

AMENDED IN SENATE MAY 5, 2015

**SENATE BILL**

**No. 26**

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**Introduced by Senator Hernandez**

December 1, 2014

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An act to add Chapter 8 (commencing with Section 127670) to Part 2 of Division 107 of, and to repeal the heading of Chapter 8 (formerly commencing with Section 127670) of Part 2 of Division 107 of, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL'S DIGEST

SB 26, as amended, Hernandez. California Health Care Cost and Quality Database.

Existing law establishes health care coverage programs to provide health care to segments of the population meeting specified criteria who are otherwise unable to afford health care coverage and provides for the licensure and regulation of health insurers and health care service plans.

This bill would state the intent of the Legislature to establish a system to provide valid, timely, and comprehensive health care performance information that is publicly available and can be used to improve the safety, appropriateness, and medical effectiveness of health care, and to provide care that is safe, medically effective, patient-centered, timely, affordable, and equitable. The bill would require the Secretary of California Health and Human Services to, no later than January 1, 2017, enter into a contract with one or more independent, nonprofit organizations to administer the California Health Care Cost and Quality Database. The bill would require the secretary to include specified terms in that contract or contracts, including, among others, that the nonprofit organization or organizations administering the California Health Care

Cost and Quality Database develop methodologies relating to the submission of health care data by health care entities. The bill would require certain health care entities, including health care service plans, to provide specified information to the nonprofit organization or organizations administering the California Health Care Cost and Quality Database. The bill would authorize the nonprofit organization or organizations to report a health care entity that fails to comply with that requirement to the health care entity's regulating agency, and would authorize the regulating agency to enforce that requirement using its existing enforcement procedures.

The bill would require all data disclosures made pursuant to these provisions to comply with all applicable state and federal laws for the protection of the privacy and security of data and would prohibit the public disclosure of any unaggregated, individually identifiable health information. The bill would require that certain confidentially negotiated contract terms be protected in data disclosures made pursuant to these provisions and would prohibit certain individually identifiable proprietary contract information from being disclosed in an unaggregated format. The bill would require the nonprofit organization or organizations administering the California Health Care Cost and Quality Database to receive, process, maintain, and analyze information from specified data sources, including, among others, disease and chronic condition registries. The bill would require, no later than January 1, 2019, the nonprofit organization or organizations administering the California Health Care Cost and Quality Database to publicly make available a web-based, searchable database and would require that database to be updated regularly. The bill would prohibit implementation and ongoing administration costs of the California Health Care Cost and Quality Database from being paid using General Fund moneys.

This bill would also require the secretary to convene a review committee composed of a broad spectrum of health care stakeholders and experts, as specified, to, among other things, develop the parameters for establishing, implementing, and administering the California Health Care Cost and Quality Database. The bill would require the secretary to arrange for the preparation of an annual report to the Legislature and the Governor that examines and addresses specified issues, including, among others, containing the cost of health care services and coverage. The bill would provide that the commission not be convened until the Director of Finance has determined that sufficient private or federal funds have been received and appropriated for that purpose, and that

members of the committee not receive a per diem or travel expense reimbursement, or any other expense reimbursement.

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.

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

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

1 SECTION 1. The heading of Chapter 8 (formerly commencing  
2 with Section 127670) of Part 2 of Division 107 of the Health and  
3 Safety Code, as amended by Section 230 of Chapter 183 of the  
4 Statutes of 2004, is repealed.

5 SEC. 2. Chapter 8 (commencing with Section 127670) is added  
6 to Part 2 of Division 107 of the Health and Safety Code, to read:

7  
8 CHAPTER 8. CALIFORNIA HEALTH CARE COST AND QUALITY  
9 DATABASE

10  
11 127670. (a) It is the intent of the Legislature to establish a  
12 system to provide valid, timely, and comprehensive health care  
13 performance information that is publicly available and can be used  
14 to improve the safety, appropriateness, and medical effectiveness  
15 of health care, and to provide care that is patient-centered, timely,  
16 affordable, and equitable. It is also the intent of the Legislature to  
17 grant access to provider performance information to consumers  
18 and purchasers in order for them to understand the potential  
19 financial consequences and liabilities and obtain maximum quality  
20 and value *and to minimize health disparities* in health care services.

21 (b) It is the intent of the Legislature, by making cost and quality  
22 data available, to encourage health care service plans, health  
23 insurers, and providers to develop innovative approaches, services,  
24 and programs that may have the potential to deliver health care  
25 that is both cost effective and responsive to the needs of ~~enrollees~~.  
26 *enrollees, including recognizing the diversity of California and*  
27 *the impact of social determinants of health.*

1 127671. (a) The Secretary of California Health and Human  
2 Services shall, no later than January 1, 2017, use a competitive  
3 process to contract with one or more independent, nonprofit  
4 organizations in order to administer the California Health Care  
5 Cost and Quality Database. This competitive process and any  
6 requests for proposal shall be publicly posted on the agency's  
7 Internet Web site for a minimum of 30 days for public review and  
8 comment. A contract entered into pursuant to this section is exempt  
9 from Part 2 (commencing with Section 10100) of Division 2 of  
10 the Public Contract Code, and is exempt from review or approval  
11 by any division of the Department of General Services.

12 (b) The secretary shall include as a term in the contract or  
13 contracts entered into pursuant to subdivision (a) all of the  
14 following:

15 (1) A requirement that the nonprofit organization or  
16 organizations administering the California Health Care Cost and  
17 Quality Database do all of the following:

18 (A) Establish, implement, and administer the California Health  
19 Care Cost and Quality Database in accordance with parameters  
20 developed pursuant to subdivision (a) of Section 127672.

21 (B) Develop methodologies for the collection, validation,  
22 refinement, analysis, comparison, review, reporting, and  
23 improvement of health care data, including, but not limited to, data  
24 from fee-for-service, capitated, and other alternative, value-based,  
25 payment sources, submitted by health care entities that are  
26 validated, recognized as reliable, and meet industry and research  
27 standards.

28 (C) Receive information, as described in this section, from health  
29 care entities and report that information in a form that allows valid  
30 comparisons across care delivery systems.

31 (D) *Ensure that the database has the capacity to map to other*  
32 *data sets, including public health data sets on morbidity and*  
33 *mortality, including data sets from the federal Centers for Disease*  
34 *Control, the State Department of Public Health, and other data*  
35 *sets with data regarding the social determinants of health.*

36 ~~(D)~~

37 (E) Comply with the requirements governing provider and  
38 supplier requests for error correction established pursuant to  
39 Section 401.717 of Title 42 of the Code of Federal Regulations

1 for all claims data received, including, but not limited to, data from  
2 sources other than Medicare.

3 (2) A prohibition on the nonprofit organization or organizations  
4 administering the California Health Care Cost and Quality Database  
5 from doing either of the following:

6 (A) Using the data received during the execution of the contract  
7 for any purpose not specified in this chapter or in the contract.

8 (B) Receiving funding from any other source to accomplish the  
9 same purposes sought to be accomplished under this chapter unless  
10 funding is received from another nonprofit or government source  
11 and is for the purpose of research or education.

12 (3) A requirement that the nonprofit organization or  
13 organizations administering the California Health Care Cost and  
14 Quality Database identify, in accordance with this section, the type  
15 of data, purpose of use, and entities and individuals that are  
16 required to report to, or that may have access to, the California  
17 Health Care Cost and Quality Database. An entity or individual  
18 shall not be required to report to, and shall not have access to, the  
19 California Health Care Cost and Quality Database until the review  
20 committee established pursuant to Section 127672 has approved  
21 the nonprofit organization or organizations determination.

22 (c) (1) For the purpose of developing information for inclusion  
23 in the California Health Care Cost and Quality Database, a health  
24 care service plan, including a specialized health care service plan,  
25 an insurer licensed to provide health insurance, as defined in  
26 Section 106 of the Insurance Code, a self-insured employer, a  
27 supplier, as defined in paragraph (3) of subdivision (b) of Section  
28 1367.50, or a provider, as defined in paragraph (2) of subdivision  
29 (b) of Section 1367.50, shall, and a multiemployer self-insured  
30 plan that is responsible for paying for health care services provided  
31 to beneficiaries and the trust administrator for a multiemployer  
32 self-insured plan may, provide ~~both~~ *all* of the following to the  
33 nonprofit organization or organizations administering the California  
34 Health Care Cost and Quality Database:

35 (A) Utilization data from the health care service plans' and  
36 insurers' medical, dental, and pharmacy claims or, in the case of  
37 entities that do not use claims data, including, but not limited to,  
38 integrated delivery systems, encounter data consistent with the  
39 core set of data elements for data submission proposed by the

1 APCD Council, the University of New Hampshire, and the National  
2 Association of Health Data Organizations.

3 (B) Pricing information for health care items, services, and  
4 medical and surgical episodes of care gathered from allowed  
5 charges for covered health care items and services or, in the case  
6 of entities that do not use or produce individual claims, price  
7 information that is the best possible proxy to pricing information  
8 for health care items, services, and medical and surgical episodes  
9 of care available in lieu of actual cost data—~~so~~ to allow for  
10 meaningful comparisons of provider prices and treatment costs.

11 (C) *Information sufficient to determine the impacts of social*  
12 *determinants of health, including age, gender, race, ethnicity,*  
13 *limited English proficiency, sexual orientation and gender identity,*  
14 *ZIP Code, and any other factors for which there is peer-reviewed*  
15 *evidence.*

16 (2) (A) The nonprofit organization or organizations  
17 administering the California Health Care Cost and Quality Database  
18 may report an entity's failure to comply with paragraph (1) to the  
19 entity's regulating agency.

20 (B) The regulating agency of an entity described in paragraph  
21 (1) may enforce paragraph (1) using its existing enforcement  
22 procedures. Notwithstanding any other law, moneys collected  
23 pursuant to this authorization shall be subject to appropriation by  
24 the Legislature, and the failure to comply with paragraph (1) shall  
25 not be a crime.

26 (d) (1) All uses and disclosures of data made pursuant to this  
27 section shall comply with all applicable state and federal laws for  
28 the protection of the privacy and security of data, including, but  
29 not limited to, *the Confidentiality of Medical Information Act (Part*  
30 *2.6 (commencing with Section 56)) of Division 1 of the Civil Code,*  
31 *the Information Practices Act (Chapter 1 (commencing with Section*  
32 *1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code, Title*  
33 *1.81 (commencing with Section 1798.80) of Part 4 of Division 3*  
34 *of the Civil Code, and the federal Health Insurance Portability and*  
35 *Accountability Act of 1996 (Public Law 104-191) and the federal*  
36 *Health Information Technology for Economic and Clinical Health*  
37 *Act, Title XIII of the federal American Recovery and Reinvestment*  
38 *Act of 2009 (Public Law 111-5), and implementing regulations.*

39 (2) (A) All policies and protocols developed in the performance  
40 of the contract shall ensure that the privacy, security, and

1 confidentiality of individually identifiable health information is  
2 protected. The nonprofit organization or organizations  
3 administering the California Health Care Cost and Quality Database  
4 shall not publicly disclose any unaggregated, individually  
5 identifiable health information and shall develop a protocol for  
6 assessing the risk of reidentification stemming from public  
7 disclosure of any health information that is aggregated, individually  
8 identifiable health information.

9 (B) For the purposes of this paragraph, “individually identifiable  
10 health information” has the same meaning as in Section 160.103  
11 of Title 45 of the Code of Federal Regulations.

12 (3) Confidentially negotiated contract terms contained in a  
13 contract between a health care service plan or insurer and a provider  
14 or supplier shall be protected in any public disclosure of data made  
15 pursuant to this section. Individually identifiable proprietary  
16 contract information included in a contract between a health care  
17 service plan or insurer and a provider or supplier shall not be  
18 disclosed in an unaggregated format.

19 (e) (1) The nonprofit organization or organizations  
20 administering the California Health Care Cost and Quality Database  
21 shall receive, process, maintain, and analyze information from  
22 data sources, including, but not limited to, data received pursuant  
23 to subdivision (c), claims from private and public payers, disease  
24 and chronic condition registries, third-party surveys of quality and  
25 patient satisfaction, reviews by licensing and accrediting bodies,  
26 and local and regional public health data. Aggregated payer and  
27 provider performance on validated measures of clinical quality  
28 and patient experience, such as measures from the Healthcare  
29 Effectiveness Data and Information Set (HEDIS) and Consumer  
30 Assessment of Healthcare Providers and Systems (CAHPS), shall  
31 be collected from accrediting organizations, including, but not  
32 limited to, the National Committee for Quality Assurance (NCQA),  
33 URAC, and the Joint Commission.

34 (2) The nonprofit organization or organizations administering  
35 the California Health Care Cost and Quality Database shall include  
36 in an analysis performed pursuant to paragraph (1), but shall not  
37 be limited to, *to including*, all of the following:

38 (A) Population-level data on prevention, screening, and wellness  
39 utilization.

1 (B) Population-level data on behavioral and medical risk factors,  
2 interventions, and outcomes.

3 (C) Population-level data on chronic conditions, management,  
4 and outcomes.

5 (D) Population-level data on trends in utilization of procedures  
6 for treatment of similar conditions to evaluate medical  
7 appropriateness.

8 (E) Facility and physician organization risk adjusted  
9 performance-information *measures* on the quality, efficiency, and  
10 outcomes of care that are aligned with national efforts, including,  
11 but not limited to, those of the National Quality Forum, related to  
12 defining cost and quality measures. *Measures shall be publicly*  
13 *reported without risk adjustment for sociodemographic factors*  
14 *and shall also be risk adjusted for sociodemographic factors if*  
15 *peer-reviewed literature indicates an association between health*  
16 *outcomes and a sociodemographic factor or factors.*

17 (F) Data that permits consideration of socioeconomic status and  
18 disparities in care due to race, ethnicity, gender, *limited English*  
19 *proficiency, ZIP Code, sexual orientation, and gender identity.*  
20 *identity, and other factors for which there is peer-reviewed*  
21 *evidence of a relationship between a social determinant of health*  
22 *and health outcomes.*

23 (f) No later than January 1, 2019, the nonprofit organization or  
24 organizations administering the California Health Care Cost and  
25 Quality Database shall make publicly available a web-based,  
26 searchable database. The database shall include the information  
27 and analysis described in subdivision (e). The information and  
28 analysis included in the database shall be presented in a way that  
29 facilitates comparisons of cost, quality, and satisfaction across  
30 payers, provider organizations, and other suppliers of health care  
31 services. This public database shall be regularly updated to reflect  
32 new data submissions.

33 (g) Implementation and ongoing administration costs of the  
34 California Health Care Cost and Quality Database shall not be  
35 paid using General Fund moneys.

36 127672. (a) The Secretary of California Health and Human  
37 Services shall convene a review committee, composed of a broad  
38 spectrum of health care stakeholders and experts, including, but  
39 not limited to, representatives of the entities that are required to  
40 provide information pursuant to subdivision (c) of Section 127671



1 and representatives of purchasers, including, but not limited to,  
2 businesses, organized labor, and consumers, to develop the  
3 parameters for the establishment, implementation, and ongoing  
4 administration of the California Health Care Cost and Quality  
5 Database, including a business plan for sustainability without using  
6 moneys from the General Fund, and to approve the determinations  
7 described in paragraph (3) of subdivision (b) of Section 127671.  
8 The review committee shall hold public meetings with  
9 stakeholders, solicit input, and set its own meeting agendas.  
10 Meetings of the review committee are subject to the Bagley-Keene  
11 Open Meeting Act (Article 9 (commencing with Section 11120)  
12 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government  
13 Code).

14 (b) The secretary shall arrange for the preparation of an annual  
15 report to the Legislature and the Governor, to be submitted in  
16 compliance with Section 9795 of the Government Code, based on  
17 the findings of the review committee, including input from the  
18 public meetings, that shall, at a minimum, examine and address  
19 the following issues:

20 (1) Assessing California health care needs and available  
21 resources.

22 (2) Containing the cost of health care services and coverage.

23 (3) Improving the quality and medical appropriateness of health  
24 care.

25 (4) *Reducing health disparities and addressing the social*  
26 *determinants of health.*

27 ~~(4)~~

28 (5) Increasing the transparency of health care costs and the  
29 relative efficiency with which care is delivered.

30 ~~(5)~~

31 (6) Use of disease management, wellness, prevention, and other  
32 innovative programs to keep people healthy and reduce disparities  
33 and costs and improving health outcomes for all populations.

34 ~~(6)~~

35 (7) Efficient utilization of prescription drugs and technology.

36 ~~(7)~~

37 (8) Reducing unnecessary, inappropriate, and wasteful health  
38 care.

39 ~~(8)~~

40 (9) Educating consumers in the use of health care information.

1     ~~(9)~~

2     (10) Using existing data sources to build the California Health  
3 Care Cost and Quality Database.

4     (c) The review committee established pursuant to this section  
5 shall not be convened until the Director of Finance has determined  
6 that sufficient private or federal funds have been received and that  
7 the funds have been appropriated for that purpose. The review  
8 committee shall continue to function for as long as the Department  
9 of Finance has determined that the California Health Care Cost  
10 and Quality Database is established and is being administered.

11     (d) Notwithstanding any other law, the members of the review  
12 committee shall receive no per diem or travel expense  
13 reimbursement, or any other expense reimbursement.

14     SEC. 3. The Legislature finds and declares that Section 2 of  
15 this act, which adds Section 127671 to the Health and Safety Code,  
16 imposes a limitation on the public’s right of access to the meetings  
17 of public bodies or the writings of public officials and agencies  
18 within the meaning of Section 3 of Article I of the California  
19 Constitution. Pursuant to that constitutional provision, the  
20 Legislature makes the following findings to demonstrate the interest  
21 protected by this limitation and the need for protecting that interest:

22     In order to protect confidential and proprietary information  
23 submitted to the California Health Care Cost and Quality Database,  
24 it is necessary for that information to remain confidential.