

SENATE BILL NO. 287

BY SENATORS MOUNT, ALARIO, BROOME, CASSIDY, CHEEK, DONAHUE, ERDEY, N. GAUTREAUX, GRAY, JACKSON, LAFLEUR, MICHOT, NEVERS, SMITH AND THOMPSON AND REPRESENTATIVES ARNOLD, BOBBY BADON, BARROW, BURFORD, HENRY BURNS, CARMODY, CORTEZ, DOERGE, DOWNS, ELLINGTON, ELBERT GUILLORY, GUINN, HARRISON, HAZEL, HENRY, HINES, HONEY, GIROD JACKSON, MICHAEL JACKSON, KATZ, LEGER, LIGI, LOPINTO, MCVEA, MILLS, NOWLIN, PEARSON, POPE, RICHARDSON, RICHMOND, RITCHIE, SIMON, JANE SMITH, PATRICIA SMITH, ST. GERMAIN, TALBOT, TRAHAN, WILLIAMS AND WILLMOTT

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AN ACT

To amend and reenact Part L of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1300.111 through 1300.114, relative to health care data reporting; to provide for Louisiana health care consumers' right to know; to provide for the collection and publication of provider specific health care quality and outcome data by the Department of Health and Hospitals; to provide for the membership of the Health Data Panel; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part L of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1300.111 through 1300.114, is hereby amended and reenacted to read as follows:

~~PART L. HEALTH CARE DATA REPORTING~~ LOUISIANA HEALTH CARE CONSUMERS' RIGHT TO KNOW

§1300.111. Findings

The legislature finds that as a result of rising health care costs, the shortage of health professionals and health care services in many areas of the state, and the concerns expressed by consumers, health care providers, ~~consumers~~, third-party payers, and others involved with ~~planning for the provision and the coverage of health care~~ making informed decisions regarding health care services, treatment, and coverage, there is an ~~urgent~~ a need to have access to provider specific health

1 care cost, quality, and outcome data on health care facilities, health care
 2 providers, and health plans as well as continued access to global understand
 3 patterns and trends in the availability, use, and charges for ~~these~~ health care services
 4 and the associated health circumstances.

5 §1300.112. Data collection; powers and duties of the ~~office of public health~~

6 **Department of Health and Hospitals**

7 A. The ~~office of public health,~~ **Department of Health and Hospitals,** in
 8 consultation with the Health Data Panel, shall:

9 (1) ~~Define~~ **Identify and define** the ~~core~~ **health care cost, quality, and**
 10 **performance** data elements to be reported to the ~~office of public health~~ **Department**
 11 **of Health and Hospitals** in accordance with existing national and international data
 12 standards for ~~core health data elements~~ **for consumers' meaningful comparison of**
 13 **costs for specific health care services and specific quality of care measures**
 14 **between and among medical facilities, health care providers, and health plans.**

15 (2) Develop standards of accuracy, quality, timeliness, economy, and
 16 efficiency for the provision of data.

17 (3) Identify the most practical methods to collect, transmit, and share
 18 required health care data as described in this Part.

19 (4) Utilize, wherever practical, existing administrative data bases, and
 20 modalities of data collection to provide the required data.

21 (5) Ensure confidentiality of patients by enforcing appropriate rules and
 22 regulations at least as stringent as those regulations applicable to covered entities
 23 promulgated under the Health Insurance Portability and Accountability Act privacy
 24 regulations, 42 CFR Part 164.

25 (6) **Coordinate with the Louisiana Department of Insurance on all**
 26 **matters of health plan cost, quality, and performance data to be collected from**
 27 **health plans licensed to offer health insurance coverage in Louisiana. Such data**
 28 **shall exclude premium data and information related to the development of**
 29 **premiums.**

30 **(7) Include appropriate risk-adjustment measures into the production**

1 of all health care cost, quality, and performance data issued to account for
 2 variation in facility size, location, and patient acuity levels.

3 ~~(8) Provide, through rules and regulations promulgated in accordance with~~
 4 ~~the Administrative Procedure Act, the process for the release~~ Internet publication
 5 ~~of a defined data set,~~ provider and health plan specific cost, quality, and
 6 performance data ~~within the limitations imposed by this Part, collected pursuant~~
 7 ~~to this Part for~~ access and ~~use by a~~ consumer or ~~requesting entity,~~ ~~including but~~
 8 ~~not limited to a government agency, academic research organization, or private~~
 9 ~~sector organization. Data released pursuant to this Paragraph shall not include:~~

10 ~~(a) (9) Any~~ Ensure that data released pursuant to this Part shall not
 11 include any ~~identifier which is listed in 45 CFR 164.514(b) as being necessary to be~~
 12 ~~removed in order for the data to be de-identified within the meaning of 45 CFR~~
 13 ~~164.514(a).~~

14 ~~(b) (10) Any other information which, if disclosed, could be detrimental to~~
 15 ~~the discloser's ability to compete, including but not limited to payor name, insured~~
 16 ~~or self-insured group name, and information that can be used to determine market~~
 17 ~~share, including patient origin or referral or admission sources and patterns~~
 18 Promulgate rules and regulations, in accordance with the Administrative
 19 Procedure Act, to carry out the provisions of this Part.

20 ~~(c) Any data specific to the operations of licensed health care facilities and~~
 21 ~~health organizations licensed by the state, including but not limited to hospitals,~~
 22 ~~outpatient clinical facilities, insurers, health maintenance organizations, and third-~~
 23 ~~party administrators.~~

24 ~~(7) Not restrict the use or disclosure of medical care facility identifiers~~
 25 ~~contained within data released pursuant to Paragraph (6) of this Subsection.~~

26 ~~(8) In conjunction with the preparation by the office of public health for~~
 27 ~~release of data according to Paragraph (A)(6) of this Section, coordinate with the~~
 28 ~~Department of Insurance the release, for use by a requesting entity, of information~~
 29 ~~currently required to be reported to the Department of Insurance by all health~~
 30 ~~insurers, health maintenance organizations, and third-party administrators. The~~

1 Department of Insurance shall make such information available upon consultation
2 with the Health Data Panel regarding information relevant to healthcare decision
3 making by consumers and after promulgation of rules.

4 B. The office of public health shall create the Health Data Panel. The purpose
5 of the Health Data Panel shall be to make recommendations to the office of public
6 health that facilitate the release of data, pursuant to the provisions of this Part, for
7 consumers' meaningful comparison of costs for specific health care services and
8 specific quality of care measures between and among medical facilities. The panel
9 shall consist of one representative from each of the following entities:

10 (1) Louisiana Hospital Association.

11 (2) Metropolitan Hospital Council of New Orleans.

12 (3) Rural Hospital Coalition.

13 (4) Louisiana Association of Focused Care Facilities.

14 (5) Voluntary Hospitals of America, Gulf States office.

15 (6) Louisiana State Medical Society.

16 (7) Community Hospital Coalition.

17 (8) AARP.

18 (9) Louisiana Business Group on Health.

19 (10) Louisiana Association of Business and Industry.

20 (11) National Federation of Independent Business.

21 (12) Louisiana Health Information Management Association.

22 (13) Louisiana Association of Health Plans.

23 (14) Louisiana Health Care Review, Inc.

24 (15) Louisiana State University hospitals.

25 (16) Tulane University School of Public Health and Tropical Medicine.

26 (17) Louisiana Department of Insurance.

27 (18) Louisiana Ambulatory Surgery Association.

28 (19) Louisiana Association of Self-Insured Employers.

29 (20) Louisiana Workers' Compensation Corporation.

30 (21) Louisiana Insurers Conference.

1 ~~(22) AFL-CIO.~~

2 ~~C. The office of public health may contract with private entities for the~~
3 ~~collection of data subject to the provisions of this Part.~~

4 ~~D.(1) All state agencies, including health professional licensing, certification,~~
5 ~~or registration boards and commissions, which collect, maintain, or distribute health~~
6 ~~data, shall make available to the office of public health such data as are necessary for~~
7 ~~the office to carry out its responsibilities as defined in Subsection A of this Section.~~

8 ~~(2) All medical care facilities licensed by the state, including but not limited~~
9 ~~to hospitals, outpatient surgical facilities, and outpatient clinical facilities shall~~
10 ~~submit information in the manner and form prescribed in rules and regulations~~
11 ~~promulgated by the Department of Health and Hospitals pursuant to this Part.~~

12 ~~(3) The office of public health shall take actions necessary to avoid the~~
13 ~~duplication of effort of agencies and medical care facilities required to submit~~
14 ~~information. To this end:~~

15 ~~(a) If a state agency submits the information required in Paragraph (1) of this~~
16 ~~Subsection to another state agency or organization in a manner, form, and content~~
17 ~~acceptable to the office of public health, the assistant secretary may obtain such~~
18 ~~information from the state agency or organization which receives the data and may~~
19 ~~provide that the state agency which originally provides the information is not~~
20 ~~required to submit the information to the office of public health.~~

21 ~~(b) If the information required in Paragraph (2) of this Subsection is already~~
22 ~~submitted to another state agency in the prescribed format, the office of public health~~
23 ~~shall obtain information from the other state agency.~~

24 ~~(4) Nothing in this Part shall be construed to mean that any medical facilities,~~
25 ~~health insurers, health maintenance organizations, or third-party administrators are~~
26 ~~required to submit any information beyond that required on June 1, 2007.~~

27 ~~E. The office of public health shall promulgate and enforce such rules and~~
28 ~~regulations as may be necessary to carry out the provisions of this Part, including the~~
29 ~~manner in which data are collected, maintained, compiled, and disseminated, and~~
30 ~~including such rules as may be necessary to promote and protect the confidentiality~~

1 of patients under this Part. Collected data which identifies or could be used to
 2 identify any individual patient shall not be subject to discovery in civil or criminal
 3 proceedings.

4 F.(1) ~~The office of public health, as the state center for health statistics, shall~~
 5 ~~compile and disseminate health care data collected pursuant to this Part.~~

6 (2) ~~The office of public health shall include a special report to the legislature~~
 7 ~~as part of the health report card submitted to the legislature prior to the 2008 Regular~~
 8 ~~Session in accordance with Part XLVII of this Chapter. This special report shall~~
 9 ~~summarize the status of the implementation of this Part and funding requirements for~~
 10 ~~continued implementation and operation of the state health care data clearinghouse.~~
 11 ~~In subsequent years, data collected pursuant to this Part shall be incorporated into the~~
 12 ~~health report card.~~

13 (3) ~~The office of public health, as the state center for health statistics, shall~~
 14 ~~provide assistance to the House and Senate Committees on Health and Welfare in the~~
 15 ~~development of information necessary in the examination of health care issues.~~

16 **(11) Implement the initial phase of the Internet website created pursuant**
 17 **to this Part on or before April 30, 2009.**

18 G. **(12)** In the event that sufficient funds are not appropriated to ~~operate the~~
 19 ~~state health care data clearinghouse~~ **implement this Part,** to include the collection,
 20 storage, analysis, and dissemination of data to participating agencies, organizations,
 21 and the general public, the application and enforcement of this Part shall be
 22 suspended pending the appropriation of sufficient funds, and all accumulated health
 23 care data shall be stored with appropriate confidentiality safeguards, destroyed, or
 24 transferred to another appropriate agency or organization in accordance with state
 25 law.

26 **§1300.113. Health Data Panel; advisory council to the secretary of the**
 27 **Department of Health and Hospitals**

28 A. **The Department of Health and Hospitals shall create the Health Data**
 29 **Panel. The purpose of the Health Data Panel shall be to make recommendations**
 30 **to the secretary of the Department of Health and Hospitals for the**

1 implementation of the requirements of this Part. The Health Data Panel shall
2 consider the provisions set forth in R.S. 40:1300.112.

3 B. Members of the Health Data Panel shall be appointed by the secretary
4 and shall represent all interests involved in the collection and publication of
5 provider and health plan specific cost, quality, and performance data elements.
6 Members shall include but not be limited to health care purchasers, hospitals
7 and other service providers, consumer and patient advocacy groups, quality
8 improvement and health information technology groups, physicians, and any
9 other individuals or groups as deemed necessary by the secretary.

10 C. The secretary or his designee shall serve as the chairman of the
11 meetings of the Health Data Panel. The secretary may use the recommendations
12 of the Health Data Panel to fulfill the Department of Health and Hospitals'
13 responsibilities as set forth in this Part.

14 D. Members of the Health Data Panel shall serve without compensation.
15 ~~§1300.113.~~ §1300.114. Violations; penalties

16 A. All state agencies and health professional licensing, certification, or
17 registration boards and commissions, which collect, maintain, or distribute
18 health data, shall provide to the Department of Health and Hospitals such data
19 as are necessary for the department to carry out its responsibilities as defined
20 in this Part.

21 B. All health care providers licensed by the state, including but not
22 limited to hospitals, outpatient surgical facilities, and outpatient clinical
23 facilities shall submit information in the manner and form prescribed in rules
24 and regulations promulgated by the Department of Health and Hospitals
25 pursuant to this Part.

26 C. Any person, firm, corporation, organization, or institution that violates
27 any of the provisions of this Part or any rules and regulations promulgated
28 thereunder regarding **patient** confidentiality of information shall be guilty of a
29 misdemeanor and upon conviction thereof shall be punished by a fine of not less than
30 five hundred dollars nor more than one thousand dollars or by imprisonment not

1 exceeding one month, or both. Each day of the violation shall constitute a separate
2 offense.

3 ~~B. D.~~ Any person, firm, corporation, organization, or institution knowingly
4 violating any of the provisions of this Part or any rules and regulations promulgated
5 thereunder shall be guilty of a misdemeanor and upon a plea of guilty, a plea of nolo
6 contendere or conviction, shall be punished by a fine of not more than one thousand
7 dollars.

8 ~~C. E.~~ Renewal of state licenses issued by the Department of Health and
9 Hospitals, Department of Insurance or health professional licensing,
10 certification, or registration boards and commissions shall be predicated in part
11 on compliance with data reporting requirements of this Part and rules and regulations
12 promulgated thereunder. Prior to relicensing, the ~~assistant~~ secretary of the ~~office of~~
13 ~~public health~~ Department of Health and Hospitals shall confirm compliance with
14 data reporting requirements in writing to the appropriate permitting or licensing
15 authority. The permit, certification, or license of any health care provider,
16 health plan, or facility covered by this Part shall be suspended until such time
17 as the required data is submitted to the Department of Health and Hospitals.

18 Section 2. This Act shall become effective upon signature by the governor or, if not
19 signed by the governor, upon expiration of the time for bills to become law without signature
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
22 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____