

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 2088

4
5 By: Representative Shelby
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For An Act To Be Entitled

9 AN ACT TO REGULATE PHYSICIAN PROFILING PROGRAMS;
10 TO AUTHORIZE THE STATE INSURANCE DEPARTMENT TO
11 ADOPT RULES FOR THE ADMINISTRATION AND REGULATION
12 OF PHYSICIAN PROFILING PROGRAMS TO ENSURE THAT
13 CONSUMERS RECEIVE RELIABLE, MEANINGFUL, AND
14 ACCURATE INFORMATION; AND TO ENSURE THE
15 INDEPENDENCE AND VALIDITY OF PROFILING DATA; AND
16 FOR OTHER PURPOSE.

Subtitle

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19 TO CREATE PHYSICIAN PROFILING PROGRAMS
20 AND TO AUTHORIZE THE STATE INSURANCE
21 DEPARTMENT TO ADOPT RULES FOR PHYSICIAN
22 PROFILING PROGRAMS.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. Arkansas Code Title 17, Chapter 95 is amended to add an
28 additional subchapter to read as follows:

29 17-95-801. Definition.

30 As used in this subchapter, "physician profiling program" means a
31 system that compares, rates, ranks, measures, tiers, or classifies a
32 physician's or physician group's performance, quality of care, or cost of
33 care with objective standards, subjective standards, or the practice of other
34 physicians.

35 (B) "Physician profiling program" includes without
36 limitation:



- 1 (i) Quality improvement programs;
- 2 (ii) Pay for performance programs;
- 3 (iii) Public reporting on physician performance or
- 4 ratings; and
- 5 (iv) Tiered or narrowed networks.

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7 17-95-802. Limitation on release of profiling program results.
 8 Profiling results of a physician profiling program shall not be
 9 disclosed to the public or used for any network or reimbursement purposes
 10 unless the physician profiling program complies with this subchapter and has
 11 been approved by an independent oversight entity.

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13 17-95-803. State Insurance Department -- Rules.

14 (a) The State Insurance Department shall adopt rules regulating
 15 physician profiling programs.

16 (b) The department shall ensure that rules adopted under this
 17 subchapter address, at a minimum, the following:

- 18 (1) Accuracy and transparency of all aspects of performance
- 19 measurement;
- 20 (2) Accuracy of sample size;
- 21 (3) Risk adjustment that accounts for the characteristics of a
- 22 physician's patient population;
- 23 (4) Appropriate physician attribution for patients' care;
- 24 (5) Transparency in rankings;
- 25 (6) Disclosure to consumers;
- 26 (7) Disclosure to physicians;
- 27 (8) Use of reliable and meaningful data used as the basis of
- 28 performance measurement;
- 29 (9) Mechanisms for physician review and appeals before
- 30 publication of profiling results; and
- 31 (10) Approval of profiling programs by independent oversight
- 32 entities qualified to conduct such reviews.

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34 17-95-804. Private right of action.

35 This subchapter does not prohibit or limit a claim or action for a
 36 claim against a person or entity that violates this subchapter.

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17-95-805. Liability.

In addition to any other liability that may apply, a person who publicly discloses or otherwise uses for network or reimbursement purposes any profiling results in violation of this subchapter shall be liable to the physician or physician group for treble damages, attorney's fees, and any other appropriate relief, including injunctive relief.