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**HOUSE BILL 1693**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Representatives Jinkins, Cody, Robinson, Macri, Riccelli, and Tharinger

1 AN ACT Relating to establishing a system for setting rates for  
2 health care services; and adding a new chapter to Title 70 RCW.

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

4 NEW SECTION. **Sec. 1.** The definitions in this section apply  
5 throughout this chapter unless the context clearly requires  
6 otherwise.

7 (1) "Commission" means the health care rate-setting commission  
8 established in section 2 of this act.

9 (2) "Contracting affiliation" means any relationship between two  
10 or more health care entities that permits the entities to negotiate  
11 jointly with carriers or third-party administrators over rates for  
12 professional medical services, or for one entity to negotiate on  
13 behalf of the other entity with carriers or third-party  
14 administrators over rates for professional medical services.

15 (3) "Department" means the department of health.

16 (4) "Health service area" has the same meaning as in RCW  
17 70.38.025.

18 (5) "Hospital" means any entity that is:

19 (a) Defined as a hospital in RCW 70.41.020 and is required to  
20 obtain a license under RCW 70.41.090; or

1 (b) A psychiatric hospital required to obtain a license under  
2 chapter 71.12 RCW.

3 (6) "Rate" means the maximum revenue which a hospital may receive  
4 for each unit of service, as determined by the commission.

5 NEW SECTION. **Sec. 2.** (1) The health care rate-setting  
6 commission is established.

7 (2) The commission must be composed of the following nine members  
8 appointed by the governor:

9 (a) Three members representing consumers of health care services,  
10 at least one of whom represents the interests of low-income persons;

11 (b) One member representing private employers;

12 (c) One member representing labor interests;

13 (d) One member representing hospitals;

14 (e) One member representing health care professionals;

15 (f) One member representing private health insurers or health  
16 care service contractors; and

17 (g) The director of the health care authority, or the director's  
18 designee.

19 (3) The commission may establish technical advisory groups to  
20 make recommendations on particular issues requiring special  
21 expertise.

22 (4) The department shall provide administrative and research  
23 support to the commission. Other agencies are expected to collaborate  
24 with the department to provide the necessary data for the commission  
25 to conduct its work, including the health care authority, the office  
26 of the insurance commissioner, the department of labor and  
27 industries, and the office of financial management.

28 NEW SECTION. **Sec. 3.** The commission shall:

29 (1) Establish and approve rates for health care entities that are  
30 subject to rate-setting activities under section 4 of this act;

31 (2) Initiate reviews and investigations of rates for health care  
32 services as necessary to establish initial health care entity rates  
33 and periodically update health care entity rates;

34 (3) Develop methodologies for determining whether or not rates  
35 for health care services meet the criteria established in section  
36 4(3) of this act and to establish new rates as necessary to meet  
37 those criteria;

1 (4) Compile and maintain all relevant financial, accounting, and  
2 patient discharge data in order to have available the statistical  
3 information necessary to properly conduct rate review and approval.  
4 Such data shall include necessary operating expenses, expenses  
5 incurred for charity care and for rendering uncompensated care, all  
6 properly incurred interest charges, and reasonable depreciation  
7 expenses. The commission shall establish interagency agreements as  
8 necessary to obtain data from other state agencies;

9 (5) Establish policies to protect the confidential patient data  
10 and proprietary business data;

11 (6) Adopt a schedule for updating rates adopted pursuant to  
12 section 4 of this act; and

13 (7) Adopt rules as necessary to implement and administer the  
14 requirements of this chapter.

15 NEW SECTION. **Sec. 4.** (1) Beginning January 1, 2022, if a  
16 hospital enters into a merger, acquisition, or contracting  
17 affiliation with another hospital or one or more physician provider  
18 organizations with more than eight physicians within the hospital's  
19 health service area, as defined in its approved certificate of need,  
20 the commission shall commence rate-setting activities applicable to  
21 the health care entities involved in the merger, acquisition, or  
22 contracting affiliation.

23 (2) The hospitals or physician provider organizations shall  
24 submit information, as requested by the commission, to allow the  
25 commission to review each health care entity's current rates as  
26 applicable to all purchasers of health care services.

27 (3) The commission shall review each health care entity's rates  
28 to assure all purchasers of health care services that the total costs  
29 of a hospital or physician provider organization are reasonably  
30 related to the total services offered by that hospital or physician  
31 provider organization, that costs do not exceed those that are  
32 necessary for prudently and reasonably managed hospitals or physician  
33 provider organizations, that the hospital's or physician provider  
34 organization's rates are reasonably related to the hospital's or  
35 physician provider organization's aggregate costs, and that rates are  
36 set equitably among all purchasers or classes of purchasers of health  
37 care services without undue discrimination or preference. In the  
38 determination of reasonable rates, the commission shall consider that  
39 it is its obligation to assure access to necessary, effective,

1 economically viable, and efficient hospital health care capability  
2 throughout the state, rather than the solvency or profitability of  
3 any individual hospital or physician provider organization subject to  
4 this chapter except where the insolvency of a hospital or physician  
5 provider organization would seriously threaten the access to the  
6 rural public to basic health care services.

7 (4) Upon completion of its review of each hospital's or physician  
8 provider organization's rates under subsection (3) of this section,  
9 the commission shall use all available information to modify and  
10 reestablish the hospital's or physician provider organization's rates  
11 for health care services that do not meet the criteria in subsection  
12 (3) of this section.

13 (5) Thirty days after the adoption of the new hospital rates  
14 under subsection (4) of this section, the rates become effective.  
15 Upon the effective date of the rates, a hospital or physician  
16 provider organization may not charge for health care services at  
17 rates exceeding those established by the commission.

18 NEW SECTION. **Sec. 5.** (1) The commission shall establish a  
19 schedule for updating the rates adopted pursuant to section 4 of this  
20 act. The schedule must require that each hospital's or physician  
21 provider organization's rates are reviewed at least every two years.  
22 The commission may choose to update rates for select categories of  
23 health care services on a regular basis, rather than updating an  
24 entire rate schedule at once.

25 (2) The commission shall establish criteria and procedures to  
26 allow a hospital or physician provider organization to request that  
27 its rates or select categories of rates be updated earlier than the  
28 schedule established in subsection (1) of this section due to  
29 extraordinary circumstances.

30 NEW SECTION. **Sec. 6.** The legislature finds that the practices  
31 covered by this chapter are matters vitally affecting the public  
32 interest for the purpose of applying the consumer protection act,  
33 chapter 19.86 RCW. A violation of this chapter by a hospital or  
34 physician provider organization charging a rate for health care  
35 services that is higher than the rate established under this chapter  
36 is not reasonable in relation to the development and preservation of  
37 business and is an unfair or deceptive act in trade or commerce and

1 an unfair method of competition for the purpose of applying the  
2 consumer protection act, chapter 19.86 RCW.

3 NEW SECTION. **Sec. 7.** (1) The commission shall develop an  
4 implementation plan to establish all aspects of its rate-setting  
5 activities. The implementation plan must address:

6 (a) Necessary data to conduct rate-setting activities and  
7 identify existing sources of data;

8 (b) Methodologies for determining reasonable rates for health  
9 care services;

10 (c) Procedures to allow for participation by hospitals that are  
11 subject to hospital rate-setting activities; and

12 (d) Future funding needs for the commission and possible funding  
13 sources.

14 (2) By December 1, 2019, the commission shall report to the joint  
15 select committee on health care oversight on its work plan to develop  
16 the implementation plan, including any legislation that may be  
17 necessary to complete the implementation plan. By December 1, 2020,  
18 the commission shall submit the implementation plan to the governor  
19 and the legislature. The implementation plan must identify elements  
20 of the implementation plan that require legislative authority to  
21 allow full implementation to take effect by January 1, 2022.

22 NEW SECTION. **Sec. 8.** Information submitted to the commission  
23 must be confidential in compliance with chapter 70.02 RCW and federal  
24 health care information privacy requirements and not subject to  
25 public disclosure under chapter 42.56 RCW.

26 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act  
27 constitute a new chapter in Title 70 RCW.

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