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4

As Engrossed: H2/16/23

A Bill

SENATE BILL 187

5 By: Senator Irvin
6 By: Representatives Schulz, L. Johnson
7

For An Act To Be Entitled

9 AN ACT TO REPEAL THE HEALTHCARE QUALITY AND PAYMENT
10 POLICY ADVISORY COMMITTEE ACT; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

15 TO REPEAL THE HEALTHCARE QUALITY AND
16 PAYMENT POLICY ADVISORY COMMITTEE ACT.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 20, Chapter 77, Subchapter 22 is
22 repealed in its entirety.
23

~~24 Subchapter 22 — Healthcare Quality and Payment Policy Advisory Committee Act~~

~~25
26 20-77-2201. — Title.~~

~~27 This subchapter shall be known and may be cited as the “Healthcare
28 Quality and Payment Policy Advisory Committee Act”.~~

~~29
30 20-77-2202. — Definitions.~~

~~31 As used in this subchapter:~~

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

~~36 (2) “Healthcare provider” means one (1) of the following~~



~~1 individuals or entities licensed by the State of Arkansas to provide~~
~~2 healthcare services;~~
~~3 (A) An advanced practice nurse;~~
~~4 (B) An athletic trainer;~~
~~5 (C) An audiologist;~~
~~6 (D) A certified orthotist;~~
~~7 (E) A chiropractor;~~
~~8 (F) A community mental health center or clinic;~~
~~9 (G) A dentist;~~
~~10 (H) A home healthcare provider;~~
~~11 (I) A hospice care provider;~~
~~12 (J) A hospital-based service;~~
~~13 (K) A hospital;~~
~~14 (L) A licensed ambulatory surgery center;~~
~~15 (M) A licensed certified social worker;~~
~~16 (N) A licensed dietician;~~
~~17 (O) A licensed durable medical equipment provider;~~
~~18 (P) A licensed professional counselor;~~
~~19 (Q) A licensed psychological examiner;~~
~~20 (R) A long-term care facility;~~
~~21 (S) An occupational therapist;~~
~~22 (T) An optometrist;~~
~~23 (U) A pharmacist;~~
~~24 (V) A physical therapist;~~
~~25 (W) A physician or surgeon;~~
~~26 (X) A podiatrist;~~
~~27 (Y) A prosthetist;~~
~~28 (Z) A psychologist;~~
~~29 (AA) A respiratory therapist;~~
~~30 (BB) A rural health clinic;~~
~~31 (CC) A speech pathologist;~~
~~32 (DD) Another healthcare practitioner as determined by the~~
~~33 Department of Human Services in rules adopted under the Arkansas~~
~~34 Administrative Procedure Act, § 25-15-201 et seq.;~~ and
~~35 (EE) Another person or entity enrolled to provide health~~
~~36 or medical care services or goods authorized under the medical assistance~~

1 ~~programs provided in this state under Title XIX of the Social Security Act,~~
2 ~~42 U.S.C. § 1396 et seq.~~

3
4 ~~20-77-2203. Healthcare Quality and Payment Policy Advisory Committee—~~
5 ~~Created—Membership.~~

6 ~~(a) The Healthcare Quality and Payment Policy Advisory Committee is~~
7 ~~created.~~

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

10 ~~(A) Three (3) members appointed by the President Pro~~
11 ~~Tempore of the Senate, including:~~

12 ~~(i) One (1) physician in good standing with the~~
13 ~~Arkansas State Medical Board;~~

14 ~~(ii) One (1) member nominated by the Arkansas~~
15 ~~Hospital Association, Inc. who represents hospitals with more than one~~
16 ~~hundred (100) beds; and~~

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

21 ~~(B) Three (3) members appointed by the Speaker of the~~
22 ~~House of Representatives, including:~~

23 ~~(i) Two (2) physicians nominated by the Arkansas~~
24 ~~Medical Society, Inc.; and~~

25 ~~(ii) One (1) member nominated by the Arkansas~~
26 ~~Hospital Association, Inc. who represents hospitals with fewer than one~~
27 ~~hundred (100) beds; and~~

28 ~~(C) The Director of the Division of Medical Services of~~
29 ~~the Department of Human Services.~~

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

33 ~~(i) One (1) member nominated by the Arkansas Health~~
34 ~~Care Association to represent nursing homes and appointed by the President~~
35 ~~Pro Tempore of the Senate;~~

36 ~~(ii) One (1) member nominated by the Arkansas~~

1 ~~Association of Area Agencies on Aging and appointed by the President Pro~~
2 ~~Tempore of the Senate;~~

3 ~~(iii) One (1) member nominated by the Arkansas~~
4 ~~Residential Assisted Living Association, Inc. and appointed by the President~~
5 ~~Pro Tempore of the Senate;~~

6 ~~(iv) One (1) member nominated by the Arkansas~~
7 ~~Residential Assisted Living Association, Inc. and appointed by the Speaker of~~
8 ~~the House of Representatives; and~~

9 ~~(v) One (1) member nominated by the HomeCare~~
10 ~~Association of Arkansas and appointed by the Speaker of the House of~~
11 ~~Representatives.~~

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

17 ~~(ii) For purposes of reviewing a draft rule related~~
18 ~~to services provided in intermediate care facilities for individuals with~~
19 ~~developmental disabilities and services provided by an entity licensed or~~
20 ~~certified by the Division of Developmental Disabilities Services, § 20-77-~~
21 ~~2205(b)(2) applies.~~

22 ~~(3) A medical director of a commercially owned insurance company~~
23 ~~participating with the Division of Medical Services in the Arkansas~~
24 ~~Healthcare Payment Improvement Initiative who is not appointed under~~
25 ~~subdivision (b)(1)(A)(iii) of this section may serve as an ex officio member~~
26 ~~of the committee but shall not vote.~~

27 ~~(c) The committee may appoint subcommittees of the committee to study,~~
28 ~~research, and advise the committee.~~

29 ~~(d) The Department of Human Services may provide offices and staff for~~
30 ~~the committee.~~

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

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

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

1 ~~(g) The committee annually shall select from its membership a chair~~
2 ~~and a vice chair.~~

3 ~~(h)(1) A majority of the membership of the committee constitutes a~~
4 ~~quorum.~~

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

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

10 ~~(2) A member appointed to fill a vacancy shall serve for the~~
11 ~~remainder of the vacated term.~~

12 ~~(j) The members of the committee may be removed by the appointing~~
13 ~~official for cause.~~

14 ~~(k) Members of the committee except those employed by the state may~~
15 ~~receive expense reimbursement and stipends under § 25-16-901 et seq.~~

16
17 ~~20-77-2204. Purpose.~~

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

27
28 ~~20-77-2205. Medicaid payment and reimbursement rules related to~~
29 ~~development of episodes of care.~~

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

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

4 ~~(A) Include in the notice a statement of the terms or~~
5 ~~substance of the draft rule and the specific provider category or categories~~
6 ~~affected;~~

7 ~~(B) Mail the notice to any person who requests notice of a~~
8 ~~submission of a draft rule to the committee under subdivision (a)(1) of this~~
9 ~~section; and~~

10 ~~(C) Post the notice on the department's website in a~~
11 ~~section dedicated to the committee.~~

12 ~~(3) Concurrent with a submission of a draft rule to the~~
13 ~~committee under subdivision (a)(1) of this section, the department shall post~~
14 ~~the draft rule on its website in a section dedicated to the committee during~~
15 ~~the entire period the draft rule is under consideration by the committee.~~

16 ~~(4) The department shall provide to a person who requests the~~
17 ~~information a meeting notice that identifies the time and place of each~~
18 ~~committee and subcommittee meeting and the draft rules under consideration by~~
19 ~~the committee or subcommittee at each meeting.~~

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

27 ~~(2)(A) If the draft rule pertains to a healthcare provider~~
28 ~~listed in § 20-77-2202(2) whose provider category is not represented on the~~
29 ~~committee, the committee shall seek representation by designated~~
30 ~~representatives of the statewide provider association or associations for~~
31 ~~that provider category for the purpose of review and advice.~~

32 ~~(B) The committee shall:~~

33 ~~(i) Provide at least twenty five (25) days for the~~
34 ~~representatives of the affected healthcare providers to review and comment on~~
35 ~~the draft rule; and~~

36 ~~(ii) Afford the representatives the opportunity to~~

1 ~~participate in committee and subcommittee deliberations on the draft rule.~~

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

4 ~~(ii) If the committee does not reach agreement with~~
5 ~~a provider association on a draft rule pertaining to a healthcare provider~~
6 ~~not represented on the committee, the committee shall prepare a written~~
7 ~~report that objectively states the information and viewpoints presented but~~
8 ~~does not advise the department concerning how to proceed on the draft rule.~~

9 ~~(e) A rule required to be submitted to the committee under subsection~~
10 ~~(b) of this section that is adopted without following this section is void.~~

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

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

20 ~~(3) The department shall make available for public review the~~
21 ~~report required under subdivision (d)(2) of this section and the text of the~~
22 ~~proposed rule during the public comment period.~~

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

27 ~~(e) After the public comment period, the department shall retain and~~
28 ~~make available for public review the report required under subdivision (d)(2)~~
29 ~~of this section and the text of any final rule issued.~~

30
31 ~~20-77-2206. Powers and duties of Healthcare Quality and Payment Policy~~
32 ~~Advisory Committee.~~

33 ~~The Healthcare Quality and Payment Policy Advisory Committee shall:~~

34 ~~(1) Review and provide advice regarding draft rules submitted by~~
35 ~~the Department of Human Services under § 20-77-2205;~~

36 ~~(2) Have the authority to obtain from the department all data~~

1 ~~and analysis required to fully meet its charge under § 20-77-2204; and~~
2 ~~(3) Provide reports to the Legislative Council upon request.~~

3
4 ~~20-77-2207. Confidentiality.~~

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

11 ~~(b) Data, records, reports, and documents collected or compiled by or~~
12 ~~on behalf of the committee are not admissible in a legal proceeding and are~~
13 ~~exempt from discovery and disclosure to the same extent that records of and~~
14 ~~testimony before committees that evaluate the quality of medical or hospital~~
15 ~~care are exempt under § 16-46-105(a)(1).~~

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

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

23
24 */s/ Irvin*

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27 **APPROVED: 2/27/23**
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