

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23-0720.01 Shelby Ross x4510

HOUSE BILL 23-1226

HOUSE SPONSORSHIP

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Appropriations

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Appropriations

A BILL FOR AN ACT

101 **CONCERNING TRANSPARENCY REQUIREMENTS FOR HOSPITALS, AND, IN**
102 **CONNECTION THEREWITH, CREATING MORE TIMELY**
103 **SUBMISSIONS OF DATA; PROVIDING INSIGHTS INTO TRANSFERS**
104 **OF CASH AND PROFITS AND RESERVES, INCLUDING THOSE**
105 **LEAVING COLORADO; REPORTING ON ALL INFORMATION**
106 **RECEIVED; REPORTING INFORMATION BY EACH HOSPITAL IN**
107 **ADDITION TO HEALTH SYSTEMS; DISCLOSING EXECUTIVE**
108 **COMPENSATION, INCLUDING COMPENSATED INCENTIVES;**
109 **REPORTING MERGERS AND ACQUISITIONS OF HOSPITALS AND**
110 **PHYSICIANS; ██████████ REPORTING INVESTMENTS IN CAPITAL**
111 **EQUIPMENT AND CONSTRUCTION; AND MAKING AN**
112 **APPROPRIATION.**

SENATE
2nd Reading Unamended
May 4, 2023

HOUSE
3rd Reading Unamended
April 24, 2023

HOUSE
Amended 2nd Reading
April 21, 2023

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law requires the department of health care policy and financing (state department) to annually prepare a written hospital expenditure report. The bill changes the name of the report to the hospital transparency report (transparency report).

The bill adds specified information that each hospital shall report to the state department for the transparency report.

No later than July 1, 2024, the bill requires each hospital to provide specified information to the state department for previous fiscal years.

The bill authorizes the state department to impose certain enforcement mechanisms against a hospital that does not provide all of the information required to be reported to the state department.

Beginning July 1, 2024, the bill requires any patient bill to include a clear, plain language description of the services the patient is being billed for and a statement that the patient has a right to receive a detailed explanation of the services charged and who to contact to receive such information.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-402.8, **amend**
3 (2)(a), (2)(b) introductory portion, (2)(b)(II)(A), (2)(b)(III)(J),
4 (2)(b)(III)(M), (2)(c) introductory portion, (2)(e), (3) introductory portion,
5 (4)(a) introductory portion (4)(a)(I), and (4)(b); **repeal** (2)(d); and **add**
6 (2)(b)(II)(D), (2)(b)(II)(E), (2)(b)(II)(F), (2)(b)(III)(O), (2)(b)(III)(P),
7 (2)(b)(III)(Q), (2)(b)(IV), (2)(b.5), (2)(g), and (4.5) as follows:

8 **25.5-4-402.8. Hospital transparency report - definitions.**
9 (2) (a) The state department shall annually prepare a written hospital
10 ~~expenditure~~ TRANSPARENCY report detailing ~~uncompensated~~ hospital
11 costs, INCLUDING UNCOMPENSATED CARE COSTS, and the different

1 categories of expenditures, by major payer group, made by hospitals in
2 the state. The state department shall COORDINATE THE ANALYSIS, REVIEW,
3 AND RELEASE OF THE HOSPITAL TRANSPARENCY REPORT AND THE REPORTS
4 REQUIRED PURSUANT TO SECTION 25.5-1-703 (3) AND 25.5-4-402.4 (7)(e),
5 INCLUDING THE OPPORTUNITY TO REVIEW AND consult ~~with~~ ON THE
6 REPORTS MADE BY the Colorado healthcare affordability and sustainability
7 enterprise board, created pursuant to section 25.5-4-402.4 (7) and referred
8 to in this section as the "enterprise board". ~~in developing the hospital~~
9 ~~expenditure report~~. The state department may share any information AND
10 ANALYTICS OF INFORMATION THAT it receives from hospitals with the
11 enterprise board. The state department may include information it
12 receives from hospitals in accordance with subsection (2)(b) of this
13 section and that is not otherwise publicly available in the ~~expenditure~~
14 TRANSPARENCY report and share such information with the enterprise
15 board; except that information the state department receives from
16 hospitals in accordance with ~~subsection~~ SUBSECTIONS (2)(b)(II)(D),
17 (2)(b)(III)(N), (2)(b)(III)(O), (2)(b.5)(I), AND (2)(b.5)(II) of this section
18 is confidential, proprietary, contains trade secrets, and is not a public
19 record pursuant to part 2 of article 72 of title 24. The state department
20 shall not include in the ~~expenditure~~ TRANSPARENCY report, share with the
21 enterprise board, or otherwise publish or distribute information derived
22 from reports pursuant to ~~subsection~~ SUBSECTIONS (2)(b)(II)(D),
23 (2)(b)(III)(N), (2)(b)(III)(O), (2)(b.5)(I), AND (2)(b.5)(II) of this section,
24 although the state department may share this information if such
25 information has been de-identified and aggregated in a manner to prevent
26 identification of the transaction price of any individual acquisition or
27 affiliation. ~~A hospital shall not be in violation of this section if the~~

1 ~~hospital makes a good faith effort to comply with the reporting~~
2 ~~requirements of this section.~~

3 (b) Except as provided in subsection (2)(c) of this section, each
4 hospital licensed pursuant to part 1 of article 3 of title 25, or certified
5 pursuant to section 25-1.5-103 (1)(a)(II), shall make information available
6 to the state department for purposes of preparing the annual hospital
7 ~~expenditure~~ TRANSPARENCY report. The state board shall establish the
8 format of the information provided by each hospital on an annual basis.
9 ~~The first submission by each hospital must include the information~~
10 ~~described in subsections (2)(b)(I) and (2)(b)(II) of this section for fiscal~~
11 ~~years 2011-12 through 2018-19 and the information described in~~
12 ~~subsection (2)(b)(III) of this section for those fiscal years if such~~
13 ~~information is available. For each subsequent submission, Each hospital~~
14 shall provide the following information to the state department:

15 (II) (A) ~~An~~ Annual audited financial ~~statement~~ STATEMENTS,
16 prepared in accordance with generally accepted accounting principles.
17 Each hospital shall submit the ~~statement~~ STATEMENTS within one hundred
18 twenty days after the end of its fiscal year unless the state department
19 grants an extension in writing in advance of that date.

20 (D) AN ANNUAL SUMMARY OF THE HOSPITAL'S TRANSFERS OF
21 CASH, EQUITY, INVESTMENTS, OR OTHER ASSETS TO AND FROM RELATED
22 PARTIES, INCLUDING BUT NOT LIMITED TO THE HOSPITAL'S PARENT
23 ORGANIZATION. THE SUMMARY MUST INCLUDE THE PURPOSE OF THE
24 TRANSFERS AND WHETHER THE TRANSFERS WERE MADE WITHIN OR
25 OUTSIDE OF COLORADO. A HOSPITAL MAY AGGREGATE THE TRANSFERS
26 FOR EACH ENTITY RECEIVING OR MAKING THE TRANSFER.

27 (E) A HOSPITAL-SPECIFIC STATEMENT OF CASH FLOW WITHIN A

1 TIME FRAME SPECIFIED ANNUALLY BY THE STATE DEPARTMENT, BUT NOT
2 LESS THAN ONE HUNDRED TWENTY DAYS AFTER THE HOSPITAL'S FISCAL
3 YEAR END.

4 (F) CHANGES TO NO MORE THAN TWENTY-FIVE CATEGORIES OF
5 SPECIFIC MAJOR SERVICE LINES, AS REQUESTED BY THE STATE
6 DEPARTMENT.

7 (G) A NARRATIVE REPORT OF MAJOR PLANNED AND COMPLETED
8 PROJECTS AND CAPITAL INVESTMENTS GREATER THAN TWENTY-FIVE
9 MILLION DOLLARS; EXCEPT THAT THE INFORMATION THE STATE
10 DEPARTMENT RECEIVES FROM HOSPITALS REGARDING PLANNED ACTIVITIES
11 IS CONFIDENTIAL, PROPRIETARY, CONTAINS TRADE SECRETS, AND IS NOT
12 A PUBLIC RECORD PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24.

13 (III) A report that contains the following information:

14 (J) Other operating revenue, operating margin, nonoperating gains
15 and losses, GROSS REVENUE, NET PROFIT, and total margin;

16 (M) A roll forward of property, plant, and equipment accounts by
17 asset type from the beginning to the end of the reporting period by asset
18 category, including, but not limited to, purchases, other acquisitions,
19 sales, disposals, and other changes; and

20 (O) INFORMATION ON CURRENT AFFILIATIONS AND A REPORT OF
21 PHYSICIAN PRACTICE ACQUISITIONS;

22 (P) SALARY AND TOTAL COMPENSATION DATA OF THE TOP FIVE
23 HIGHEST PAID ADMINISTRATIVE POSITIONS OF EACH NONPROFIT HOSPITAL,
24 INCLUDING THE TITLE, A BRIEF DESCRIPTION OF DUTIES, BASE
25 COMPENSATION, INCENTIVE OR BONUS COMPENSATION, AND OTHER
26 COMPENSATION. THE COMPENSATION REPORTED MUST INDICATE WHAT
27 PERFORMANCE MEASURES WERE INCLUDED IN THE CHIEF EXECUTIVE

1 OFFICER'S PERFORMANCE EVALUATION GENERATED BY THE HOSPITAL'S
2 GOVERNING BOARD, INCLUDING, AT A MINIMUM, QUALITY OF CARE
3 OUTCOMES PERFORMANCE; PATIENT SATISFACTION PERFORMANCE;
4 COMMUNITY BENEFIT PERFORMANCE; CONSUMER AND EMPLOYER
5 AFFORDABILITY PERFORMANCE; MARKET SHARE PERFORMANCE; PROFITS
6 OR MARGINS; REVENUE GROWTH; CHANGE IN DAYS CASH ON HAND OR
7 CASH RESERVES; AND WORKFORCE. THE STATE DEPARTMENT MAY
8 INCLUDE INFORMATION IT RECEIVES FROM PUBLIC HOSPITALS PURSUANT
9 TO THIS SUBSECTION (2)(b)(III)(P) THAT IS NOT OTHERWISE PUBLICLY
10 AVAILABLE IN THE HOSPITAL TRANSPARENCY REPORT; EXCEPT THAT
11 INFORMATION THE STATE DEPARTMENT RECEIVES FROM A NONPROFIT
12 HOSPITAL IS NOT A PUBLIC RECORD PURSUANT TO PART 2 OF ARTICLE 72 OF
13 TITLE 24. THE STATE DEPARTMENT MAY ONLY REPORT INFORMATION
14 RECEIVED PURSUANT TO THIS SUBSECTION (2)(b)(III)(P) IN AN
15 AGGREGATED FORMAT THAT DOES NOT NAME INDIVIDUAL HOSPITALS OR
16 ADMINISTRATORS.

17 (Q) IN A FORM AND MANNER SPECIFIED BY THE STATE
18 DEPARTMENT, DETAILS OF SIGNIFICANT OTHER REVENUE THAT WOULD
19 OTHERWISE BE REPORTED IN THE MEDICARE COST REPORT.

20 (IV) (A) A QUARTERLY FINANCIAL REPORT THAT INCLUDES AN
21 INCOME STATEMENT AND BALANCE SHEET. IF A HOSPITAL IS OWNED OR
22 AFFILIATED WITH A HEALTH SYSTEM THAT IS COMPRISED OF THREE OR
23 MORE HOSPITALS OR THAT HAS MORE THAN ONE BILLION DOLLARS IN
24 RESERVES, THE HEALTH SYSTEM MAY SUBMIT A CONSOLIDATED
25 QUARTERLY FINANCIAL REPORT.

26 (B) ANY QUARTERLY FINANCIAL REPORT MADE PUBLICLY
27 AVAILABLE MUST CLEARLY STATE THAT THE QUARTERLY FINANCIAL

1 REPORT IS UNAUDITED, IF APPLICABLE. THE STATE DEPARTMENT SHALL
2 PROVIDE ANY ANALYSIS, REPORT, OR PRESENTATION BASED ON THE
3 QUARTERLY FINANCIAL REPORT TO EACH HOSPITAL AT LEAST FIFTEEN
4 DAYS PRIOR TO THE PUBLIC RELEASE OF THE ANALYSIS, REPORT, OR
5 PRESENTATION.

6 (b.5) NO LATER THAN JULY 1, 2024, EACH HOSPITAL SHALL
7 PROVIDE THE FOLLOWING INFORMATION TO THE STATE DEPARTMENT:

8 (I) FOR EACH FISCAL YEAR 2014-15 THROUGH 2019-20, A
9 SUMMARY OF THE HOSPITAL'S TRANSFERS OF CASH, EQUITY, INVESTMENTS,
10 OR OTHER ASSETS TO AND FROM RELATED PARTIES, INCLUDING BUT NOT
11 LIMITED TO THE HOSPITAL'S PARENT ORGANIZATION. THE SUMMARY MUST
12 INCLUDE THE PURPOSE OF THE TRANSFERS AND WHETHER THE TRANSFERS
13 WERE MADE WITHIN OR OUTSIDE OF COLORADO. A HOSPITAL MAY
14 AGGREGATE THE TRANSFERS FOR EACH ENTITY RECEIVING OR MAKING THE
15 TRANSFER.

16 (II) FOR EACH FISCAL YEAR FROM 2014-15 THROUGH 2019-20,
17 INFORMATION ON AFFILIATIONS AND A REPORT OF PHYSICIAN PRACTICE
18 ACQUISITIONS; AND

19 (III) FOR EACH FISCAL YEAR FROM 2019-20 THROUGH 2022-23, IN
20 A FORM AND MANNER SPECIFIED BY THE STATE DEPARTMENT, DETAILS OF
21 SIGNIFICANT OTHER REVENUE THAT WOULD OTHERWISE BE REPORTED IN
22 THE MEDICARE COST REPORT.

23 (c) The state department may exempt from ~~the~~ CERTAIN reporting
24 requirements described in ~~subsection~~ SUBSECTIONS (2)(b) AND (2)(b.5) of
25 this section certain types of hospitals, including but not limited to:

26 (d) ~~Prior to developing the first annual hospital expenditure report,~~
27 ~~the state department shall consult with the enterprise board regarding the~~

1 ~~development of the report. The state department shall strive for~~
2 ~~consistency in reporting the components in each annual report with those~~
3 ~~in the report of the enterprise board required pursuant to section~~
4 ~~25.5-4-402.4 (7)(c).~~

5 (e) Prior to issuing the hospital ~~expenditure~~ TRANSPARENCY
6 report, the state department shall provide any hospital referenced in the
7 hospital ~~expenditure~~ TRANSPARENCY report a copy of the report. Each
8 hospital ~~shall~~ MUST have a minimum of fifteen days to review the hospital
9 ~~expenditure~~ TRANSPARENCY report and any underlying data and submit
10 corrections or clarifications to the state department.

11 (g) (I) IF A HOSPITAL DOES NOT PROVIDE ALL OF THE INFORMATION
12 REQUIRED PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION, THE STATE
13 DEPARTMENT SHALL INFORM THE HOSPITAL OF ITS NONCOMPLIANCE
14 WITHIN SIXTY DAYS AND IDENTIFY THE INFORMATION THAT NEEDS TO BE
15 PROVIDED. IF A HOSPITAL DOES NOT COMPLY, THE STATE DEPARTMENT
16 SHALL ISSUE A CORRECTIVE ACTION PLAN WITH A TIMELINE OF SIXTY DAYS
17 REQUIRED FOR COMPLIANCE. IF A HOSPITAL CONTINUES TO NOT COMPLY,
18 THE STATE DEPARTMENT MAY CREATE A MANDATORY
19 PAY-FOR-REPORTING COMPLIANCE MEASURE WITHIN THE HOSPITAL
20 TRANSFORMATION PROGRAM THAT IS TIED TO THE HEALTHCARE
21 AFFORDABILITY AND SUSTAINABILITY FEE SUPPLEMENTAL PAYMENT AND
22 IS BASED ON COMPLIANCE WITH SUBSECTION (2)(b) OF THIS SECTION.

23 (II) IF THE STATE DEPARTMENT DETERMINES A HOSPITAL'S
24 NONCOMPLIANCE WITH THIS SECTION IS KNOWING OR WILLFUL OR THERE
25 IS A REPEATED PATTERN OF NONCOMPLIANCE, THE STATE DEPARTMENT
26 SHALL CONSIDER THE SIZE OF THE HOSPITAL AND THE SERIOUSNESS OF THE
27 VIOLATION IN SETTING A FINE AMOUNT WHICH, FOR HOSPITALS OWNED OR

1 AFFILIATED WITH A HOSPITAL SYSTEM COMPRISED OF THREE OR MORE
2 HOSPITALS, MUST NOT EXCEED TWENTY THOUSAND DOLLARS PER
3 VIOLATION PER WEEK UNTIL THE HOSPITAL TAKES CORRECTIVE AND, FOR
4 ALL OTHER HOSPITALS, MUST NOT EXCEED FIVE THOUSAND DOLLARS PER
5 WEEK UNTIL THE HOSPITAL TAKES CORRECTIVE ACTION.

6 (3) The hospital ~~expenditure~~ TRANSPARENCY report must include,
7 but not be limited to:

8 (4) (a) On or before January 15, 2020, and on or before January
9 15 each year thereafter, the state department shall submit the annual
10 hospital ~~expenditure~~ TRANSPARENCY report to:

11 (I) ~~The public health care and human services committee of the~~
12 ~~house of representatives~~ HEALTH AND INSURANCE COMMITTEE AND THE
13 HOUSE OF REPRESENTATIVES PUBLIC AND BEHAVIORAL HEALTH AND
14 HUMAN SERVICES COMMITTEE, or any successor committee;

15 (b) The state department may request that the enterprise board
16 combine the hospital ~~expenditure~~ TRANSPARENCY report described in this
17 section with the report of the enterprise board specified in section
18 25.5-4-402.4 (7)(e), so long as the specific requirements of this section
19 are fulfilled, and so long as the enterprise board agrees to the request. The
20 state department shall post the annual report on its website by January 15
21 of each year.

22 (4.5) THE STATE DEPARTMENT SHALL REPORT ON THE ANNUAL
23 HOSPITAL TRANSPARENCY REPORT DURING THE STATE DEPARTMENT'S
24 "SMART ACT" HEARING.

25 **SECTION 2.** In Colorado Revised Statutes, **add** 25.5-4-427 as
26 follows:

27 **25.5-4-427. Hospital and provider billing requirements -**

1 **description of service provided - rules.** (1) BEGINNING JULY 1, 2024,
2 ANY PATIENT BILL FOR SERVICES RENDERED MUST FOLLOW INDUSTRY
3 STANDARD BILLING PRACTICES, INCLUDING, AT A MINIMUM, THE DATE OF
4 SERVICE, THE PATIENT'S NAME, THE PROVIDER'S NAME, A DESCRIPTION OF
5 THE SERVICES PROVIDED, AND THE CHARGES FOR EACH SERVICE.

6 **SECTION 3. Appropriation.** (1) For the 2023-24 state fiscal
7 year, \$75,167 is appropriated to the department of health care policy and
8 financing for use by the executive director's office. This appropriation is
9 from the healthcare affordability and sustainability fee cash fund created
10 in Section 25.5-4-402.4 (5)(a), C.R.S. To implement this act, the office
11 may use this appropriation as follows:

12 (a) \$67,349 for personal services, which amount is based on an
13 assumption that the office will require an additional 1.7 FTE; and

14 (b) \$7,818 for operating expenses.

15 (2) For the 2023-24 state fiscal year, the general assembly
16 anticipates that the department of health care policy and financing will
17 receive \$75,165 in federal funds to implement this act, which amount is
18 subject to the "(I)" notation as defined in the annual general appropriation
19 act for the same fiscal year. The appropriation in subsection (1) of this
20 section is based on the assumption that the department will receive this
21 amount of federal funds to be used as follows:

22 (a) \$67,348 for personal services; and

23 (b) \$7,817 for operating expenses.

24 **SECTION 4. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within such period, then the act, item, section, or part will not take
3 effect unless approved by the people at the general election to be held in
4 November 2024 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.