

AMENDED IN SENATE JUNE 5, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1558

Introduced by Assembly Member Roger Hernández

January 28, 2014

An act to add Title 22.5 (commencing with Section 100800) to the Government Code, ~~to amend Sections 1375.7 and 1395.6 of the Health and Safety Code, and to amend Sections 10178.3 and 10178.4 of the Insurance Code,~~ relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1558, as amended, Roger Hernández. California Health Data ~~Organization.~~ *Organization: all-payer claims database.*

Existing law establishes the Office of Statewide Health Planning and Development (OSHPD) to perform various functions and duties with respect to health facilities, health professions development, and health policy and planning, including, but not limited to, consulting with the Insurance Commissioner, the Director of the Department of Managed Health Care, and others to adopt a California uniform billing form format for professional health care services and a California uniform billing form format for institutional provider services. Existing law requires organizations that operate or own a health facility to file specified reports with OSHPD containing various financial and patient data.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans ~~and makes a willful violation of the act a crime.~~ Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plans and health

insurers to provide an explanation of benefits or explanation of review that identifies the name of the network that has a written agreement signed by the provider whereby the payor is entitled, directly or indirectly, to pay a preferred rate for the services rendered.

This bill would request the University of California to establish the California Health Data Organization and would ~~require health care service plans and health insurers to provide the explanations of benefits or explanations of review to that organization to the extent permitted by federal law~~ *request the organization to collect data from payers, as specified, and establish an all-payer claims database. The bill would require certain private payers to submit claims data to the organization on utilization, payment, and cost sharing for services delivered to beneficiaries. The bill would request the organization to establish working groups consisting of specified representatives to coordinate with existing stakeholder processes related to federal and state price transparency and payment reform and would request the organization to consider the recommendations of those working groups, as specified.* The bill would ~~require~~ *request* the organization to organize the data ~~provided in those documents~~ *collected pursuant to the bill's provisions* and to design and maintain an Internet Web site that allows consumers to compare the prices paid by ~~carriers~~ *payers* for procedures, as specified. *The bill would prohibit data made available to the public from containing sufficient information to identify an individual and would require the organization to keep confidential any proprietary information it obtains.* The bill would request the University of California to seek *available* funding from the federal government and other private sources to cover the costs associated with these provisions and would authorize the organization to charge a fee to each person or entity requesting access to data *stored* in the database it creates.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

~~Because a willful violation of the bill's requirement for a health care service plan to provide an explanation of benefits or explanation of review to the organization would be a crime, the bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

1 SECTION 1. Title 22.5 (commencing with Section 100800)
2 is added to the Government Code, to read:

3

4 TITLE 22.5. CALIFORNIA HEALTH DATA
5 ORGANIZATION

6

7 100800. For purposes of this title, the following definitions
8 shall apply:

9 (a) *“All-payer claims database” or “database” means a*
10 *database that receives and stores claims data from payers.*

11 (b) *For purposes of this section, “beneficiary” means one of*
12 *the following:*

13 (1) *With respect to a health care service plan, a subscriber or*
14 *enrollee.*

15 (2) *With respect to a health insurer, a policyholder or insured.*

16 (3) *With respect to a self-insured employee welfare benefit plan,*
17 *an employee or dependent of an employee.*

18 (c) *“Claims data” means claim or encounter data representing*
19 *medical, dental, mental health, and substance use disorder services*
20 *financed by payers.*

21 (d) *“Claim” means a submitted claim that was processed and*
22 *adjudicated by a payer, representing the paid amount and any*
23 *adjustments that occurred after the original submission.*

24 (e) *“Encounter” means a submitted record of a visit, a service*
25 *delivered, a procedure, or other activity, reported by a provider*
26 *to a payer when payment is not issued on a fee-for-service basis.*

27 (f) *“Exchange” means the California Health Benefit Exchange*
28 *established by Section 100500 of the Government Code.*

29 (a) ~~“Organization” means the California Health Data~~
30 ~~Organization established pursuant to Section 100801.~~

1 ~~(b) “Carrier claims database” or “database” means a database~~
2 ~~that receives and stores data from carriers reported to the~~
3 ~~organization pursuant to Section 1395.6 of the Health and Safety~~
4 ~~Code and Section 10178.3 of the Insurance Code.~~

5 ~~(e) “Carrier” means either a private health insurer holding a~~
6 ~~valid outstanding certificate of authority from the Insurance~~
7 ~~Commissioner or a health care service plan licensed by the~~
8 ~~Department of Managed Health Care.~~

9 ~~(d)~~
10 (g) “Health care service plan” has the same meaning as that
11 term is defined in subdivision (f) of Section 1345 of the Health
12 and Safety Code.

13 ~~(e)~~
14 (h) “Health insurer” means an insurer admitted to transact health
15 insurance business in this state. For purposes of this subdivision,
16 “health insurance” has the meaning used in Section 106 of the
17 Insurance Code.

18 ~~(f)~~
19 (i) “Individually identifiable information” means information
20 that includes or contains any element of personal identifying
21 information sufficient to allow identification of the individual,
22 including the person’s name, address, electronic mail address,
23 telephone number, or social security number, or other information
24 that, alone or in combination with other publicly available
25 information, reveals the individual’s identity.

26 (j) “Organization” means the California Health Data
27 Organization established pursuant to Section 100801.

28 (k) “Payer” means a private payer, the Medi-Cal program, or
29 the Medicare program.

30 (l) “Private payer” means any of the following:

31 (1) A health care service plan.

32 (2) A health insurer.

33 (3) A third-party administrator processing claims on behalf of
34 a self-insured employee welfare benefit plan that provides coverage
35 for health care expenses to at least 200 beneficiaries.

36 (m) “Proprietary information” includes, but is not limited to,
37 any information that supports or provides any of the clinical
38 rationale used for the purposes of supporting claims processing
39 decisions.

1 100801. (a) The Legislature hereby requests the University of
2 California to establish the California Health Data Organization.

3 (b) ~~The organization shall~~ *Legislature requests that the*
4 *organization* be staffed by persons with demonstrated experience
5 in all of the following:

- 6 (1) Performing statewide individual-level data collection.
- 7 (2) Managing and analyzing complex patient-level data.
- 8 (3) Complying with HIPAA requirements.
- 9 (4) Communicating information to the public via a user-friendly
10 web interface.

11 (c) *In order to avoid potential conflicts of interest within the*
12 *University of California between providers of health care services*
13 *and individuals working within the organization, the Legislature*
14 *hereby requests that the organization not be based in a school of*
15 *medicine or a University of California medical center.*

16 (e)

17 (d) The Legislature hereby requests the University of California
18 to seek *available* funding from the federal government and other
19 private sources to ~~cover~~ *defray the* costs associated with the
20 planning, implementation, and administration of this title.

21 100803. ~~The organization shall~~ *Legislature requests the*
22 *organization to do all of the following:*

23 (a) ~~Establish a carrier~~ *an all-payer* claims database using the
24 data collected and organized as described in this title.

25 (b) ~~Collect data from carriers reported pursuant to Section~~
26 ~~1395.6 of the Health and Safety Code and Section 10178.3 of the~~
27 ~~Insurance Code~~ *private payers submitted pursuant to Section*
28 *100804.*

29 (c) *Until data is collected as described in subdivision (b), collect*
30 *claims data for private payers from publicly available data sources.*

31 (d) *Request and collect available claims data from the Medi-Cal*
32 *program and the Medicare program, including claims data*
33 *reported to those programs by a health care service plan or health*
34 *insurer participating in those programs.*

35 (e) *Request and collect data from the Exchange that is related*
36 *to the quality of care provided by health plans through the*
37 *Exchange.*

38 (e)

39 (f) ~~Organize data reported by carriers pursuant to Section 1395.6~~
40 ~~of the Health and Safety Code and Section 10178.3 of the Insurance~~

1 ~~Code~~ *the data collected pursuant to this section* into the following
2 categories:

3 (1) Charges *billed* and total amounts paid by ~~carriers~~ *payers*
4 and patients, including, but not limited to, charge amount, paid
5 amount, prepaid amount, copayment, coinsurance, deductible, and
6 allowed amount.

7 (2) Type of health care service, including, but not limited to,
8 ambulatory care procedures and services and inpatient physician
9 services reported by Common Procedural Terminology (CPT)
10 codes, and inpatient hospital services reported by
11 Diagnosis-Related Group (DRG) codes.

12 (3) Information relating to risk adjustment, including ~~other~~
13 ~~diagnoses, length of stay, and discharge.~~ *diagnosis codes, dates*
14 *of service, monthly enrollment, age, gender, length of stay,*
15 *modifiers, and discharge disposition.*

16 (g) *Seek to combine existing quality, outcomes, and patient*
17 *experience and satisfaction data with the other data collected*
18 *pursuant to this section in order to facilitate value-based*
19 *purchasing of health care coverage in the state.*

20 (h) *Pursue the calculation of quality measures based on claims*
21 *data submitted by payers to allow for comparisons among facilities*
22 *and provider groups.*

23 ~~(d)~~

24 (i) Ensure that patient privacy is protected in compliance with
25 state and federal laws. ~~Patient~~ *In collecting, managing, and*
26 *analyzing claims data, patient privacy shall be protected using*
27 *encryption and storage of the confidential information on secure*
28 *servers. Data that is made available to the public by the*
29 *organization, including, but not limited to, data made available*
30 *pursuant to a request for access described in paragraph (3) of*
31 *subdivision (a) of Section 100805, shall not contain sufficient*
32 *information to identify an individual, including, but not limited to,*
33 *an individual health care provider.*

34 (j) *Keep confidential any proprietary information the*
35 *organization obtains pursuant to this title. Proprietary information*
36 *obtained by the organization shall not be made available to the*
37 *public, shall not be subject to subpoena or discovery, and shall*
38 *not be subject to the California Open Records Act (Chapter 3.5*
39 *(commencing with Section 6250) of Division 7 of Title 1 of the*
40 *Government Code).*

- 1 100804. (a) Commencing on the date that the organization is
2 established, a private payer shall regularly submit claims data to
3 the organization on utilization, payment, and cost sharing for
4 services delivered to beneficiaries. The data submitted shall, at a
5 minimum, include the following for each claim or encounter:
6 (1) A linkable patient identifier that can be mapped across all
7 claims or encounters.
8 (2) Date of service.
9 (3) Date of payment.
10 (4) Adjustment flag.
11 (5) Claim identification number.
12 (6) At least two diagnosis codes related to the claim or
13 encounter based on current coding standards.
14 (7) Any procedure codes associated with the claim or encounter
15 based on current coding standards.
16 (8) National Drug Code for prescription drugs.
17 (9) Revenue codes.
18 (10) Allowed amount.
19 (11) Patient billed share of cost, including amounts billed prior
20 to the patient satisfying any applicable deductible requirements.
21 (12) Total charge.
22 (13) Patient demographics, including, but not limited to, age,
23 gender, race, ethnicity, and language, if available.
24 (14) Product type (HMO, PPO, POS, EPO, or FFS).
25 (15) Whether the claim or encounter is billed or reported under
26 a health plan covering a single individual or a family and whether
27 that plan is an individual market plan, a group market plan, or a
28 self-insured employee welfare benefit plan.
29 (16) Type of payment to which claim or encounter is related
30 (capitated, diagnosis related group, bundled, per diem, or other
31 negotiated rate).
32 (17) Procedure modifiers based on current coding standards.
33 (18) Setting of service, including, but not limited to, hospital,
34 outpatient primary care, outpatient specialty care, freestanding
35 clinic, freestanding federally qualified health center, or ambulatory
36 surgery center.
37 (19) National provider identification information for the
38 provider billing for the service, including name, federal tax
39 identification number, and address.

1 (20) National provider identification information for the
2 provider rendering the service, including name, federal tax
3 identification number, and address.

4 (21) Monthly enrollment flags for the time period of the claims
5 or encounter file indicating if the individual was covered by the
6 payer for any given month in the year.

7 (b) A private payer may, with approval of the organization,
8 modify the information required to be submitted under this section
9 as necessary to comply with applicable federal and state privacy
10 laws.

11 (c) A private payer shall not be required to report to the
12 organization the data required under this section with respect to
13 beneficiaries enrolled in the Medi-Cal or Medicare program.

14 100804.5. (a) The Legislature requests the organization to
15 establish working groups consisting of representatives of private
16 payers, physicians and surgeons, provider groups, state and federal
17 regulators, academia, and consumer stakeholders.

18 (b) The Legislature requests the working groups established by
19 the organization to coordinate, to the extent possible, with existing
20 stakeholder processes related to federal and state price
21 transparency and payment reform. The organization is requested
22 to consider the recommendations made by the working groups in
23 providing updates to the desired data fields for claims data
24 reporting, collecting and displaying price, quality, and value
25 information for consumers, making comparisons by geographic
26 region, provider type, and individual health care facilities, and
27 conducting additional analyses to inform consumer decisions on
28 price, quality, and value.

29 (c) The Legislature requests that the working groups established
30 by the organization provide guidance on additional data that would
31 be important for consumers and stakeholders in making price,
32 quality, and value comparisons and the appropriate information
33 to be displayed by variables, including, but not limited to,
34 geographic region, provider type, facility, and provider group.

35 100805. (a) The organization may do all of the following:

36 (1) Receive and accept gifts, grants, or donations of moneys
37 from any agency of the United States, any agency of the state, any
38 municipality, county, or other political subdivision of the state.

39 (2) Receive and accept gifts, grants, or donations from
40 individuals, associations, private foundations, or corporations, in

1 compliance with the *existing* conflict-of-interest provisions to be
2 adopted by the board at a public meeting *University of California*.

3 (3) Charge a reasonable fee to each person or entity requesting
4 access to data stored in the database, not to exceed the actual costs
5 of providing that access.

6 (4) Explore alternative sources of funding, to the extent
7 permitted by law, to ensure the ~~sustainability~~ *sustainability* of the
8 organization.

9 ~~The organization shall not accept~~ *Legislature requests that*
10 *the organization refuse* gifts or grants from an entity that may have
11 a vested interest in the decisions of the organization.

12 100809. (a) ~~The organization shall~~ *Legislature requests the*
13 *organization to* disseminate the information collected pursuant to
14 this title to the public in a meaningful and comprehensive manner.

15 (b) For purposes of this section, the organization ~~shall is~~
16 *requested to* do all of the following:

17 (1) Design and maintain an interactive searchable Internet Web
18 site that is accessible to the public and in which both of the
19 following requirements are satisfied:

20 (A) Information on payments for services is easily searchable
21 by the average consumer.

22 (B) The format used allows for the comparison of prices paid
23 by ~~carriers~~ *payers* per procedure *without identifying the particular*
24 *price paid by a particular private payer*.

25 (2) Investigate how to combine price information with quality
26 information, either within the database or by linkage to other
27 searchable databases.

28 (3) Investigate the most efficient way of presenting information
29 to the public, including, but not limited to, reporting on price
30 information for the average severity of the condition or for different
31 tiers of severity.

32 (4) Coordinate efforts with the health care coverage market and
33 provide information to the public using the geographic areas used
34 by ~~carriers~~ *payers* in order to do both of the following:

35 (A) Make price transparency readily available to all purchasers
36 of health care coverage.

37 (B) Help guide consumers in their choice between different
38 health plans available through the ~~California Health Benefit~~
39 ~~Exchange established by Section 100500~~.

1 (5) *Aggregate at a high level of detail the information collected*
 2 *pursuant to this title and made available to the public so as not to*
 3 *disclose any proprietary information.*

4 (c) Information disclosed pursuant to this section shall ~~not~~
 5 ~~contain any individually identifiable information~~ *comply with*
 6 *subdivision (g) of Section 100803.*

7 (d) To allow for the development of the Internet Web site
 8 described in this section without delay, the organization may
 9 contract with a qualified, nongovernmental, independent third
 10 party for the delivery of a commercially available claims dataset
 11 with the appropriate level of detail in term of payments, geocoding,
 12 and provider information. ~~This information shall~~ *The Legislature*
 13 *requests that this information be replaced or supplemented with*
 14 *information directly collected by the organization once the first*
 15 *set of data directly collected from carriers payers has been cleaned*
 16 *and analyzed.*

17 (e) *In order to ensure the confidentiality, security, and*
 18 *affordability of maintaining the organization, the Legislature*
 19 *requests that the organization expand its data storage and*
 20 *processing capacity internally to house the Internet Web site*
 21 *described in this section and the large data sets gathered from*
 22 *payers under this title.*

23 100811. ~~The organization shall~~ *Legislature requests the*
 24 *organization to use the data collected pursuant to this title and*
 25 *produce annual reports on the cost of specific ambulatory care*
 26 *procedures and services and inpatient physician services aggregated*
 27 *within geographic market areas in this state, as determined by the*
 28 *organization, so as not to identify individual physicians.*

29 SEC. 2. *The Legislature finds and declares that Section 1 of*
 30 *this act, which adds Section 100803 to the Government Code,*
 31 *imposes a limitation on the public's right of access to the meetings*
 32 *of public bodies or the writings of public officials and agencies*
 33 *within the meaning of Section 3 of Article I of the California*
 34 *Constitution. Pursuant to that constitutional provision, the*
 35 *Legislature makes the following findings to demonstrate the interest*
 36 *protected by this limitation and the need for protecting that*
 37 *interest:*

38 *In order to protect the confidentiality of proprietary information*
 39 *collected pursuant to this act, it is necessary that this act limit the*
 40 *public's right of access to that information.*

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**matter omitted in this version of the bill
appears in the bill as introduced in the
Assembly, January 28, 2014. (JR11)**

O