

AMENDED IN SENATE MAY 31, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1159

Introduced by Senator Hernandez

February 18, 2016

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 1159, 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 require certain health care entities, including health care service plans, to provide specified information to the Secretary of California Health and Human Services. The bill would authorize the secretary 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 authorize the secretary to enter into contracts or agreements to share the information collected under the bill, under prescribed conditions.*

This bill would also require the secretary to convene an advisory 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~~ *to identify the type of data, purpose of use, and entities and individuals that are required to report to, or that may have access to,* a health care cost and quality database. The bill would require the secretary to arrange for the preparation of ~~an annual~~ *a report to the Legislature and the Governor Governor, to be submitted by January 1, 2019,* that examines and addresses specified issues, including, among others, containing the cost of health care services and coverage. The bill would ~~provide that prohibit~~ *members of the committee not receive from receiving* 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. It is the intent of the Legislature in enacting this*
2 *act to make cost and quality data available and to encourage health*
3 *care service plans, health insurers, and providers to develop*
4 *innovative approaches, services, and programs that may have the*
5 *potential to deliver health care that is both cost effective and*
6 *responsive to the needs of enrollees, including recognizing the*
7 *diversity of California and the impact of social determinants of*
8 *health.*

1 SECTION 1.

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5 of 2004, is repealed.

6 ~~SEC. 2.~~

7 SEC. 3. Chapter 8 (commencing with Section 127670) is added
8 to Part 2 of Division 107 of the Health and Safety Code, to read:

9

10 CHAPTER 8. CALIFORNIA HEALTH CARE COST AND QUALITY
11 DATABASE
12

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

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

30 ~~127671.~~

31 127670. (a) (1) Solely for the purpose of developing
32 information for inclusion in a health care cost and quality database,
33 a health care service plan, including a specialized health care
34 service plan, an insurer licensed to provide health insurance, as
35 defined in Section 106 of the Insurance Code, a supplier, as defined
36 in paragraph (3) of subdivision (b) of Section 1367.50, or a
37 provider, as defined in paragraph (2) of subdivision (b) of Section
38 1367.50, shall, and a self-insured employer, a multiemployer
39 self-insured plan that is responsible for paying for health care
40 services provided to beneficiaries, and the trust administrator for

1 a multiemployer self-insured plan may, provide all of the following
2 to the Secretary of California Health and Human Services:

3 (A) Utilization data from the health care service plans' and
4 insurers' medical, dental, and pharmacy claims or, in the case of
5 entities that do not use claims data, including, but not limited to,
6 integrated delivery systems, encounter data consistent with the
7 core set of data elements for data submission proposed by the
8 APCD Council, the University of New Hampshire, and the National
9 Association of Health Data Organizations.

10 (B) Pricing information for health care items, services, and
11 medical and surgical episodes of care gathered from allowed
12 charges for covered health care items and services or, in the case
13 of entities that do not use or produce individual claims, price
14 information that is the best possible proxy to pricing information
15 for health care items, services, and medical and surgical episodes
16 of care available in lieu of actual cost data to allow for meaningful
17 comparisons of provider prices and treatment costs.

18 (C) Information sufficient to determine the impacts of social
19 determinants of health, including age, gender, race, ethnicity,
20 limited English proficiency, sexual orientation and gender identity,
21 ZIP Code, and any other factors for which there is peer-reviewed
22 evidence.

23 (2) (A) The secretary may report an entity's failure to comply
24 with paragraph (1) to the entity's regulating agency.

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

31 (b) (1) All uses and disclosures of data made pursuant to this
32 section shall comply with all applicable state and federal laws for
33 the protection of the privacy and security of data, including, but
34 not limited to, the Confidentiality of Medical Information Act (Part
35 2.6 (commencing with Section 56) of Division 1 of the Civil Code),
36 the Information Practices Act of 1977 (Chapter 1 (commencing
37 with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
38 Code), Title 1.81 (commencing with Section 1798.80) of Part 4
39 of Division 3 of the Civil Code, and the federal Health Insurance
40 Portability and Accountability Act of 1996 (Public Law ~~104-191~~)

1 104-191), and the federal Health Information Technology for
2 Economic and Clinical Health Act, Title XIII of the federal
3 American Recovery and Reinvestment Act of 2009 (Public Law
4 111-5), and implementing regulations.

5 (2) (A) All policies and protocols developed pursuant to this
6 section shall ensure that the privacy, security, and confidentiality
7 of individually identifiable health information is protected. The
8 secretary shall not publicly disclose any unaggregated, individually
9 identifiable health information and shall develop a protocol for
10 assessing the risk of reidentification stemming from public
11 disclosure of any health information that is aggregated, individually
12 identifiable health information.

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

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

23 (c) *The secretary may enter into contracts or agreements to*
24 *share the information collected under this section for the purposes*
25 *of this chapter, provided that any use of that information complies*
26 *with the requirements of this section.*

27 127672. (a) The Secretary of California Health and Human
28 Services shall convene an advisory committee, composed of a
29 broad spectrum of health care stakeholders and experts, including,
30 but not limited to, representatives of the entities that are required
31 to provide information pursuant to subdivision (a) of Section
32 ~~127671~~ 127670 and representatives of purchasers, including, but
33 not limited to, businesses, organized labor, and consumers, ~~to~~
34 ~~develop the parameters for the establishment, implementation, and~~
35 ~~ongoing administration of a health care cost and quality database,~~
36 ~~including a business plan for sustainability without using moneys~~
37 ~~appropriated from the General Fund, and to identify the type of~~
38 data, purpose of use, and entities and individuals that are required
39 to report to, or that may have access to, a health care cost and
40 quality database. The advisory committee shall hold public

1 meetings with stakeholders, solicit input, and set its own meeting
2 agendas. Meetings of the advisory committee are subject to the
3 Bagley-Keene Open Meeting Act (Article 9 (commencing with
4 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
5 the Government Code).

6 (b) The secretary shall arrange for the preparation of ~~an annual~~
7 ~~report~~ *a report, which shall be submitted* to the Legislature and
8 ~~the Governor, to be submitted in compliance with Section 9795~~
9 ~~of the Government Code, Governor on or before January 1, 2019,~~
10 based on the findings of the advisory committee, including input
11 from the public meetings, that shall, at a minimum, examine and
12 address the following issues:

13 (1) Assessing California health care needs and available
14 resources.

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

16 (3) Improving the quality and medical appropriateness of health
17 care.

18 (4) Reducing health disparities and addressing the social
19 determinants of health.

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

22 (6) Use of disease management, wellness, prevention, and other
23 innovative programs to keep people healthy, reduce disparities
24 and costs, and improve health outcomes for all populations.

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

26 (8) Reducing unnecessary, inappropriate, and wasteful health
27 care.

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

29 ~~(10) Using existing data sources to build a health care cost and~~
30 ~~quality database.~~

31 *(c) (1) A report submitted under subdivision (b) shall be*
32 *submitted in compliance with Section 9795 of the Government*
33 *Code.*

34 *(2) The requirement for submitting a report pursuant to*
35 *subdivision (b) is inoperative on July 1, 2022, pursuant to Section*
36 *10231.5 of the Government Code.*

37 ~~(e)~~

38 *(d) Notwithstanding any other law, the members of the advisory*
39 *committee shall not receive per diem or travel expense*
40 *reimbursement, or any other expense reimbursement.*

1 ~~SEC. 3.~~

2 *SEC. 4.* The Legislature finds and declares that Section-2 3 of
3 this act, which adds Section-~~127671~~ 127670 to the Health and
4 Safety Code, imposes a limitation on the public's right of access
5 to the meetings of public bodies or the writings of public officials
6 and agencies within the meaning of Section 3 of Article I of the
7 California Constitution. Pursuant to that constitutional provision,
8 the Legislature makes the following findings to demonstrate the
9 interest protected by this limitation and the need for protecting
10 that interest:

11 In order to protect confidential and proprietary information
12 submitted to the Secretary of California Health and Human
13 Services, it is necessary for that information to remain confidential.

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