

Hall of the House of Representatives

86th General Assembly - Regular Session, 2007

Amendment Form

Subtitle of House Bill No. 2568

"TO CLARIFY CERTAIN PROTECTIONS AGAINST THE RELEASE OF PATIENT DATA."

Amendment No. 2 to House Bill No. 2568.

Amend House Bill No. 2568 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Purpose. The General Assembly finds that public sector and private sector purchasers of health care need health care cost, quality, and utilization data to enable them to make informed choices among health care providers in the market place.

SECTION 2. Arkansas Code § 20-7-303(c), concerning the collection and dissemination of health data by state agencies, hospitals, and outpatient surgery centers, is amended to add an additional subdivision to read as follows:

(c)(1) All state agencies, including health profession licensing, certification, or registration boards and commissions, which collect, maintain, or distribute health data, including data relating to the Medicaid program, shall make available to the division such data as are necessary for the division to carry out its responsibilities under this subchapter or such rules and regulations as may be adopted as provided in § 20-7-305.

(2) If health data are already reported to another organization or governmental agency in the same manner, form, and content or in a manner, form, and content acceptable to the division, the director may obtain a copy of the data from the organization or agency, and no duplicative report need be submitted by the organization.

(3) All hospitals and outpatient surgery centers licensed by the state shall submit information in a form and manner as prescribed by rules and regulations by the board pursuant to § 20-7-305. However, if the same information is being collected by another state agency, the division shall obtain the data from the other state agency.

(4)(A) Health insurers and health maintenance organizations licensed to do business in the State of Arkansas shall make an annual report to the division that indicates for the previous year the average payment made per patient per day for:

- (i) Hospitals with fewer than fifty (50) beds;
- (ii) Hospitals with fifty (50) to one hundred



ninety-nine (199) beds; and

(iii) Hospitals with two hundred (200) or more beds.

(B)(i) The annual report shall be made in a form and manner described in § 20-7-305 but shall not include any information that can be used to identify the payments made to any particular hospital or facility.

(ii) The information contained in the annual report shall be disclosed and made available on a similar basis as other data collected under this subchapter.

SECTION 3. Arkansas Code § 20-7-304 is amended to read as follows:

20-7-304. Release of health data – Advisory Committee on Health Data Reports – Reports regarding hospital data.

(a) The Director of the Division of Health of the Department of Health and Human Services may shall release data collected under this subchapter, except that data released shall not include any information which identifies or could be used to identify any individual patient, provider, institution, or health plan except as provided in § 20-7-305. The data shall be made available and released to care providers, consumers, third-party payors, and others involved with planning for the provision of health care.

(b) Advisory Committee on Health Data Reports.

(1) The Director of the Division of Health of the Department of Health and Human Services shall appoint an Advisory Committee on Health Data Reports. The advisory committee shall include without limitation, representatives of:

(A) Public and private hospitals;

(B) Direct-care nursing staff;

(C) Physicians;

(D) Epidemiologists with expertise in hospital-acquired

infections;

(E) Academic researchers;

(F) Consumer organizations;

(G) Health insurers;

(H) Health maintenance organizations;

(I) Organized labor; and

(J) Purchasers of health insurance, including employers.

(2) A majority of the members of the advisory committee shall represent interests other than hospitals.

(c) The advisory committee shall assist the Division of Health of the Department of Health and Human Services in the development of all aspects of the division's methodology for collecting, analyzing, and disclosing the data collected under this subchapter, including without limitation:

(1) Collection methods;

(2) Formatting; and

(3) Methods and means for the release and dissemination of the

data.

(d)(1) In developing the methodology for collecting and analyzing the data, the division and the advisory committee shall consider existing methodologies and systems for data collection.

(2) However, the division's discretion to adopt a methodology shall not be limited or restricted to any existing methodology or system.

(3) The proposed data collection and analysis methodology shall be disclosed for public comment before any public disclosure of hospital

data.

(4) The data collection and analysis methodology shall be presented to all hospitals in this state on or before June 1, 2008.

(e) Reports regarding hospital data.

(1) In consultation with the advisory committee, the division shall submit annually a report summarizing the hospital data collected under this subchapter. The report shall include risk-adjusted information, including without limitation, comparisons of hospital infection rates, mortality data, length of stay information, and pricing information to enable providers, patients, consumers, third-party payors, and others to make informed decisions pertaining to hospital health care.

(2) The division shall publish the annual report on the division's website.

(3) The first annual report shall be submitted and published on or before January 1, 2009.

(4) The division may issue quarterly informational bulletins at its discretion, summarizing all or part of the information collected under this subchapter.

(f) The annual report prepared by the division under this subchapter and any quarterly bulletins regarding hospital data issued by the division under this subchapter shall be risk-adjusted.

(1) The annual report shall compare the risk-adjusted hospital data collected under this subchapter for each hospital in the state.

(2) The division, in consultation with the advisory committee, shall make this comparison required under subdivision (f)(1) of this section as easy to comprehend as possible.

(3) The annual report shall include an executive summary written in plain language that shall include without limitation:

(A) A discussion of findings, conclusions, and trends concerning the overall status of hospital data, including a comparison to previous years; and

(B) Policy recommendations of the division and the advisory committee.

(g)(1) The division shall publicize the annual report prepared by the division under this subchapter and the availability of the report as widely as is practicable to interested parties, including without limitation:

(A) Hospitals;

(B) Health care providers;

(C) Media organizations;

(D) Health insurers;

(E) Health maintenance organizations;

(F) Purchasers of health insurance;

(G) Organized labor;

(H) Consumer or patient advocacy groups; and

(I) Individual consumers.

(2) The annual report shall be made available to any person upon request and shall be made available on the Department's internet website.

(h) No hospital report or division disclosure shall contain information identifying a patient or employee.

SECTION 4. Arkansas Code § 20-7-305 is amended to read as follows:

20-7-305. State Board of Health to prescribe rules and regulations -

Data collected not subject to discovery.

(a) The State Board of Health shall prescribe and enforce such rules and regulations as may be necessary to carry out this subchapter, including the manner in which data are collected, maintained, compiled, and disseminated, and including such rules as may be necessary to promote and protect the confidentiality of data reported under this subchapter.

(b) Data provided, collected, or disseminated under this subchapter which identifies, or could be used to identify, any individual patient, ~~provider, institution, or health plan~~ shall not be subject to discovery pursuant to the Arkansas Rules of Civil Procedure or the Freedom of Information Act of 1967, § 25-19-101 et seq.

~~(c)(1) The Department of Health and Human Services may provide data only for purposes of research and aggregate statistical reporting to the Arkansas Center for Health Improvement and the Agency for Healthcare Research and Quality for its Healthcare Cost and Utilization Project.~~

~~(2)(c)(1)~~ The data shall be treated in a manner consistent with all state and federal privacy requirements, including, without limitation, the federal Health Insurance Portability and Accountability Act of 1996 privacy rule, specifically 45 C.F.R. § 164.512(i).

~~(3)(2)~~ Any identifiable data provided, collected, or disseminated under this subsection shall not be subject to discovery pursuant to the Arkansas Rules of Civil Procedure or the Freedom of Information Act of 1967, § 25-19-101 et seq.

(d) It shall be unlawful for the center to release any patient-identifying information to any nongovernmental third party.

SECTION 5. Funding.

This act is contingent upon the appropriation and availability of funding necessary for the Division of Health of the Department of Health and Human Services to implement its provisions, and any requirements that actions be accomplished by a specific date shall be extended until the necessary funding is available."

The Amendment was read _____
By: Representative Pace
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Chief Clerk