

## CHAPTER 156

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**HEALTH CARE POLICY AND FINANCING**

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**HOUSE BILL 23-1243**

BY REPRESENTATIVE(S) Amabile, Bacon, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Herod, Jodeh, Joseph, Lieder, Lindsay, Mabrey, McCormick, McLachlan, Michaelson Jenet, Ortiz, Ricks, Sharbini, Snyder, Soper, Story, Weissman, Woodrow, Young, McCluskie, Sirota, Valdez, Velasco; also SENATOR(S) Moreno, Cutter, Exum, Ginal, Gonzales, Priola, Rodriguez.

**AN ACT**

**CONCERNING CHANGES TO THE HOSPITAL COMMUNITY BENEFIT, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly finds and declares that:

(a) Colorado's nonprofit hospitals are exempt from local and state sales and property taxes and are exempt from state and federal income taxes. In addition to tax exemptions, a hospital's nonprofit status allows the hospital to benefit from tax-exempt bond financing and to receive charitable contributions that are tax-deductible to the donors. These tax exemptions save Colorado's nonprofit hospitals millions of dollars of tax liability each year.

(b) Colorado's largest urban and system-affiliated nonprofit hospitals realize profits after community benefit spending, and these profits incur no taxes;

(c) The tax exemption policies provide significant financial benefits to nonprofit hospitals. In exchange for the tax exemptions, nonprofit hospitals assume a social obligation to provide community benefits of public interest.

(d) To meet the social obligation, nonprofit hospitals must be transparent about their community benefit spending and must be held accountable to their communities. Nonprofit hospitals must ensure that their community benefit spending meets the needs expressed by community members.

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*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.*

(2) Therefore, the general assembly hereby finds and declares that detailed, consistent, and public reporting of Colorado's nonprofit hospitals' community benefit spending is necessary for all communities served by hospitals to understand the breadth and amount of hospital community benefit spending and the impact that spending has on the health of Coloradans.

**SECTION 2.** In Colorado Revised Statutes, 25.5-1-702, **amend** (1), (2), and (3); and **add** (2.5), (2.7), (2.8), (4), (5), (6), and (7) as follows:

**25.5-1-702. Hospitals - public community meeting requirement - rules.**

(1) At least once each year, each REPORTING hospital shall convene a public meeting to seek feedback regarding the REPORTING hospital's community benefit activities during the previous year and the REPORTING hospital's community benefit implementation plan for the following year. THE PRESENTATION OF THE COMMUNITY BENEFIT ACTIVITIES FOR THE PREVIOUS YEAR MUST INCLUDE THE REPORTING HOSPITAL'S DISCRETE COMMUNITY BENEFIT ACTIVITIES, THE AMOUNT FUNDED FOR EACH ACTIVITY, AND A DESCRIPTION OF HOW THE ACTIVITIES AND FUNDING AMOUNTS ALIGN WITH THE COMMUNITY'S IDENTIFIED PRIORITIES.

(2)(a) Each REPORTING hospital shall invite, at a minimum, representatives from the following entities to participate in the meeting described in subsection (1) of this section, if any such entities operate in the REPORTING hospital's community:

(I) Local public health agencies;

(II) Local chambers of commerce and economic development organizations;

(III) Local health-care consumer organizations;

(IV) School districts;

(V) County governments;

(VI) City and town governments;

(VII) Community health centers;

(VIII) Certified rural health clinics or primary care clinics located in a county that has been designated by the federal office of management and budget as a rural or frontier county;

(IX) Area agencies on aging; ~~and~~

(X) Health-care consumer advocacy organizations.

(XI) A MEMBER OF THE TRIBAL COUNCIL OR THEIR DESIGNEE FOR A HOSPITAL WHOSE COMMUNITY INCLUDES ONE OF COLORADO'S LAND-BASED TRIBES;

(XII) A MEMBER FROM THE URBAN INDIAN ORGANIZATION FOR A HOSPITAL WHOSE COMMUNITY INCLUDES A FEDERALLY DESIGNATED URBAN INDIAN HEALTH CENTER OR URBAN INDIAN ORGANIZATION; AND

(XIII) A MEMBER FROM AN INSTITUTION OF HIGHER LEARNING FOR A HOSPITAL WHOSE COMMUNITY INCLUDES SUCH INSTITUTIONS.

(b) In addition to the entities described in subsection (2)(a) of this section, each REPORTING hospital shall invite, at a minimum, representatives from the following state agencies to participate in the meeting described in subsection (1) of this section:

(I) The state department;

(II) The department of public health and environment;

(III) The department of human services;

(IV) The Colorado commission on higher education; and

(V) The office of saving people money on healthcare in the lieutenant governor's office.

(c) In addition to the entities described in subsections (2)(a) and (2)(b) of this section, each REPORTING hospital shall invite the general public to the annual meeting described in subsection (1) of this section. The REPORTING hospital shall issue such invitation in an advertisement placed in any major newspaper published in the REPORTING hospital's community, POSTED ON THE REPORTING HOSPITAL'S PUBLIC WEBSITE AND SOCIAL MEDIA ACCOUNTS OR OTHER ONLINE PRESENCE, DISTRIBUTED THROUGH THE REPORTING HOSPITAL'S ELECTRONIC NEWSLETTER OR EMAIL LISTS, AND DISTRIBUTED BY ANY OTHER MEANS THROUGH WHICH THE REPORTING HOSPITAL REGULARLY COMMUNICATES WITH THE COMMUNITY IT SERVES. THE INVITATION MUST BE PUBLISHED AT LEAST THIRTY DAYS PRIOR TO THE SCHEDULED MEETING.

(2.5) WHEN PRESENTING THE PROPOSED COMMUNITY BENEFIT IMPLEMENTATION PLAN DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE REPORTING HOSPITAL MUST:

(a) PRESENT PRIORITY AREAS IDENTIFIED IN THE REPORTING HOSPITAL'S MOST RECENT COMMUNITY HEALTH NEEDS ASSESSMENT AND ANY OTHER COMMUNITY BENEFIT INVESTMENT OPTION RECOMMENDED BY THE REPORTING HOSPITAL. EACH PRIORITY RECOMMENDATION PRESENTED MUST CLEARLY IDENTIFY THE SOURCE OF THE RECOMMENDATION.

(b) SOLICIT PUBLIC INPUT FOR ANY ADDITIONAL COMMUNITY BENEFIT INVESTMENT PRIORITY; AND

(c) REVIEW AND INCORPORATE THE PUBLIC FEEDBACK RECEIVED BEFORE THE REPORTING HOSPITAL FINALIZES ITS ANNUAL COMMUNITY BENEFIT IMPLEMENTATION PLAN.

(2.7) A REPORTING HOSPITAL MAY ONLY ADD COMMUNITY BENEFIT PRIORITIES TO THE REPORTING HOSPITAL'S IMPLEMENTATION PLAN IF THE COMMUNITY BENEFIT PRIORITIES WERE PRESENTED AT THE ANNUAL MEETING AND THE PUBLIC WAS

PROVIDED AN OPPORTUNITY TO PROVIDE FEEDBACK. THE REPORTING HOSPITAL MUST INDICATE THAT THE IMPLEMENTED COMMUNITY BENEFIT PRIORITIES ARE A RESULT OF REPORTING HOSPITAL RECOMMENDATIONS AND NOT FROM COMMUNITY FEEDBACK.

(2.8) THE STATE BOARD SHALL PROMULGATE RULES TO DEFINE TERMS AND ESTABLISH SPECIFIC PROCESSES REGARDING THE REQUIREMENTS FOR REPORTING HOSPITALS TO SOLICIT, REVIEW, AND INCORPORATE PUBLIC INPUT PURSUANT TO SUBSECTIONS (2.5) AND (2.7) OF THIS SECTION.

(3) To satisfy the requirements of this section, a reporting hospital may convene a joint public meeting with one or more other reporting hospitals that share some or all of the hospital's community.

(4) FOR EACH PUBLIC MEETING AND COMMUNITY HEALTH NEEDS ASSESSMENT COMMUNITY ENGAGEMENT MEETING HELD, EACH REPORTING HOSPITAL SHALL SUBMIT A REPORT TO THE STATE DEPARTMENT AND MAKE THE REPORT AVAILABLE TO COMMUNITY MEMBERS BY MAKING THE REPORT PUBLICLY AVAILABLE ON THE REPORTING HOSPITAL'S WEBSITE. THE REPORT MUST INCLUDE, AT A MINIMUM, THE FOLLOWING:

(a) MEETING MINUTES;

(b) A LIST OF THE MEETING ATTENDEES;

(c) THE CONTENT OF THE MEETING DISCUSSION, INCLUDING ANY COMMUNITY BENEFIT PRIORITIES DISCUSSED AND THE DECISIONS MADE REGARDING THOSE DISCUSSED COMMUNITY BENEFIT PRIORITIES;

(d) COMMUNITY FEEDBACK RECEIVED AND HOW THE HOSPITAL PLANS TO INCORPORATE THE FEEDBACK INTO THE REPORTING HOSPITAL'S COMMUNITY BENEFIT IMPLEMENTATION PLAN; AND

(e) ANY DATA COLLECTED FROM ATTENDEES, SUCH AS DATA CONCERNING RACE, ETHNICITY, OR INCOME.

(5) THE STATE DEPARTMENT MUST CONDUCT A STAKEHOLDER MEETING WITH CONSUMER ADVOCATES, COMMUNITY ORGANIZERS, COMMUNITY ORGANIZATIONS, AND HOSPITAL REPRESENTATIVES TO IDENTIFY AND DEVELOP, AT A MINIMUM, BEST PRACTICES TO ENSURE LOW-INCOME RESIDENTS, RESIDENTS OF COLOR, PEOPLE WITH SERIOUS MENTAL ILLNESS, PEOPLE WITH DISABILITIES, AND OTHER POPULATIONS EXPERIENCING DISPROPORTIONATE HEALTH OUTCOMES IN LOCAL COMMUNITIES ARE MEANINGFULLY ENGAGED AND TO ENSURE THEIR INPUT IS INCORPORATED INTO THE DATA USED TO IDENTIFY COMMUNITY PRIORITIES FOR THE COMMUNITY HEALTH NEEDS ASSESSMENT AND COMMUNITY BENEFIT IMPLEMENTATION PLAN. THIS STAKEHOLDER ENGAGEMENT MUST ALSO INCLUDE BEST PRACTICES FOR HOSPITALS TO COLLABORATE WITH LOCAL PUBLIC HEALTH AGENCIES AND COMMUNITY ORGANIZATIONS TO REDUCE REDUNDANT COMMUNITY NEEDS ASSESSMENTS.

(6) THE STATE BOARD SHALL PROMULGATE RULES TO ESTABLISH ACCOMMODATION STANDARDS FOR THE ANNUAL COMMUNITY BENEFIT PUBLIC

MEETINGS AND COMMUNITY HEALTH NEEDS ASSESSMENT THAT INCLUDE LANGUAGE ACCESSIBILITY, ADEQUATE ADVANCED PUBLIC NOTICE, AND ANY OTHER TYPE OF ACCESSIBILITY MEASURES DEEMED NECESSARY BY THE STATE BOARD, AND TO IMPLEMENT THE BEST PRACTICES IDENTIFIED AND DEVELOPED PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(7) THE STATE BOARD SHALL PROMULGATE ANY ADDITIONAL RULES THAT MAY BE NECESSARY FOR CONDUCTING THE ANNUAL COMMUNITY BENEFIT PUBLIC MEETINGS DESCRIBED IN THIS SECTION.

**SECTION 3.** In Colorado Revised Statutes, 25.5-1-703, **amend** (2), (3)(d)(I)(C), (3)(d)(I)(D), (5)(a), (7)(b), and (7)(c); and **add** (3.5) and (7)(d) as follows:

**25.5-1-703. Hospitals - community health needs assessments - community benefit implementation plans - reports - rules.** (2) On or before a date to be determined by rules promulgated by the state board, and on or before such date each year thereafter, each reporting hospital shall complete a community benefit implementation plan that:

(a) Addresses the needs described by the reporting hospital's community health needs assessment;

(b) INCLUDES AN EXPLANATION OF THE COMMUNITY SERVED BY THE HOSPITAL FACILITY; AND

(c) DESCRIBES HOW THE COMMUNITY WAS DETERMINED PURSUANT TO 26 C.F.R. 1.501(r) 3(b).

(3) On or before a date to be determined by rules promulgated by the state board, and on or before such date each year thereafter, each reporting hospital shall prepare and submit to the state department a report on certain community benefits, costs, and shortfalls. The report must include:

(d) A description of certain spending and investments made by the reporting hospital during the preceding year, including:

(I) A list of the investments made by the reporting hospital that were included in part I, part II, and part III of schedule H of the reporting hospital's form 990. For each such investment, the reporting hospital shall:

(C) For any investment that addressed a community-identified health need, identify any of the following categories, which may be further defined by rules promulgated by the state board, that are applicable: ~~Free or discounted health-care services, programs that address health behaviors or risks, programs that address the social determinants of health, and such other categories as may be defined in rules promulgated by the state board;~~ and FREE OR DISCOUNTED HEALTH-CARE SERVICES; BEHAVIORAL HEALTH; COMMUNITY-BASED HEALTH CARE; SOCIAL DETERMINANTS OF HEALTH SPENDING, INCLUDING SPENDING TO ADDRESS INDIVIDUALS' NEEDS, SUCH AS HOUSING, FOOD, TRANSPORTATION, INTERPERSONAL VIOLENCE, EDUCATION, AND JOB OPPORTUNITIES; AND PROVIDER RECRUITMENT, EDUCATION, AND RESEARCH AND

TRAINING. IN IDENTIFYING THESE CATEGORIES, THE REPORTING HOSPITAL SHALL DISTINGUISH DIRECT OR CASH EXPENDITURES FROM IN-KIND CONTRIBUTIONS.

(D) For any investment that addressed a community-identified health need, ~~describe available evidence that shows how the investment improves community health outcomes~~ PROVIDE EVIDENCE SHOWING HOW THE INVESTMENT IMPROVES COMMUNITY HEALTH OUTCOMES AND HOW THE INVESTMENT DIRECTLY CORRESPONDS TO COMMUNITY-IDENTIFIED NEEDS.

(3.5) ON OR BEFORE A DATE TO BE DETERMINED BY RULES PROMULGATED BY THE STATE BOARD, AND ON OR BEFORE SUCH DATE EVERY THREE YEARS THEREAFTER, THE STATE DEPARTMENT SHALL REVIEW EACH REPORTING HOSPITAL'S COMMUNITY HEALTH NEEDS ASSESSMENT AND EACH REPORTING HOSPITAL'S ANNUAL COMMUNITY BENEFIT IMPLEMENTATION PLAN TO IDENTIFY THE HIGHEST PRIORITY AREAS AS REPORTED BY COMMUNITIES AS COMPARED TO THE REPORTING HOSPITAL'S REPORTED SPENDING. THE STATE DEPARTMENT SHALL INCLUDE SUCH INFORMATION IN THE REPORT DESCRIBED IN SUBSECTION (7) OF THIS SECTION.

(5) (a) The state board shall promulgate rules ~~establishing reporting~~ THAT ESTABLISH:

(I) REPORTING requirements for reporting hospitals that are not required to complete schedule H of the form 990. The rules must promote uniformity with the requirements set forth in subsection (3) of this section; AND

(II) REQUIREMENTS FOR THE EVIDENCE-BASED SUPPORTING DOCUMENTATION THAT IS REQUIRED PURSUANT TO SUBSECTION (3)(d)(I)(D) OF THIS SECTION.

(7) As part of the report authorized in section 25.5-4-402.8, the state department shall include a summary of the reports submitted to the state department pursuant to subsection (3) of this section during the preceding year. The summary must include:

(b) A summary of the reporting hospitals' investments that have been effective in improving community health outcomes; ~~and~~

(c) Any legislative recommendations the state department has for the general assembly; AND

(d) THE ESTIMATED FEDERAL AND STATE INCOME TAX EXEMPTIONS AND THE PROPERTY TAX EXEMPTIONS RECEIVED BY EACH HOSPITAL, WHICH SHALL BE CALCULATED BY THE DEPARTMENT OF REVENUE.

**SECTION 4.** In Colorado Revised Statutes, **add** 25.5-1-704 as follows:

**25.5-1-704. Hospital community investment compliance - rules.** (1) (a) IF THE STATE DEPARTMENT FINDS THAT A REPORTING HOSPITAL IS NOT IN COMPLIANCE WITH THE COMMUNITY BENEFIT REQUIREMENTS OF THIS PART 7, THE STATE DEPARTMENT SHALL NOTIFY THE REPORTING HOSPITAL OF ITS NONCOMPLIANCE AND IDENTIFY THE INFORMATION THAT NEEDS TO BE PROVIDED. IF A REPORTING HOSPITAL DOES NOT COMPLY, THE STATE DEPARTMENT SHALL REQUIRE THE REPORTING HOSPITAL TO

SUBMIT TO THE STATE DEPARTMENT A CORRECTIVE ACTION PLAN WITHIN ONE HUNDRED AND TWENTY DAYS FOR APPROVAL BY THE STATE DEPARTMENT.

(b) IF NONCOMPLIANCE CONTINUES OR A REPORTING HOSPITAL FAILS TO SUBMIT A CORRECTIVE ACTION PLAN, OR IF THE STATE DEPARTMENT DETERMINES A HOSPITAL'S NONCOMPLIANCE WITH THIS SECTION IS KNOWING OR WILLFUL OR A REPEATED PATTERN OF NONCOMPLIANCE EXISTS, THE STATE DEPARTMENT SHALL CONSIDER THE SIZE OF THE HOSPITAL AND THE SERIOUSNESS OF THE VIOLATION IN SETTING A FINE AMOUNT. FOR A REPORTING HOSPITAL OWNED BY OR AFFILIATED WITH A HOSPITAL SYSTEM COMPRISED OF THREE OR MORE HOSPITALS, THE FINE MUST BE NOT MORE THAN TWENTY THOUSAND DOLLARS PER WEEK PER VIOLATION. FOR ALL OTHER REPORTING HOSPITALS, THE FINE MUST BE NOT MORE THAN FIVE THOUSAND DOLLARS PER WEEK PER VIOLATION.

(2) REPORTING HOSPITALS SHALL EXPEND THE AMOUNT FINED PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION ON COMMUNITY BENEFIT INVESTMENT PRIORITIES DESCRIBED IN THE HOSPITAL'S CURRENT COMMUNITY BENEFIT IMPLEMENTATION PLAN WITHIN ONE YEAR AFTER THE FINE IS IMPOSED. EACH REPORTING HOSPITAL SHALL REPORT ON HOW THE MONEY COLLECTED THROUGH FINES IS EXPENDED IN THE REPORTING HOSPITAL'S ANNUAL REPORT TO THE STATE DEPARTMENT PURSUANT TO SECTION 25.5-1-703.

(3) THE STATE BOARD SHALL PROMULGATE ANY RULES NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

**SECTION 5. Appropriation.** (1) For the 2023-24 state fiscal year, \$50,000 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation is from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a). To implement this act, the office may use this appropriation for transfer to the department of revenue.

(2) For the 2023-24 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$50,000 in federal funds for transfer to the department of revenue to implement this act. The appropriation in subsection (1) of this section is based on the assumption that the department of health care policy and financing will receive this amount of federal funds, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

(3) For the 2023-24 state fiscal year, \$100,000 is appropriated to the department of revenue. This appropriation is from reappropriated funds received from the department of health care policy and financing under subsections (1) and (2) of this section and is based on an assumption that the department of revenue will require an additional 1.0 FTE. To implement this act, the department of revenue may use this appropriation for personal services.

**SECTION 6. 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; 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 10, 2023