

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.

INTERIM STUDY PROPOSAL 2007-078

State of Arkansas

As Engrossed: H3/23/07 H3/26/07 H3/27/07

86th General Assembly

# A Bill

Regular Session, 2007

HOUSE BILL 2568

By: Representative Pace

Referred to

Public Health, Welfare And Labor Committee- House

by the House of Representatives

on 03/30/2007

## For An Act To Be Entitled

AN ACT TO CLARIFY CERTAIN PROTECTIONS AGAINST THE  
RELEASE OF PATIENT DATA; AND FOR OTHER PURPOSES.

### Subtitle

TO CLARIFY CERTAIN PROTECTIONS AGAINST  
THE RELEASE OF PATIENT DATA.

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

*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*

1 the division to carry out its responsibilities under this subchapter or such  
2 rules and regulations as may be adopted as provided in § 20-7-305.

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

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

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

17 (i) Hospitals with fewer than fifty (50) beds;

18 (ii) Hospitals with fifty (50) to one hundred  
19 ninety-nine (199) beds; and

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

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

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

27  
28 SECTION 3. Arkansas Code § 20-7-304 is amended to read as follows:

29 20-7-304. Release of health data – Advisory Committee on Health Data  
30 Reports – Reports regarding hospital data.

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

1 others involved with planning for the provision of health care.

2 (b) Advisory Committee on Health Data Reports.

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

7 (A) Public and private hospitals;

8 (B) Direct-care nursing staff;

9 (C) Physicians;

10 (D) Academic researchers;

11 (E) Consumer organizations;

12 (F) Health insurers;

13 (G) Health maintenance organizations;

14 (H) Organized labor; and

15 (I) Purchasers of health insurance, including employers.

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

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

22 (1) Collection methods;

23 (2) Formatting; and

24 (3) Methods and means for the release and dissemination of the  
25 data.

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

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

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

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

36 (e) Reports regarding hospital data.

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

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

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

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

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

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

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

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

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

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

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

33                (A) Hospitals;

34                (B) Health care providers;

35                (C) Media organizations;

36                (D) Health insurers;

- 1                    (E) Health maintenance organizations;
- 2                    (F) Purchasers of health insurance;
- 3                    (G) Organized labor;
- 4                    (H) Consumer or patient advocacy groups; and
- 5                    (I) Individual consumers.

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

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

10

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

12                    20-7-305. State Board of Health to prescribe rules and regulations -  
 13 Data collected not subject to discovery.

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

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

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

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

32                    ~~(3)(2)~~ (2) Any identifiable data provided, collected, or  
 33 disseminated under this subsection shall not be subject to discovery pursuant  
 34 to the Arkansas Rules of Civil Procedure or the Freedom of Information Act of  
 35 1967, § 25-19-101 et seq.

36                    (d) It shall be unlawful for the center to release any patient-

1 *identifying information to any nongovernmental third party.*

2

3 *SECTION 5. Funding.*

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

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10 */s/ Pace*

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