

# **An Act to Ensure Financial Transparency in [Name of State]'s Hospitals and Health Care Systems**

## **Summary**

*Hospitals provide critically important services and play a central role in assuring the integrity of the health care system in the state. Standardized, objectively assessed information regarding finances enables the state and the public to evaluate the viability of the health system, identify strengths and weaknesses, to allow for appropriate executive and legislative actions to be taken to ensure the public's continued access to care.*

*This bill requires hospital and health care systems to annually submit to the state Department of [INSERT NAME OF RESPONSIBLE AGENCY] certain financial information needed to provide transparency in the fiscal health of the state's health system. This requirement is subject to enforcement with a monetary penalty.*

*The Agency is required to promulgate rules to implement the provisions of this authority. The Agency is also required to annually report to the legislature on the findings it makes regarding the vitality of the state's hospitals and health system, based on the data collected pursuant to this statutory language.*

## **1. Definitions.**

- A. Agency. *[Insert name of state agency to be vested with responsibility for implementation of this statute.]*
- B. Hospital. "Hospital" means an institution that primarily provides to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment and care of injured, sick or disabled persons or rehabilitation services for the rehabilitation of injured, disabled or sick person. "Hospital" includes psychiatric hospitals.
- C. Health care system. "Health care system" means an organization that includes at least one hospital and at least one group of physicians that provides comprehensive care, including primary and specialty care, that are connected with each other and with the hospital through common ownership or joint management.
- D. Hospital system. "Hospital system" means an organization that includes two or more hospitals that are connected with each other through common ownership or joint management.
- E. Provider. "Provider" means a practitioner or facility licensed, accredited or certified to perform specified health care services consistent with state law.
- F. Payer. "Payer" means a health maintenance organization, managed care organization, insurance company, management services organization, or any other entity that pays for or arranges for the payment of any health care or medical care service, procedure or product.
- G. Uncompensated care. "Uncompensated care" means the costs of services provided to patients who are uninsured and are unable to pay for the services they receive and bad debt associated with cost-sharing for which patients receiving care are

responsible but have not paid, as well as the cost of care provided to patients with insurance but which were not deemed covered services and which the patients have not paid. Uncompensated care does not include the difference between charges and payments by public programs, such as Medicare and Medicaid.

2. Required filings.

- A. The agency shall collect data necessary to facilitate transparency in health care prices and costs, and information that will inform assessments of the financial health of the state's hospitals and health care delivery system, from any facilities defined as acute and non-acute hospitals at XXXX and licensed under XXX\_XXX to provide care in the state. *[CROSS REFERENCE STATE MEDICAID DEFINITION OF ACUTE AND NON-ACUTE CARE HOSPITALS]*
- B. The agency shall promulgate regulations necessary to ensure uniform reporting by any hospital or health care system operating in the state, of consolidated hospital revenues, charges, costs and prices of health care services, as well as other data the agency deems necessary to facilitate transparency in health care prices and costs or the financial health of the state's hospitals and health care system. The agency may require hospital systems to also file similar data at the level of the individual hospital affiliates of the system, and any other affiliated entities, non-institutional providers and provider organizations.
- C. The uniform reporting requirements shall be defined in a manner that will enable the agency and the public to identify on a provider-specific basis, statewide and regional cross-industry comparisons and trends in the cost and price of health care services provided by acute and non-acute hospitals and affiliated entities across the state.
- D. The uniform reporting requirements shall include, but are not limited to, gross and net patient revenues by payer, other income, operating costs, other expenses, investment income and other non-patient services revenues, assets, liabilities, fund balances, detailed reporting of revenues and expenses incurred for providing services to patients who qualify for financial assistance and for patients who are not expected to pay, and utilization statistics, as specified by the agency. Submission of audited financial statements shall be required.
- E. Uniform reporting requirements shall include an accounting of revenues received by any entity subject to this statute pursuant to the Coronavirus Aid, Relief, and Economic Stability Act of 2019, Public Law 116-136, and any other COVID-19 federal relief funding. This accounting must include both reporting on the amount of funds received, the source of those funds and the uses of those funds.
- F. Uniform reporting requirements shall include an accounting of other revenues received by any entity subject to this statute pursuant to an appropriation of the state, private donations, as well as grants made by federal and state governments, and grants made by private foundations, meant to mitigate the economic impact of the coronavirus on the state's hospitals and related entities.
- G. The agency may also collect such data it deems necessary to facilitate efforts to better protect the public's interest in monitoring the financial condition of hospitals.

3. Form of filing.
  - A. Required data may be obtained from documents such as, but not limited to, audited financial statements, leases, contracts, debt instruments, accounting systems and for the system, hospital, and related entities.
  - B. A uniform system based on a standardized accounting template shall be specified in rule for each type of hospital subject to this statute. The agency shall develop the reporting template after considering existing accounting systems and reporting utilized by hospitals in the state and any standardized chart of accounts developed by a national association for such providers that reflects generally accepted accounting principles.
    - i. The standardized accounting format utilized by the agency for purposes of reporting required by this section shall in no way be construed to require any provider to adopt a uniform accounting system.
  - C. Filings shall be made on forms developed and adopted by the agency and based on the uniform system of financial reporting.
  - D. Filing deadlines.
    - i. Filing of required information must be made within 120 days of the end of the reporting entity's fiscal year.
    - ii. The agency may require quarterly filings of interim financial information on a schedule and in a format prescribed by duly authorized rules.
  - E. Filings must be accompanied by an attestation of validity provided by an official authorized to make such representations on behalf of the filing entity.
4. Research, analyses, studies and reports.
  - A. The agency shall investigate on an on-going basis the financial status of the state's hospitals. This shall include but is not limited to analyses of financial condition, resources, and performance of the hospital sector, trends in hospital prices and costs over time and across similar types of hospitals, the impact of uncompensated care on hospitals and related entities, cross-subsidization of services within hospitals and its effect on costs and prices for care, the use of emergency relief funds made in response to the COVID-19 pandemic, provided by the federal and state governments.
  - B. The agency shall issue reports annually reflecting the financial status of the state's hospitals. Data released publicly shall be released only in aggregate form. Reports shall include examination of any hospital system that analyses of financial data by the agency reveal to be in financial distress, including those at risk of closure or ability to continue to provide essential health care services, but information released publicly shall not individually identify the hospital or hospitals found to be distressed.
  - C. The approach used by the agency for collecting and analyzing the data used to report on the financial condition of the state's hospitals shall be transparent, with methods disclosed to all relevant providers and provider organizations, as well as to the public.

- D. Prior to publication of an annual report, the reporting entities will be given an opportunity to review and comment on any provider-specific information included in the report.
  - E. Annual reports shall be presented to the Legislature in February of each year.
  - F. Reports shall be publicly reported by publication on the agency's website and made available upon request, in hard copy form, at a cost allowed by law.
5. Inspections and audits; violations; penalties and fines; enforcement.
- A. The agency has the authority to inspect and audit the financial records of individual and corporate ownership, including books and records of related entities with which a reporting entity has had transactions, to determine compliance with the requirements of this chapter.
    - i. Upon presentation of written request for inspection, the reporting health care entity shall make available to the agency for inspections, copying, and review all books and records relevant to the determination of compliance with the provisions of this chapter.
    - ii. Any entity that refuses to file a report, fails to report in a timely manner, files a false report or files an incomplete report and following notification of deficiency in reporting by the agency, fails to timely file a complete report, or fails to provide documents or records requested by the agency in accordance with the provisions of this chapter shall be subject to a fine not to exceed \$1,000 (one-thousand dollars) per day for each day in violation, to be imposed and collected by the agency.
    - iii. The agency may adopt rules that allow for a one-time extension of any deadline for timely filing or production of documents and records, if a showing of good cause is made.
    - iv. Any entity that refuses to file a report, fails to report in a timely manner, files a false report or files an incomplete report and following notification of deficiency in reporting by the agency, fails to timely file a complete report, or fails to provide documents or records requested by the agency in accordance with the provisions of this chapter shall be referred to the appropriate licensing board, which shall take appropriate action against the entity.
    - v. Notwithstanding any other provisions of this chapter, a reporting entity alleging that a factual determination made by the agency is incorrect shall bear the burden of proof to demonstrate that such determination is not supported by a preponderance of the evidence in the record. The burden of proof remains with the hospital in all cases involving administrative agency action.