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SENATE BILL 5347

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State of Washington

61st Legislature

2009 Regular Session

By Senators Keiser, Franklin, Pridemore, Murray, and Kohl-Welles

Read first time 01/20/09. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to hospital charity care; amending RCW 70.41.400,  
2 70.170.020, 70.170.060, 19.16.500, 84.36.040, and 70.170.070; and  
3 adding a new section to chapter 70.170 RCW.

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

5 **Sec. 1.** RCW 70.41.400 and 2006 c 60 s 2 are each amended to read  
6 as follows:

7 (1) Prior to or upon discharge, a hospital must furnish each  
8 patient receiving inpatient services a written statement providing a  
9 list of physician groups and other professional partners that commonly  
10 provide care for patients at the hospital and from whom the patient may  
11 receive a bill, along with contact phone numbers for those groups. The  
12 statement must prominently display a phone number that a patient can  
13 call for assistance if the patient has any questions about any of the  
14 bills they receive after discharge that relate to their hospital stay.

15 (2) Consistent with requirements outlined in RCW 70.170.060, each  
16 hospital shall provide notice to patients of its charity care policies.  
17 At a minimum, each hospital must post prominently in locations easily  
18 accessible to and visible by patients, including its web site, and in  
19 the bill sent to patients, a notice stating that charges for services

1 to people meeting the charity care or discount criteria may be waived  
2 or reduced, and regarding the availability of charity care and how to  
3 qualify. The department of health shall develop model language, not to  
4 exceed fifty words, and type font and style standards that hospitals  
5 must use to satisfy the requirement to provide notice in the bill sent  
6 to patients. The language may be written on the patient's actual bill  
7 if it complies with the department's type font and style requirements.  
8 A notice of charity care policies also may be provided to patients  
9 prior to discharge. The notice must use clear language that would be  
10 easily understood by individuals with limited education.

11 (3) This section does not apply to any hospital owned or operated  
12 by a health maintenance organization under chapter 48.46 RCW when  
13 providing prepaid health care services to enrollees of the health  
14 maintenance organization or any of its wholly owned subsidiary  
15 carriers.

16 **Sec. 2.** RCW 70.170.020 and 1995 c 269 s 2203 are each amended to  
17 read as follows:

18 (~~As used in~~) The definitions in this section apply throughout  
19 this chapter(~~(+)~~) unless the context clearly requires otherwise.

20 (1) "Department" means department of health.

21 (2) "Hospital" means any health care institution which is required  
22 to qualify for a license under RCW 70.41.020(~~(+2)~~) (4); or as a  
23 psychiatric hospital under chapter 71.12 RCW.

24 (3) "Secretary" means secretary of health.

25 (4) Except as otherwise provided in RCW 70.170.060(6), "charity  
26 care" means necessary hospital health care rendered to indigent  
27 persons, to the extent that the persons are unable to pay for the care  
28 or to pay deductibles or co-insurance amounts required by a third-party  
29 payer, as determined by the department.

30 (5) "Sliding fee schedule" means a hospital-determined, publicly  
31 available schedule of discounts (~~(to charges)~~) for persons deemed  
32 eligible for charity care(~~(+)~~). Such schedules shall be established  
33 after consideration of guidelines developed by the department.

34 (6) "Special studies" means studies which have not been funded  
35 through the department's biennial or other legislative appropriations.

36 (7) "Federal poverty guidelines" means the poverty income

1 guidelines established annually by the federal department of health and  
2 human services.

3 (8) "Hospital costs" is the number derived by multiplying hospital  
4 charges by a hospital's aggregate hospital cost-to-charge ratio  
5 calculated by the health and recovery services administration from the  
6 latest available medicare cost report. If a recalculation of the cost-  
7 to-charge ratio occurs sooner than twelve months from the last update  
8 to the hospital's discount policy, the calculation existing prior to  
9 the recalculation may be used for purposes of updating hospital  
10 discount policies. The secretary shall develop alternate means of  
11 determining hospital costs for hospitals that do not file medicare cost  
12 reports, in consultation with such hospitals.

13 **Sec. 3.** RCW 70.170.060 and 1998 c 245 s 118 are each amended to  
14 read as follows:

15 (1) No hospital or its medical staff shall adopt or maintain  
16 admission practices or policies which result in:

17 (a) A significant reduction in the proportion of patients who have  
18 no third-party coverage and who are unable to pay for hospital  
19 services;

20 (b) A significant reduction in the proportion of individuals  
21 admitted for inpatient hospital services for which payment is, or is  
22 likely to be, less than the anticipated charges for or costs of such  
23 services; or

24 (c) The refusal to admit patients who would be expected to require  
25 unusually costly or prolonged treatment for reasons other than those  
26 related to the appropriateness of the care available at the hospital.

27 (2) No hospital shall adopt or maintain practices or policies which  
28 would deny access to emergency care based on ability to pay. No  
29 hospital which maintains an emergency department shall transfer a  
30 patient with an emergency medical condition or who is in active labor  
31 unless the transfer is performed at the request of the patient or is  
32 due to the limited medical resources of the transferring hospital.  
33 Hospitals must follow reasonable procedures in making transfers to  
34 other hospitals including confirmation of acceptance of the transfer by  
35 the receiving hospital.

36 (3) The department shall develop definitions by rule, as  
37 appropriate, for subsection (1) of this section and, with reference to

1 federal requirements, subsection (2) of this section. The department  
2 shall monitor hospital compliance with subsections (1) and (2) of this  
3 section. The department shall report individual instances of possible  
4 noncompliance to the state attorney general or the appropriate federal  
5 agency.

6 (4) The department shall establish and maintain by rule, consistent  
7 with the definition of charity care in RCW 70.170.020, the following:

8 (a) Uniform procedures, data requirements, and criteria for  
9 identifying patients receiving charity care;

10 (b) A definition of residual bad debt including reasonable and  
11 uniform standards for collection procedures to be used in efforts to  
12 collect the unpaid portions of hospital charges that are the patient's  
13 responsibility.

14 (5) For the purpose of providing charity care, each hospital shall  
15 develop, implement, and maintain a charity care policy which,  
16 consistent with subsection (1) of this section, shall enable people  
17 with family income below one hundred percent of the federal poverty  
18 (~~level~~) guidelines access to appropriate hospital-based medical  
19 services, and a sliding fee schedule for determination of discounts  
20 (~~from charges~~) for persons (~~who qualify for such discounts by~~  
21 January 1, 1990) with family income from one hundred to two hundred  
22 fifty percent of the federal poverty guidelines. Discounts under the  
23 sliding fee schedule shall be applied to the amount derived from the  
24 calculation in subsection (6) of this section. The department shall  
25 develop specific guidelines to assist hospitals in setting sliding fee  
26 schedules required by this section. All persons with family income  
27 below one hundred percent of the federal poverty (~~standard~~)  
28 guidelines shall be deemed charity care patients for the full amount of  
29 hospital charges, provided that such persons are not eligible for other  
30 private or public health coverage sponsorship. Persons who may be  
31 eligible for charity care shall be notified by the hospital as required  
32 in subsection (7) of this section.

33 (6) For uninsured persons with family income up to four hundred  
34 percent of the federal poverty guidelines, hospitals must provide a  
35 discount for any charges for services provided in the hospital.  
36 Subsection (5) of this section determines the degree of the discount  
37 for persons with family income of up to two hundred fifty percent of  
38 the federal poverty guidelines. For persons with family income in

1 excess of two hundred fifty percent of the federal poverty guidelines,  
2 no patient may be required to pay more than the greater of one hundred  
3 thirty percent of the hospital costs, or an amount equal to the state  
4 average percentage of hospital costs paid by private payers, as  
5 determined by the department. In addition, hospitals shall consider a  
6 catastrophic charity care standard that is triggered when hospital  
7 charges equal ten percent of the patient's annual family income.

8 (7) Each hospital must provide notice to patients of its charity  
9 care policies. At a minimum, each hospital must post prominently in  
10 locations easily accessible to and visible by patients, including its  
11 web site, and in the bill sent to patients, a notice stating that  
12 charges for services to people meeting the charity care or discount  
13 criteria may be waived or reduced, and regarding the availability of  
14 charity care and how to qualify. The department shall develop model  
15 language, not to exceed fifty words, and type font and style standards  
16 that hospitals must use to satisfy the requirement to provide notice in  
17 the bill sent to patients. The language may be written on the  
18 patient's actual bill if it complies with the department's type font  
19 and style requirements. A notice of charity care policies also may be  
20 provided to patients prior to discharge. The notice must use clear  
21 language that would be easily understood by individuals with limited  
22 education.

23 (8) Each hospital shall make every reasonable effort to determine  
24 the existence or nonexistence of private or public sponsorship which  
25 might cover in full or part the charges for care rendered by the  
26 hospital to a patient; the family income of the patient as classified  
27 under federal poverty income guidelines; and the eligibility of the  
28 patient for charity care as defined in this chapter and in accordance  
29 with hospital policy. An initial determination of sponsorship status  
30 shall precede collection efforts directed at the patient.

31 ((+7)) (9) The department shall monitor the distribution of  
32 charity care among hospitals, with reference to factors such as  
33 relative need for charity care in hospital service areas and trends in  
34 private and public health coverage. The department shall prepare  
35 reports that identify any problems in distribution which are in  
36 contradiction of the intent of this chapter. The report shall include  
37 an assessment of the effects of the provisions of this chapter on

1 access to hospital and health care services, as well as an evaluation  
2 of the contribution of all purchasers of care to hospital charity care.

3 ~~((+8))~~ (10) The department shall issue a report on the subjects  
4 addressed in this section at least annually(~~(, with the first report~~  
5 ~~due on July 1, 1990)~~). The department shall also provide information  
6 to the public on hospital charges for the most common inpatient  
7 diagnosis-related groups, as identified under the patient discharge  
8 information collected under RCW 43.70.052, the relationship between  
9 hospital costs and charges, the cost to the uninsured for the most  
10 common inpatient procedures, and details on hospital charity care  
11 policies. The department's review of charity care provided shall  
12 include analysis of charity care as a percent of total revenue, or  
13 billed charges, for each hospital and a review of charity care in  
14 relation to operating expenses. The department shall verify that the  
15 charity care provided meets the minimum requirements established in RCW  
16 84.36.040(4).

17 NEW SECTION. Sec. 4. A new section is added to chapter 70.170 RCW  
18 to read as follows:

19 (1) Before contracting with any entity to act as a hospital's  
20 designated agent, assignee, or contractor for collection of its  
21 accounts receivable, or to purchase its accounts receivable, the  
22 hospital's governing board must have notice of, and affirmatively  
23 approve, the debt collection practices of the entity. The information  
24 regarding the entity's debt collection practices must include detailed  
25 information related to:

26 (a) Contacts with patients who have debts to the hospital,  
27 including written, telephonic, and electronic contacts;

28 (b) Policies related to the ability of debtors to make installment  
29 payments, and interest rates charged on any remaining balances;

30 (c) Circumstances under which the entity files civil actions to  
31 collect debts, and undertakes any of the following collection actions  
32 to execute a judgment in connection with a debt:

33 (i) Actions to foreclose on real property;

34 (ii) Actions to place a lien on any property;

35 (iii) Actions to garnish wages; and

36 (iv) Actions to attach or seize a bank account or any other  
37 personal property.

1 (2) At least annually, the governing board of every hospital shall  
2 review a report on collection actions taken by the entity that has a  
3 contract with the hospital under subsection (1) of this section.

4 **Sec. 5.** RCW 19.16.500 and 1997 c 387 s 1 are each amended to read  
5 as follows:

6 (1)(a) Agencies, departments, taxing districts, political  
7 subdivisions of the state, counties, and cities may retain, by written  
8 contract, collection agencies licensed under this chapter for the  
9 purpose of collecting public debts owed by any person, including any  
10 restitution that is being collected on behalf of a crime victim.

11 (b) Any governmental entity as described in (a) of this subsection  
12 using a collection agency may add a reasonable fee, payable by the  
13 debtor, to the outstanding debt for the collection agency fee incurred  
14 or to be incurred. The amount to be paid for collection services shall  
15 be left to the agreement of the governmental entity and its collection  
16 agency or agencies, but a contingent fee of up to fifty percent of the  
17 first one hundred thousand dollars of the unpaid debt per account and  
18 up to thirty-five percent of the unpaid debt over one hundred thousand  
19 dollars per account is reasonable, and a minimum fee of the full amount  
20 of the debt up to one hundred dollars per account is reasonable. Any  
21 fee agreement entered into by a governmental entity is presumptively  
22 reasonable.

23 (2) No debt may be assigned to a collection agency unless (a) there  
24 has been an attempt to advise the debtor (i) of the existence of the  
25 debt and (ii) that the debt may be assigned to a collection agency for  
26 collection if the debt is not paid, and (b) at least thirty days have  
27 elapsed from the time notice was attempted.

28 (3) Collection agencies assigned debts under this section shall  
29 have only those remedies and powers which would be available to them as  
30 assignees of private creditors.

31 (4) Nothing in this section applies to public hospital district  
32 duties pursuant to chapter 70.170 RCW.

33 (5) For purposes of this section, the term debt shall include fines  
34 and other debts, including the fee required under subsection (1)(b) of  
35 this section.

1           **Sec. 6.** RCW 84.36.040 and 2001 c 126 s 1 are each amended to read  
2 as follows:

3           (1) The real and personal property used by nonprofit (a) day care  
4 centers (~~as defined pursuant to RCW 74.15.020~~); (b) free public  
5 libraries; (c) orphanages and orphan asylums; (d) homes for the sick or  
6 infirm; (e) hospitals for the sick; and (f) outpatient dialysis  
7 facilities, which are used for the purposes of such organizations shall  
8 be exempt from taxation: PROVIDED, That the benefit of the exemption  
9 inures to the user.

10           (2) The real and personal property leased to and used by a  
11 hospital, owned and operated by a public hospital district established  
12 under chapter 70.44 RCW, for hospital purposes is exempt from taxation.  
13 The benefit of the exemption must inure to the user.

14           (3)(a) To be exempt under this section, the property must be used  
15 exclusively for the purposes for which exemption is granted, except as  
16 provided in RCW 84.36.805.

17           (b) Hospitals seeking the exemption under subsections (1) and (2)  
18 of this section must also demonstrate that a minimum level of charity  
19 care, equivalent to four percent of total revenue, or billed charges,  
20 consistent with the charity care standards provided by chapter 70.170  
21 RCW, has been provided to the community, as part of the community  
22 benefit standard required by the internal revenue service.

23           **Sec. 7.** RCW 70.170.070 and 1989 1st ex.s. c 9 s 507 are each  
24 amended to read as follows:

25           (1) Every person who shall violate or knowingly aid and abet the  
26 violation of RCW 70.170.060 (5) or (~~(+6)~~) (8), 70.170.080, or  
27 70.170.100, or any valid orders or rules adopted pursuant to these  
28 sections, or who fails to perform any act which it is herein made his  
29 or her duty to perform, shall be guilty of a misdemeanor. Following  
30 official notice to the accused by the department of the existence of an  
31 alleged violation, each day of noncompliance upon which a violation  
32 occurs shall constitute a separate violation. Any person violating the  
33 provisions of this chapter may be enjoined from continuing such  
34 violation. The department has authority to levy civil penalties not  
35 exceeding one thousand dollars for violations of this chapter and  
36 determined pursuant to this section.

1 (2) Every person who shall violate or knowingly aid and abet the  
2 violation of RCW 70.170.060 (1) or (2), or any valid orders or rules  
3 adopted pursuant to such section, or who fails to perform any act which  
4 it is herein made his or her duty to perform, shall be subject to the  
5 following criminal and civil penalties:

6 (a) For any initial violations: The violating person shall be  
7 guilty of a misdemeanor, and the department may impose a civil penalty  
8 not to exceed one thousand dollars as determined pursuant to this  
9 section.

10 (b) For a subsequent violation of RCW 70.170.060 (1) or (2) within  
11 five years following a conviction: The violating person shall be  
12 guilty of a misdemeanor, and the department may impose a penalty not to  
13 exceed three thousand dollars as determined pursuant to this section.

14 (c) For a subsequent violation with intent to violate RCW  
15 70.170.060 (1) or (2) within five years following a conviction: The  
16 criminal and civil penalties enumerated in (a) of this subsection; plus  
17 up to a three-year prohibition against the issuance of tax exempt bonds  
18 under the authority of the Washington health care facilities authority;  
19 and up to a three-year prohibition from applying for and receiving a  
20 certificate of need.

21 (d) For a violation of RCW 70.170.060 (1) or (2) within five years  
22 of a conviction under (c) of this subsection: The criminal and civil  
23 penalties and prohibition enumerated in (a) and (b) of this subsection;  
24 plus up to a one-year prohibition from participation in the state  
25 medical assistance or medical care services authorized under chapter  
26 74.09 RCW.

27 (3) The provisions of chapter 34.05 RCW shall apply to all  
28 noncriminal actions undertaken by the department of health, the  
29 department of social and health services, and the Washington health  
30 care facilities authority pursuant to chapter 9, Laws of 1989 1st ex.  
31 sess.

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