
OLR Bill Analysis

sHB 6550

AN ACT CONCERNING THE OFFICE OF HEALTH STRATEGY'S RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO COMMUNITY BENEFITS PROGRAMS ADMINISTERED BY HOSPITALS.

SUMMARY

This bill makes various changes to the law on hospital community benefit programs. Among other things, it:

1. conforms to existing practice by shifting oversight of this law from the Office of Healthcare Advocate (OHA) to the Office of Health Strategy (OHS);
2. aligns with federal tax law by excluding for-profit hospitals from state law on community benefit programs;
3. requires OHS, by January 1, 2023, and every two years after that, to establish a minimum community benefit and community building spending threshold for each nonprofit hospital;
4. requires, rather than allows, nonprofit hospitals to develop community benefit guidelines and changes their necessary components (e.g. specifically requiring that they be intended to reduce racial, ethnic, linguistic, and cultural disparities in health);
5. requires nonprofit hospitals' annual reports on community benefits to describe certain investments they made and explain how those investments addressed the needs identified in the hospital's triennial community health needs assessment (which is required by federal law); and
6. removes managed care organizations (MCOs) from this law.

The bill also makes several minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage

HOSPITAL COMMUNITY BENEFIT PROGRAMS

Scope

Under current law, a “community benefits program” is a voluntary program to promote preventive care and improve the health status of working families and at-risk populations in the communities within a hospital’s or MCO’s geographic service area.

The bill makes these programs mandatory for nonprofit hospitals, in line with federal law (see BACKGROUND). It removes other hospitals and MCOs from this law. It also adds to the programs’ objectives the (1) reduction of racial, ethnic, linguistic, and cultural disparities in health and (2) improvement in the health of all populations in the service area, not just working families and at-risk populations.

Reporting

Under current law, each hospital and MCO must submit a biennial report on whether it has a community benefits program. If the hospital or MCO has such a program, the report must describe its status and address various components set forth in law.

The bill instead requires nonprofit hospitals to report annually on their community benefit programs. They must report to OHS’s Health Systems Planning Unit or a designee selected by OHS’s executive director, rather than to the Healthcare Advocate or his designee as under current law. (In practice, oversight of the community benefits law has already shifted from OHA to OHS under a memorandum of agreement.)

The bill makes related conforming changes to codify the transfer of authority over this law to OHS. This includes authorizing OHS, rather than OHA, to impose civil penalties of up to \$50 per day on hospitals that fail to report as required. As under current law, these penalties may only be imposed after notice and an opportunity for a hearing.

Report Components. The bill makes several changes to these reports' required components, including several minor and conforming changes. For example, the bill specifies that the reports must identify community health needs that were prioritized, not just considered, in the process.

The bill also adds the following to the list of required report components:

1. the demographics of the hospital's geographic service area for the prior taxable year;
2. the cost and description of each investment included in the "Financial Assistance and Certain Other Community Benefits at Cost" and "Community Building Activities" sections of the hospital's IRS form 990 (see BACKGROUND);
3. an explanation of how each such investment addresses the identified needs in the hospital's triennial community health needs assessment and implementation strategy (see below); and
4. a description of available evidence showing how each such investment improves community health outcomes.

Under the bill, a "community health needs assessment" is a hospital's written assessment, as described in federal regulations, that (1) defines the community it serves, (2) assesses that community's health needs, and (3) solicits and considers people that represent the community's broad interests. An "implementation strategy" is a written plan required by the federal regulations that addresses community health needs identified through the assessment and that (1) describes the hospital's intended actions to address the health need and impact of these actions, (2) identifies resources that the hospital plans to commit to address the need, and (3) describes the planned collaboration between the hospital and other facilities and organizations to address the need (see BACKGROUND).

Required Posting and Analysis. Current law requires hospitals

and MCOs to make copies of their community benefits program reports available to the public upon request. The bill instead requires OHS to post nonprofit hospitals' reports on its website.

The bill transfers from OHA to OHS the duty to summarize and analyze the submitted reports, including for adherence to the community benefit guidelines (see below), and within available appropriations. It requires OHS, by October 1, 2022, and annually after that, to post the summary and analysis online. Under current law, OHA must biennially make the summary and analysis available to the public.

Community Benefit Guidelines (§ 1(c))

Current law allows hospitals and MCOs to develop community benefit guidelines and requires any such guidelines to focus on certain principles. The bill instead requires nonprofit hospitals to develop these guidelines. It also modifies some of the principles that must inform the guidelines.

Under existing law, the guidelines must focus on seeking assistance and meaningful participation from the communities in the hospital's service area in (1) developing and implementing its community benefit program and (2) defining the targeted population and specific health needs to be addressed. The hospital must give priority to the needs outlined in the Department of Public Health's most recent state health plan.

The bill extends this community participation focus to include the hospital's developing and implementing a plan for meaningful community benefit and community building investments (see below). It also requires the hospital to give priority to its triennial community health needs assessment and implementation strategy.

The bill requires each nonprofit hospital to solicit commentary on its implementation strategy from the communities in its geographic service area, and consider revisions based on it.

The bill makes other revisions to the required guidelines

conforming to the bill's other changes, such as specifically requiring a focus on the health care needs and resources of a broad spectrum of racial and ethnic groups.

MINIMUM COMMUNITY BENEFIT SPENDING THRESHOLD

The bill requires the OHS executive director or her designee, by January 1, 2023, and biennially after that, to establish a minimum community benefit and community building spending threshold that nonprofit hospitals must meet or exceed during the biennium. Under the bill, "community building" is activity that protects or improves a community's health or safety and may be reported on IRS Form 990.

The bill requires the threshold to be based on objective data and criteria, including:

1. the hospital's historical and current expenditures on community benefits;
2. the community needs identified in the hospital's triennial community health needs assessment;
3. the hospital's overall financial position based on audited financial statements and other objective data; and
4. the hospital's taxes paid and payments in lieu of taxes.

Under the bill, when establishing a spending threshold, OHS must (1) consult with hospital representatives and at least one expert in health care economics and (2) solicit and consider public comments.

The spending threshold must include the minimum proportion of community benefit spending to be directed to addressing health disparities and social health determinants identified in the community health needs assessment during the next biennium.

BACKGROUND

Nonprofit Hospitals and Federal Requirements for Community Health Needs Assessments

To maintain tax-exempt status under federal law, a nonprofit

hospital must, among other things, (1) conduct a community health needs assessment at least once every three years and (2) adopt an implementation strategy to meet the needs identified in the assessment. Federal regulations set forth various steps that hospitals must take in completing these requirements (26 C.F.R. § 1.501(r)-3).

In addition, a nonprofit hospital must include certain related information in its IRS Form 990 filing (the tax return for organizations exempt from the income tax). Along with the standard form, there is a specific attachment (Schedule H) that these hospitals must complete which addresses, among other things, the hospital's community benefits, community building activities, and financial assistance policy.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 22 Nay 11 (03/12/2021)