

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.

1 State of Arkansas *As Engrossed: H3/23/07 H3/26/07 H3/27/07*

2 86th General Assembly

A Bill

3 Regular Session, 2007

HOUSE BILL 2568

4

5 By: Representative Pace

6

7

8

For An Act To Be Entitled

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

11

12

Subtitle

13

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

15

16

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

18

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

23

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

28

29

30

31

32

33

(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.

34

35

36

(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



1 of the data from the organization or agency, and no duplicative report need
2 be submitted by the organization.

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

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

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

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

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

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

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

22
23 SECTION 3. Arkansas Code § 20-7-304 is amended to read as follows:

24 20-7-304. Release of health data – Advisory Committee on Health Data
25 Reports – Reports regarding hospital data.

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

33 (b) Advisory Committee on Health Data Reports.

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

1 representatives of:

2 (A) Public and private hospitals;

3 (B) Direct-care nursing staff;

4 (C) Physicians;

5 (D) Academic researchers;

6 (E) Consumer organizations;

7 (F) Health insurers;

8 (G) Health maintenance organizations;

9 (H) Organized labor; and

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

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

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

17 (1) Collection methods;

18 (2) Formatting; and

19 (3) Methods and means for the release and dissemination of the
20 data.

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

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

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

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

31 (e) Reports regarding hospital data.

32 (1) In consultation with the advisory committee, the division
33 shall submit annually a report summarizing the hospital data collected under
34 this subchapter. The report shall include risk-adjusted information,
35 including without limitation, mortality data, length of stay information, and
36 pricing information to enable providers, patients, consumers, third-party

1 payors, and others to make informed decisions pertaining to hospital health
2 care.

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

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

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

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

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

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

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

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

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

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

28 (A) Hospitals;

29 (B) Health care providers;

30 (C) Media organizations;

31 (D) Health insurers;

32 (E) Health maintenance organizations;

33 (F) Purchasers of health insurance;

34 (G) Organized labor;

35 (H) Consumer or patient advocacy groups; and

36 (I) Individual consumers.

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

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

5
6 SECTION 4. Arkansas Code § 20-7-305 is amended to read as follows:

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

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

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

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

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

27 ~~(3)(2)~~ Any identifiable data provided, collected, or
28 disseminated under this subsection shall not be subject to discovery pursuant
29 to the Arkansas Rules of Civil Procedure or the Freedom of Information Act of
30 1967, § 25-19-101 et seq.

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

33
34 SECTION 5. Funding.

35 This act is contingent upon the appropriation and availability of
36 funding necessary for the Division of Health of the Department of Health and

1 Human Services to implement its provisions, and any requirements that actions
2 be accomplished by a specific date shall be extended until the necessary
3 funding is available.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

/s/ Pace