

# An Act

HOUSE BILL 23-1226

BY REPRESENTATIVE(S) Soper and deGruy Kennedy, Amabile, Boesenecker, Brown, Dickson, Froelich, Gonzales-Gutierrez, Hamrick, Jodeh, Kipp, Lieder, Lindsay, Lindstedt, McCormick, McLachlan, Ricks, Sirota, Titone, Weissman, Willford, McCluskie;  
also SENATOR(S) Roberts and Will, Bridges, Buckner, Cutter, Exum, Fields, Hansen, Jaquez Lewis, Moreno, Priola, Fenberg.

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

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

**SECTION 1.** In Colorado Revised Statutes, 25.5-4-402.8, amend (2)(a), (2)(b) introductory portion, (2)(b)(II)(A), (2)(b)(III)(J),

*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)(b)(III)(M), (2)(c) introductory portion, (2)(e), (3) introductory portion, (4)(a) introductory portion, (4)(a)(I), and (4)(b); **repeal** (2)(d); and **add** (2)(b)(II)(D), (2)(b)(II)(E), (2)(b)(II)(F), (2)(b)(II)(G), (2)(b)(III)(O), (2)(b)(III)(P), (2)(b)(III)(Q), (2)(b)(IV), (2)(b.5), (2)(g), and (4.5) as follows:

**25.5-4-402.8. Hospital transparency report - definitions.**

(2) (a) The state department shall annually prepare a written hospital ~~expenditure~~ TRANSPARENCY report detailing ~~uncompensated~~ hospital costs, INCLUDING UNCOMPENSATED CARE COSTS, and the different categories of expenditures, by major payer group, made by hospitals in the state. The state department shall COORDINATE THE ANALYSIS, REVIEW, AND RELEASE OF THE HOSPITAL TRANSPARENCY REPORT AND THE REPORTS REQUIRED PURSUANT TO SECTION 25.5-1-703 (3) AND 25.5-4-402.4 (7)(e), INCLUDING THE OPPORTUNITY TO REVIEW AND consult ~~with~~ ON THE REPORTS MADE BY 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 AND ANALYTICS OF INFORMATION THAT 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~~ TRANSPARENCY report and share such information with the enterprise board; except that information the state department receives from hospitals in accordance with ~~subsection~~ SUBSECTIONS (2)(b)(II)(D), (2)(b)(III)(N), (2)(b)(III)(O), (2)(b.5)(I), AND (2)(b.5)(II) 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~~ TRANSPARENCY report, share with the enterprise board, or otherwise publish or distribute information derived from reports pursuant to ~~subsection~~ SUBSECTIONS (2)(b)(II)(D), (2)(b)(III)(N), (2)(b)(III)(O), (2)(b.5)(I), AND (2)(b.5)(II) 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~~ TRANSPARENCY 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:

(II) (A) ~~An Annual audited financial statement~~ STATEMENTS, prepared in accordance with generally accepted accounting principles. Each hospital shall submit the ~~statement~~ STATEMENTS 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.

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

(E) A HOSPITAL-SPECIFIC STATEMENT OF CASH FLOW WITHIN A TIME FRAME SPECIFIED ANNUALLY BY THE STATE DEPARTMENT, BUT NOT LESS THAN ONE HUNDRED TWENTY DAYS AFTER THE HOSPITAL'S FISCAL YEAR END.

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

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

(III) A report that contains the following information:

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

(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

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

(P) SALARY AND TOTAL COMPENSATION DATA OF THE TOP FIVE HIGHEST PAID ADMINISTRATIVE POSITIONS OF EACH NONPROFIT HOSPITAL, INCLUDING THE TITLE, A BRIEF DESCRIPTION OF DUTIES, BASE COMPENSATION, INCENTIVE OR BONUS COMPENSATION, AND OTHER COMPENSATION. THE COMPENSATION REPORTED MUST INDICATE WHAT PERFORMANCE MEASURES WERE INCLUDED IN THE CHIEF EXECUTIVE OFFICER'S PERFORMANCE EVALUATION GENERATED BY THE HOSPITAL'S GOVERNING BOARD, INCLUDING, AT A MINIMUM, QUALITY OF CARE OUTCOMES PERFORMANCE; PATIENT SATISFACTION PERFORMANCE; COMMUNITY BENEFIT PERFORMANCE; CONSUMER AND EMPLOYER AFFORDABILITY PERFORMANCE; MARKET SHARE PERFORMANCE; PROFITS OR MARGINS; REVENUE GROWTH; CHANGE IN DAYS CASH ON HAND OR CASH RESERVES; AND WORKFORCE. THE STATE DEPARTMENT MAY INCLUDE INFORMATION IT RECEIVES FROM PUBLIC HOSPITALS PURSUANT TO THIS SUBSECTION (2)(b)(III)(P) THAT IS NOT OTHERWISE PUBLICLY AVAILABLE IN THE HOSPITAL TRANSPARENCY REPORT; EXCEPT THAT INFORMATION THE STATE DEPARTMENT RECEIVES FROM A NONPROFIT HOSPITAL IS NOT A PUBLIC RECORD PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24. THE STATE DEPARTMENT MAY ONLY REPORT INFORMATION RECEIVED PURSUANT TO THIS SUBSECTION (2)(b)(III)(P) IN AN AGGREGATED FORMAT THAT DOES NOT NAME INDIVIDUAL HOSPITALS OR ADMINISTRATORS.

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

(IV) (A) A QUARTERLY FINANCIAL REPORT THAT INCLUDES AN

INCOME STATEMENT AND BALANCE SHEET. IF A HOSPITAL IS OWNED OR AFFILIATED WITH A HEALTH SYSTEM THAT IS COMPRISED OF THREE OR MORE HOSPITALS OR THAT HAS MORE THAN ONE BILLION DOLLARS IN RESERVES, THE HEALTH SYSTEM MAY SUBMIT A CONSOLIDATED QUARTERLY FINANCIAL REPORT.

(B) ANY QUARTERLY FINANCIAL REPORT MADE PUBLICLY AVAILABLE MUST CLEARLY STATE THAT THE QUARTERLY FINANCIAL REPORT IS UNAUDITED, IF APPLICABLE. THE STATE DEPARTMENT SHALL PROVIDE ANY ANALYSIS, REPORT, OR PRESENTATION BASED ON THE QUARTERLY FINANCIAL REPORT TO EACH HOSPITAL AT LEAST FIFTEEN DAYS PRIOR TO THE PUBLIC RELEASE OF THE ANALYSIS, REPORT, OR PRESENTATION.

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

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

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

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

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

~~(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)(c).~~

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

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

(II) IF THE STATE DEPARTMENT DETERMINES A HOSPITAL'S NONCOMPLIANCE WITH THIS SECTION IS KNOWING OR WILLFUL OR THERE IS A REPEATED PATTERN OF NONCOMPLIANCE, THE STATE DEPARTMENT SHALL CONSIDER THE SIZE OF THE HOSPITAL AND THE SERIOUSNESS OF THE VIOLATION IN SETTING A FINE AMOUNT WHICH, FOR HOSPITALS OWNED OR AFFILIATED WITH A HOSPITAL SYSTEM COMPRISED OF THREE OR MORE HOSPITALS, MUST NOT EXCEED TWENTY THOUSAND DOLLARS PER VIOLATION PER WEEK UNTIL THE HOSPITAL TAKES CORRECTIVE AND, FOR ALL OTHER HOSPITALS, MUST NOT EXCEED FIVE THOUSAND DOLLARS PER WEEK UNTIL THE HOSPITAL TAKES CORRECTIVE ACTION.

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

(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~~ TRANSPARENCY report to:







