

## HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 350 by Representative Stuart Bishop

HEALTH CARE: Adds conditions and protections relative to use of patient healthcare data to the La. Health Care Consumers' Right to Know law

### Synopsis of Senate Amendments

1. Changes legislative finding relative to necessity of protecting the privacy of health information to delete reference to data sets used in research endeavors.
2. Adds the defined term "confidential information", defined to mean at least one of the following:
  - (a) Patient level data elements that could be used alone or in combination with other available data elements to identify a patient.
  - (b) Information requested that DHH determines will be utilized for business or commercial purposes, including but not limited to market analysis and software development.
  - (c) Protected health information as defined in federal regulations and in present law.
3. Deletes proposed law requiring that changes to the mandatory health care data elements or methodology by which data is to be reported by health care providers and health plans to DHH be approved by a majority vote of the members of the Health Data Panel.
4. Changes provision relative to the secretary of DHH convening meetings of the Health Data Panel from a requirement that the secretary convene such meetings to an authorization for him to do so.
5. Deletes proposed law authorizing disclosure of data for research purposes if the requesting entity is recognized as a health care research organization, or if the data sought for use in research qualifies as a de-identified personal health information as defined in the HIPAA Privacy Rule.
6. Deletes proposed law requiring submission of requests for data to DHH and review and approval of such requests by the Health Data Panel.
7. Deletes proposed law requiring DHH to enter into data use agreements outlining the permitted uses and disclosures of de-identified personal health information and prescribing conditions, standards, and content for such agreements.
8. Deletes proposed law prohibiting DHH from releasing to any party outside of the department or any subcontractor of such party certain information collected pursuant to proposed law. Adds in lieu thereof a provision prohibiting DHH from releasing any confidential or protected health information collected from hospitals and other health care providers pursuant to proposed law, except for the purpose of conducting health care research which is a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.
9. Adds the following requirements and conditions relative to requests for data collected pursuant to proposed law:

- (a) All requests for data shall be submitted to DHH and reviewed by the department's Institutional Review Board.
- (b) DHH shall deny any request for data that it determines will be utilized for business or commercial purposes, including but not limited to market analysis and software development.
- (c) DHH shall have one representative of the provider group whose data is subject to the data release on the Institutional Review Board.
- (d) Each data request shall state the proposed use of the data and include an affirmation by the recipient that no attempts will be made to combine patient level data provided for in the request with other data to identify patients and that no confidential information shall be released.
- (e) DHH shall inform the Health Data Panel prior to the release of requested data collected pursuant to proposed law.

### **Digest of Bill as Finally Passed by Senate**

Present law, the La. Health Care Consumers' Right to Know (R.S. 40:1300.111 et seq.), provides relative to access to provider specific health care cost, quality, and outcome data on health care facilities, providers, and insurance plans. Proposed law generally retains present law and adds thereto certain conditions and restrictions for use of health care information.

Proposed law provides for findings and definitions.

Proposed law requires the Dept. of Health and Hospitals (DHH), in consultation with the Health Data Panel created as an advisory council within the department by present law, to maintain a computerized database of personal health information of consumers in a secure environment in compliance with federal laws providing for the security of the system containing such data. Requires that in the event of a known or suspected data breach, DHH shall, within 30 days of the breach, notify each La. resident whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

Proposed law requires that DHH not release confidential or protected health information collected from hospitals and other health care providers, except for the purpose of conducting health care research which is a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Provides that DHH shall adhere to and comply fully with appropriate privacy protection protocols that are at least as stringent as the HIPAA Privacy Rule.

Proposed law provides the following requirements and conditions relative to requests for data collected pursuant to proposed law:

- (1) All requests for data shall be submitted to DHH and reviewed by the department's Institutional Review Board.
- (2) DHH shall deny any request for data that it determines will be utilized for business or commercial purposes, including but not limited to market analysis and software development.
- (3) DHH shall have one representative of the provider group whose data is subject to the data release on the Institutional Review Board.
- (4) Each data request shall state the proposed use of the data and include an affirmation

by the recipient that no attempts will be made to combine patient level data provided for in the request with other data to identify patients and that no confidential information shall be released.

- (5) DHH shall inform the Health Data Panel prior to the release of requested data collected pursuant to proposed law.

(Amends R.S. 40:1300.111-1300.114; Adds R.S. 40:1300.115-1300.116)