

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

*As Engrossed: S4/2/13*

# A Bill

SENATE BILL 1039

5 By: Senator Irvin  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE HEALTHCARE QUALITY AND PAYMENT  
9 POLICY ADVISORY COMMITTEE; AND FOR OTHER PURPOSES.

### Subtitle

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11  
12 TO CREATE THE HEALTHCARE QUALITY AND  
13 PAYMENT POLICY ADVISORY COMMITTEE.  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. Arkansas Code Title 20, Chapter 77, is amended to add an  
20 additional subchapter to read as follows:

21 Subchapter 21 – Healthcare Quality and Payment Policy Advisory  
22 Committee

23  
24 20-77-2101. Title.

25 This subchapter shall be known and may be cited as the "Healthcare  
26 Quality and Payment Policy Advisory Committee Act".

27  
28 20-77-2102. Definitions.

29 As used in this subchapter:

30 (1) "Data, records, reports, and documents" means a recording of  
31 an interview and an oral or written proceeding, report, statement, minute,  
32 memorandum, data, and other documentation collected or compiled to establish  
33 or modify episodes of care, quality measures, or target prices; and

34 (2) "Healthcare provider" means one (1) of the following  
35 individuals or entities licensed by the State of Arkansas to provide  
36 healthcare services:



- 1                   (A) An advanced practice nurse;  
2                   (B) An athletic trainer;  
3                   (C) An audiologist;  
4                   (D) A certified orthotist;  
5                   (E) A chiropractor;  
6                   (F) A community mental health center or clinic;  
7                   (G) A dentist;  
8                   (H) A home health care provider;  
9                   (I) A hospice care provider;  
10                  (J) A hospital-based service;  
11                  (K) A hospital;  
12                  (L) A licensed ambulatory surgery center;  
13                  (M) A licensed certified social worker;  
14                  (N) A licensed dietician;  
15                  (O) A licensed durable medical equipment provider;  
16                  (P) A licensed professional counselor;  
17                  (Q) A licensed psychological examiner;  
18                  (R) A long-term care facility;  
19                  (S) An occupational therapist;  
20                  (T) An optometrist;  
21                  (U) A pharmacist;  
22                  (V) A physical therapist;  
23                  (W) A physician or surgeon;  
24                  (X) A podiatrist;  
25                  (Y) A prosthetist;  
26                  (Z) A psychologist;  
27                  (AA) A respiratory therapist;  
28                  (BB) A rural health clinic;  
29                  (CC) A speech pathologist;  
30                  (DD) Another healthcare practitioner as determined by the  
31 Department of Human Services in rules adopted under the Arkansas  
32 Administrative Procedure Act, § 25-15-201 et seq.; and  
33                  (EE) Another person or entity enrolled to provide health or  
34 medical care services or goods authorized under the medical assistance  
35 programs provided in this state under Title XIX of the Social Security Act.  
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1           20-77-2103. Healthcare Quality and Payment Policy Advisory Committee –  
2 Created – Membership.

3           (a) The Healthcare Quality and Payment Policy Advisory Committee is  
4 created.

5           (b)(1) Except as provided under subdivision (b)(2) of this section,  
6 the committee shall consist of the following seven (7) voting members:

7                   (A) Three (3) members appointed by the President Pro  
8 Tempore of the Senate, including:

9                           (i) One (1) physician in good standing with the  
10 Arkansas State Medical Board;

11                           (ii) One (1) member nominated by the Arkansas  
12 Hospital Association who represents hospitals with more than one hundred  
13 (100) beds; and

14                           (iii) One (1) medical director of a commercially  
15 owned insurance company participating with the Division of Medical Services  
16 of the Department of Human Services in the Arkansas Health Care Payment  
17 Improvement Initiative;

18                   (B) Three (3) members appointed by the Speaker of the  
19 House of Representatives, including:

20                           (i) Two (2) physicians nominated by the Arkansas  
21 Medical Society; and

22                           (ii) One (1) member nominated by the Arkansas  
23 Hospital Association who represents hospitals with fewer than one hundred  
24 (100) beds; and

25                   (C) The Director of the Division of Medical Services of  
26 the Department of Human Services.

27                   (2)(A) For purposes of reviewing a draft rule related to long-  
28 term care services and supports, the committee shall include the following  
29 five (5) additional voting members:

30                           (i) One (1) member nominated by the Arkansas Health  
31 Care Association to represent nursing homes and appointed by the President  
32 Pro Tempore of the Senate;

33                           (ii) One (1) member nominated by the Arkansas  
34 Association of Area Agencies on Aging and appointed by the President Pro  
35 Tempore of the Senate;

36                           (iii) One (1) member nominated by the Arkansas

1 Assisted Living Association and appointed by the President Pro Tempore of the  
2 Senate;

3 (iv) One (1) member nominated by the Arkansas  
4 Residential Assisted Living Association and appointed by the Speaker of the  
5 House of Representatives; and

6 (v) One (1) member nominated by the HomeCare  
7 Association of Arkansas appointed by the Speaker of the House of  
8 Representatives.

9 (B)(i) As used in subdivision (b)(2)(A) of this section,  
10 "long-term care services and supports" does not include services provided in  
11 intermediate care facilities for individuals with developmental disabilities  
12 or services provided by an entity licensed or certified by the Division of  
13 Development Disabilities Services of the Department of Human Services.

14 (ii) For purposes of reviewing a draft rule related  
15 to services provided in intermediate care facilities for individuals with  
16 developmental disabilities and services provided by an entity licensed or  
17 certified by the division, § 20-77-2105(b)(2) applies.

18 (3) A medical director of a commercially owned insurance company  
19 participating with the Division of Medical Services in the Arkansas Health  
20 Care Payment Improvement Initiative who is not appointed under subdivision  
21 (b)(1)(C) of this section may serve as an ex officio member of the committee,  
22 but shall not vote.

23 (c) The committee may appoint subcommittees of the committee to study,  
24 research, and advise the committee.

25 (d) The Department of Human Services may provide offices and staff for  
26 the committee.

27 (e)(1) The members of the committee shall serve two-year terms.

28 (2) At the first meeting of the committee, the length of the  
29 terms of the initial appointees shall be determined by lot.

30 (f) The members of the committee shall hold the first meeting in  
31 offices made available by the department within thirty (30) days of the  
32 appointment of the members of the committee.

33 (g) The committee annually shall select from its membership a chair  
34 and a vice chair.

35 (h)(1) A majority of the membership of the committee constitutes a  
36 quorum.

1           (2) A majority vote of the members present is required for any  
2 action of the committee.

3           (i)(1) A vacancy on the committee due to death, resignation, removal,  
4 or another cause shall be filled in the same manner as the initial  
5 appointment.

6           (2) A member appointed to fill a vacancy shall serve for the  
7 remainder of the vacated term.

8           (j) The members of the committee may be removed by the appointing  
9 official for cause.

10          (k) Members of the committee, except those employed by the state may  
11 receive expense reimbursement and stipends under § 25-16-902.

12  
13          20-77-2104. Purpose.

14          The purpose of the Healthcare Quality and Payment Policy Advisory  
15 Committee is to make recommendations and provide advice and assistance to the  
16 Department of Human Services concerning the promulgation of rules submitted  
17 by the department to the committee to promote high-quality, safe, effective,  
18 timely, efficient, and patient-centered physician services, hospital  
19 services, and long-term care services and supports in the State of Arkansas,  
20 as related to the development of episodes of care and the episodes of care  
21 target prices and quality metrics within the Arkansas Health Care Payment  
22 Improvement Initiative.

23  
24          20-77-2105. Medicaid payment and reimbursement rules related to the  
25 development of episodes of care.

26          (a)(1) The Department of Human Services shall not adopt a rule under  
27 the Arkansas Administrative Procedure Act, § 25-15-201 et seq., related to  
28 the development of episodes of care for patient-centered physician services,  
29 hospital services, and long-term care services and supports, including  
30 without limitation the episodes-of-care target prices and quality metrics,  
31 without first submitting the proposed rule to the Healthcare Quality and  
32 Payment Policy Advisory Committee for review.

33          (2) Concurrent with a submission of a draft rule to the  
34 committee under subdivision (a)(1) of this section, the department shall  
35 issue a public notice of the draft rule for which the department shall:

36                 (A) Include in the notice a statement of the terms or

1 substance of the draft rule and the specific provider category or categories  
2 affected.

3 (B) Mail the notice to any person who requests notice of a  
4 submission of a draft rule to the committee under subdivision (a)(1) of this  
5 section.

6 (C) Post the notice on its website in a section dedicated  
7 to the committee.

8 (3) Concurrent with a submission of a draft rule to the  
9 committee under subdivision (a)(1) of this section, the department shall post  
10 the draft rule on its website in a section dedicated to the committee during  
11 the entire period the draft rule is under consideration of the committee.

12 (4) The department shall provide to a person who requests the  
13 information a meeting notice that identifies the time and place of each  
14 committee and subcommittee meeting and the draft rules under consideration of  
15 the committee or subcommittee at each meeting.

16 (b)(1) At least forty-five (45) days before initiating the  
17 promulgation process under the Arkansas Administrative Procedure Act, § 25-  
18 15-201 et seq., for a rule related to the development of episodes of care for  
19 patient-centered physician services, hospital services, or long-term care  
20 services and supports, including without limitation the episodes-of-care  
21 target prices and quality metrics, the department shall submit the draft rule  
22 to the committee for review and advice.

23 (2)(A) If the draft rule pertains to a healthcare provider  
24 listed in § 20-77-2102(2) whose provider category is not represented on the  
25 committee, the committee shall seek representation by designated  
26 representatives of the statewide provider association or associations for  
27 that provider category for the purpose of review and advice.

28 (B) The committee shall:

29 (i) Provide at least twenty-five (25) days for the  
30 representatives of the affected healthcare providers to review and comment on  
31 the draft rule; and

32 (ii) Afford the representatives the opportunity to  
33 participate in committee and subcommittee deliberations on the draft rule.

34 (C)(i) The committee shall not provide advice to the  
35 department without seeking the input of the affected healthcare providers.

36 (ii) If the committee does not reach agreement with

1 a provider association on a draft rule pertaining to a healthcare provider  
2 not represented on the committee, the committee shall prepare a written  
3 report that objectively states the information and viewpoints presented but  
4 does not advise the department concerning how to proceed on the draft rule.

5 (c) A rule required to be submitted to the committee under subsection  
6 (b) of this section that is adopted without following this section is void.

7 (d)(1) The committee shall issue and deliver a written advisory  
8 statement to the department within thirty (30) calendar days after the  
9 department's submission of the proposed rule to the committee.

10 (2) If the department fails to follow the advice of the  
11 committee with respect to a proposed rule under this section, the department,  
12 before beginning the promulgation process, shall prepare a written report  
13 setting out the advice of the committee and an explanation of the reason that  
14 the department decided not to follow the committee's advice with regard to  
15 the rule.

16 (3) The department shall make available for public review the  
17 reports required under subdivision (d)(1) of this section and the text of the  
18 proposed rule during the public comment period.

19 (4) The department may begin the promulgation process for the  
20 proposed rule if the committee does not issue and deliver a written advisory  
21 statement to the department within thirty (30) calendar days after the  
22 department's submission of the proposed rule to the committee.

23 (e) After the public comment period, the department shall retain and  
24 make available for public review the reports required under subdivision  
25 (d)(1) of this section and the text of any final regulation issued.

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27 20-77-2106. Powers and duties of the Healthcare Quality and Payment  
28 Policy Advisory Committee.

29 The Healthcare Quality and Payment Policy Advisory Committee shall:

30 (1) Review and provide advice regarding draft rules submitted by  
31 the Department of Human Services under § 20-77-2105;

32 (2) Have the authority to obtain from the department all data  
33 and analysis required to fully meet its charge under § 20-77-2104; and

34 (3) Provide reports to the Legislative Council upon request.

35  
36 20-77-2107. Confidentiality.

1           (a) To the extent that the data, records, reports, and documents  
2 identify or could be used to identify an individual patient, a healthcare  
3 provider, an institution, or a health plan, the data, records, reports, and  
4 documents collected or compiled by or on behalf of the Healthcare Quality and  
5 Payment Policy Advisory Committee are confidential and are not subject to  
6 disclosure under state and federal law.

7           (b) Data, records, reports, and documents collected or compiled by or  
8 on behalf of the Healthcare Quality and Payment Policy Advisory Committee are  
9 not admissible in a legal proceeding and are exempt from discovery and  
10 disclosure to the same extent that records of and testimony before committees  
11 that evaluate the quality of medical or hospital care are exempt under § 16-  
12 46-105(a)(1).

13           (c) A healthcare provider's use of the information in its internal  
14 operations does not operate as a waiver of the confidentiality protections  
15 under this section.

16           (d) The committee shall treat data, records, reports, and documents in  
17 a manner consistent with state and federal privacy requirements, including  
18 without limitation the privacy requirements under the federal Health  
19 Insurance Portability and Accountability Act of 1996, 45 C.F.R. § 164.512(i).

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21                           */s/ Irvin*  
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