOSPITAL ON AN ANNUAL BASIS. THE FIRST SUBMISSION BY EACH HOSPITAL MUST INCLUDE THE INFORMATION DESCRIBED IN SUBSECTIONS (2)(b)(I) AND (2)(b)(II) OF THIS SECTION FOR FISCAL YEARS 2011-12 THROUGH 2018-19 AND THE INFORMATION DESCRIBED IN SUBSECTION (2)(b)(III) OF THIS SECTION FOR THOSE FISCAL YEARS IF SUCH INFORMATION IS AVAILABLE. FOR EACH SUBSEQUENT SUBMISSION, EACH HOSPITAL SHALL PROVIDE THE FOLLOWING INFORMATION TO THE STATE DEPARTMENT:

(I) THE HOSPITAL COST REPORT SUBMITTED TO THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS) PURSUANT TO 42 CFR 413.20, INCLUDING A COPY OF THE FINAL FORMS AND WORKSHEETS SUBMITTED TO CMS AS PART OF THE HOSPITAL COST REPORT;

(II)(A) AN ANNUAL AUDITED FINANCIAL STATEMENT PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. EACH HOSPITAL SHALL SUBMIT THE STATEMENT WITHIN ONE HUNDRED TWENTY DAYS AFTER THE END OF ITS FISCAL YEAR UNLESS THE STATE DEPARTMENT GRANTS AN EXTENSION IN WRITING IN ADVANCE OF THAT DATE.

(B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2)(b)(II)(A) OF THIS SECTION, IF A HOSPITAL IS OPERATING WITHIN A HEALTH SYSTEM OR OTHER CORPORATE STRUCTURE, AND IS NORMALLY INCLUDED IN THAT HEALTH SYSTEM OR OTHER CORPORATE STRUCTURE'S FINANCIAL STATEMENT, THE HOSPITAL MAY SUBMIT THE HEALTH SYSTEM OR OTHER CORPORATE STRUCTURE'S FINANCIAL STATEMENT IF THE STATEMENT SEPARATELY IDENTIFIES THE FINANCIAL INFORMATION FOR EACH OF THE HEALTH SYSTEM OR OTHER CORPORATE STRUCTURE'S LICENSED HOSPITALS OPERATING IN THIS STATE.

(C) IN LIEU OF AN AUDITED FINANCIAL STATEMENT, EACH HOSPITAL OPERATING WITHIN A HEALTH SYSTEM OR OTHER CORPORATE STRUCTURE THAT DOES NOT PRODUCE AN ANNUAL AUDITED FINANCIAL STATEMENT SPECIFIC TO EACH INDIVIDUAL HOSPITAL, BUT INSTEAD PRODUCES CONSOLIDATED FINANCIAL STATEMENTS, SHALL SUBMIT A RECONCILIATION OF THE CONSOLIDATED FINANCIAL STATEMENT AND HOSPITAL-SPECIFIC REVENUE AND EXPENSES REPORTED ON THE MEDICARE COST REPORT PURSUANT TO THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES PROVIDER REIMBURSEMENT MANUAL FORM 339.

(III) A REPORT THAT CONTAINS THE FOLLOWING INFORMATION:

(A) THE TOTAL NUMBER OF AVAILABLE BEDS AND LICENSED BEDS;

(B) INPATIENT STATISTICS IN TOTAL AND BY MAJOR PAYER GROUP AND BY CARE SETTING, INCLUDING BUT NOT LIMITED TO INPATIENT DISCHARGES AND PATIENT DAYS;

(C) OTHER INPATIENT STATISTICS, INCLUDING BUT NOT LIMITED TO THE NUMBER

OF INPATIENT SURGERIES, NUMBER OF BIRTHS, NUMBER OF NEWBORN PATIENT DAYS, NUMBER OF ADMISSIONS FROM THE HOSPITAL-BASED EMERGENCY DEPARTMENT, AND NUMBER OF ADMISSIONS FROM FREE-STANDING EMERGENCY DEPARTMENTS;

(D) OUTPATIENT STATISTICS IN TOTAL AND BY TYPE OF VISIT, INCLUDING BUT NOT LIMITED TO HOSPITAL-BASED EMERGENCY DEPARTMENT VISITS, FREE-STANDING EMERGENCY DEPARTMENT VISITS, AMBULATORY SURGERY VISITS, HOME HEALTH VISITS, AND ALL OTHER OUTPATIENT VISITS;

(E) GROSS CHARGES IN TOTAL, BY MAJOR PAYER GROUP, AND BY CARE SETTING, INCLUDING BUT NOT LIMITED TO INPATIENT CARE AND OUTPATIENT CARE;

(F) CONTRACTUAL ALLOWANCES IN TOTAL AND BY MAJOR PAYER GROUP;

(G) BAD DEBT WRITE-OFFS IN TOTAL AND BY MAJOR PAYER GROUP;

(H) CHARITY WRITE-OFFS IN TOTAL AND BY MAJOR PAYER GROUP;

(I) OPERATING EXPENSES IN TOTAL AND BY EXPENSE CLASSIFICATION, INCLUDING BUT NOT LIMITED TO NON-PHYSICIAN PAYROLL EXPENSES AND ASSOCIATED HOURS, PHYSICIAN PAYROLL EXPENSES AND ASSOCIATED HOURS, TOTAL PAYROLL EXPENSES AND ASSOCIATED HOURS, CONTRACT LABOR EXPENSES AND ASSOCIATED HOURS, EMPLOYEE BENEFITS EXPENSES, BUSINESS DEVELOPMENT, MARKETING AND ADVERTISING EXPENSES, SUPPLY EXPENSES, DEPRECIATION EXPENSES, INTEREST EXPENSES, AND ALL OTHER OPERATING EXPENSES;

(J) OTHER OPERATING REVENUE, OPERATING MARGIN, NON-OPERATING GAINS AND LOSSES, AND TOTAL MARGIN;

(K) A BALANCE SHEET, INCLUDING BUT NOT LIMITED TO DETAILS FOR CURRENT ASSETS, RESTRICTED ASSETS, LONG-TERM ASSETS, OTHER ASSETS, CURRENT LIABILITIES, LONG-TERM DEBT, OTHER LIABILITIES, AND EQUITY OR NET ASSETS;

(L) STAFFING INFORMATION, INCLUDING BUT NOT LIMITED TO FULL-TIME EQUIVALENTS, STAFF TURNOVER, AND STAFF VACANCY RATES;

(M) A ROLL FORWARD OF PROPERTY, PLANT, AND EQUIPMENT ACCOUNTS BY ASSET TYPE FROM THE BEGINNING TO THE END OF THE REPORTING PERIOD BY ASSET CATEGORY, INCLUDING BUT NOT LIMITED TO PURCHASES, OTHER ACQUISITIONS, SALES, DISPOSALS, AND OTHER CHANGES; AND

(N) THE NAMES AND TRANSACTION PRICE OF ACQUIRED HOSPITALS, AFFILIATED HOSPITALS, NEWLY CONSTRUCTED HOSPITALS, AND REHABILITATED HOSPITALS; THE NAMES AND TRANSACTION PRICE OF ACQUIRED OR AFFILIATED PHYSICIAN GROUP PRACTICES; AND THE NUMBER AND TRANSACTION PRICE OF INDIVIDUAL PHYSICIAN PRACTICES ACQUIRED.

(c) THE STATE DEPARTMENT MAY EXEMPT FROM THE REPORTING REQUIREMENTS DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION CERTAIN TYPES OF HOSPITALS, INCLUDING BUT NOT LIMITED TO:

(I) PSYCHIATRIC HOSPITALS, AS LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(II) HOSPITALS THAT ARE LICENSED AS GENERAL HOSPITALS AND CERTIFIED AS LONG-TERM CARE HOSPITALS BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(III) CRITICAL ACCESS HOSPITALS THAT ARE LICENSED AS GENERAL HOSPITALS AND ARE CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO 42 CFR 485 (f);

(IV) INPATIENT REHABILITATION FACILITIES; AND

(V) HOSPITALS SPECIFIED FOR EXEMPTION UNDER 42 CFR 433.68 (e).

(d) PRIOR TO DEVELOPING THE FIRST ANNUAL HOSPITAL EXPENDITURE REPORT, THE STATE DEPARTMENT SHALL CONSULT WITH THE ENTERPRISE BOARD REGARDING THE DEVELOPMENT OF THE REPORT. THE STATE DEPARTMENT SHALL STRIVE FOR CONSISTENCY IN REPORTING THE COMPONENTS IN EACH ANNUAL REPORT WITH THOSE IN THE REPORT OF THE ENTERPRISE BOARD REQUIRED PURSUANT TO SECTION 25.5-4-402.4 (7)(e).

(e) PRIOR TO ISSUING THE HOSPITAL EXPENDITURE REPORT, THE STATE DEPARTMENT SHALL PROVIDE ANY HOSPITAL REFERENCED IN THE HOSPITAL EXPENDITURE REPORT A COPY OF THE REPORT. EACH HOSPITAL SHALL HAVE A MINIMUM OF FIFTEEN DAYS TO REVIEW THE HOSPITAL EXPENDITURE REPORT AND ANY UNDERLYING DATA AND SUBMIT CORRECTIONS OR CLARIFICATIONS TO THE STATE DEPARTMENT.

(f) THE STATE DEPARTMENT SHALL PROVIDE A STATEWIDE HOSPITAL ASSOCIATION ANY INFORMATION RECEIVED PURSUANT TO THIS SECTION IN A MACHINE-READABLE FORMAT AT NO COST TO THE ASSOCIATION.

(3) THE HOSPITAL EXPENDITURE REPORT MUST INCLUDE, BUT NOT BE LIMITED TO:

(a) A DESCRIPTION OF THE METHODS OF ANALYSIS AND DEFINITIONS OF REPORT COMPONENTS;

(b) UNCOMPENSATED CARE COSTS BY MAJOR PAYER GROUP; AND

(c) THE PERCENTAGE THAT EACH OF THE FOLLOWING CATEGORIES CONTRIBUTES TO OVERALL EXPENSES OF HOSPITALS:

(I) DELIVERY OF INPATIENT HEALTH CARE AND SERVICES BY MAJOR PAYER GROUP;

(II) DELIVERY OF OUTPATIENT HEALTH CARE AND SERVICES BY MAJOR PAYER GROUP AND SITE LOCATION;

(III) ADMINISTRATIVE COSTS;

(IV) CAPITAL CONSTRUCTION COSTS AND ASSOCIATED BOND LIABILITIES;

(V) MAINTENANCE;

(VI) CAPITAL EXPENDITURES;

(VII) PERSONNEL SERVICES;

(VIII) UNCOMPENSATED CARE BY MAJOR PAYER GROUP; AND

(IX) OTHER EXPENDITURE CATEGORIES, AS DETERMINED BY THE STATE DEPARTMENT.

(4) (a) ON OR BEFORE JANUARY 15, 2020, AND ON OR BEFORE JANUARY 15 EACH YEAR THEREAFTER, THE STATE DEPARTMENT SHALL SUBMIT THE ANNUAL HOSPITAL EXPENDITURE REPORT TO:

(I) THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEE;

(II) THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEE;

(III) THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY;

(IV) THE GOVERNOR; AND

(V) THE STATE BOARD.

(b) THE STATE DEPARTMENT MAY REQUEST THAT THE ENTERPRISE BOARD COMBINE THE HOSPITAL EXPENDITURE REPORT DESCRIBED IN THIS SECTION WITH THE REPORT OF THE ENTERPRISE BOARD SPECIFIED IN SECTION 25.5-4-402.4 (7)(e), SO LONG AS THE SPECIFIC REQUIREMENTS OF THIS SECTION ARE FULFILLED, AND SO LONG AS THE ENTERPRISE BOARD AGREES TO THE REQUEST. THE STATE DEPARTMENT SHALL POST THE ANNUAL REPORT ON ITS WEBSITE BY JANUARY 15 OF EACH YEAR.

(c) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT REQUIRED IN THIS SECTION CONTINUES INDEFINITELY.

(5) THE STATE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND THE DIVISION OF INSURANCE, SHALL REVIEW THE HOSPITAL REPORT CARD, CREATED PURSUANT TO SECTION 25-3-703, AND THE HOSPITAL CHARGE REPORT, CREATED PURSUANT TO SECTION 25-3-705, AND MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY BY NOVEMBER 1, 2019. THE RECOMMENDATIONS MUST IDENTIFY ANY STRUCTURAL OR SUBSTANTIVE CHANGES THAT SHOULD BE MADE TO THE HOSPITAL REPORT CARD OR HOSPITAL CHARGE REPORT TO INCREASE THE VALUE OF THOSE REPORTS, INCLUDING A CONSIDERATION OF WHETHER THE HOSPITAL REPORT CARD OR HOSPITAL CHARGE REPORT STILL PROVIDES VALUE TO CONSUMERS AND POLICYMAKERS.

SECTION 3. Act subject to petition - effective date. This act takes effect at

12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: March 28, 2019