

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 2009-055

State of Arkansas
87th General Assembly
Regular Session, 2009

A Bill

HOUSE BILL 2088

By: Representative Shelby

Filed with: House Interim Committee on Public Health, Welfare and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

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

Subtitle

TO CREATE PHYSICIAN PROFILING PROGRAMS
AND TO AUTHORIZE THE STATE INSURANCE
DEPARTMENT TO ADOPT RULES FOR PHYSICIAN
PROFILING PROGRAMS.

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

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

17-95-801. Definition.

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



1 physicians.

2 (B) "Physician profiling program" includes without
3 limitation:

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

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

15
16 17-95-803. State Insurance Department -- Rules.

17 (a) The State Insurance Department shall adopt rules regulating
18 physician profiling programs.

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

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

36

1 17-95-804. Private right of action.

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

4
5 17-95-805. Liability.

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