

ACT No. 790

Regular Session, 2014

HOUSE BILL NO. 350

BY REPRESENTATIVE STUART BISHOP

1 AN ACT

2 To amend and reenact R.S. 40:1300.111 through 1300.114 and to enact R.S. 40:1300.115
3 through 1300.116, relative to access to patient health care data; to provide findings
4 and definitions; to provide relative to personal health information maintained within
5 the Department of Health and Hospitals; to provide for data security protocols; to
6 provide for duties of the Department of Health and Hospitals and of the Health Data
7 Panel created therein; to provide conditions for the release of personal health
8 information; to provide conditions for disclosure of health data for research
9 purposes; to provide for restrictions on uses of health data; and to provide for related
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 40:1300.111 through 1300.114 are hereby amended and reenacted
13 and R.S. 40:1300.115 through 1300.116 are hereby enacted to read as follows:

14 §1300.111. Findings

15 The legislature hereby finds all of the following:

16 (1) As ~~The legislature finds that~~ as a result of rising health care costs, the
17 shortage of health professionals and health care services in many areas of the state,
18 and the concerns expressed by consumers, health care providers, third-party payers,
19 and others involved with making informed decisions regarding health care services,
20 treatment, and coverage, there is a need to have access to provider specific health
21 care cost, quality, and outcome data on health care facilities, health care providers,
22 and health plans as well as continued access to global patterns and trends in the

1 availability, use, and charges for health care services and the associated health
2 circumstances.

3 (2) Due to the rapidly expanding availability of and access to patient
4 sensitive health care data, it is necessary to establish safeguards which ensure the
5 level of protection of patient encounter data that Louisiana citizens deserve, and
6 which protect the privacy of health information comprising data sets that are reported
7 and disseminated to improve the population health of this state.

8 §1300.112. Definitions

9 As used in this Part, the following terms have the meaning ascribed to them
10 in this Section:

11 (1) "Confidential information" means at least one of the following:

12 (a) Patient level data elements that could be used alone or in combination
13 with other available data elements to identify a patient.

14 (b) Information requested that the department determines will be utilized for
15 business or commercial purposes, including but not limited to market analysis and
16 software development.

17 (c) Protected health information as defined in the HIPAA Privacy Rule, 45
18 CFR Part 164, and R.S. 29:762.

19 (2) "Department" means the Department of Health and Hospitals.

20 (3) "HIPAA" means the Health Insurance Portability and Accountability Act,
21 Pub. L. 104-191.

22 (4) "Secretary" means the secretary of the Department of Health and
23 Hospitals.

24 ~~§1300.112~~ §1300.113. Data collection; powers and duties of the Department of
25 Health and Hospitals

26 A. The ~~Department of Health and Hospitals~~ department, in consultation with

27 the Health Data Panel, shall:

28 (1) Identify and define the health care cost, quality, and performance data
29 elements to be reported to the ~~Department of Health and Hospitals~~ department in
30 accordance with existing national and international data standards for consumers'

1 facilitating meaningful comparison by consumers of costs for specific health care
2 services and specific quality of care measures between and among medical facilities,
3 health care providers, and health plans.

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

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

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

10 (5) Ensure confidentiality of patients by enforcing appropriate rules and
11 regulations at least as stringent as those regulations applicable to covered entities
12 promulgated under ~~the Health Insurance Portability and Accountability Act~~ HIPAA
13 privacy regulations, ~~42~~ 45 CFR Part 164.

14 (6) Maintain the computerized database of personal health information of
15 consumers in a secure environment in compliance with federal laws providing for the
16 security of the system containing such data. In the event of a known or suspected
17 data breach, the department shall, within thirty days of the breach, notify each
18 resident of the state whose personal information was, or is reasonably believed to
19 have been, acquired by an unauthorized person.

20 (7) Coordinate with the Louisiana Department of Insurance on all matters of
21 health plan cost, quality, and performance data to be collected from health plans
22 licensed to offer health insurance coverage in Louisiana. Such data shall exclude
23 premium data and information related to the development of premiums.

24 ~~(7)~~(8) Include, when appropriate, risk-adjustment measures into the
25 production of all health care cost, quality, and performance data issued to account
26 for variation in facility size, location, and patient acuity levels.

27 ~~(8)~~(9) Provide the process for Internet publication of provider and health
28 plan specific cost, quality, and performance data collected pursuant to this Part for
29 access and use by a consumer or requesting entity.

1 ~~(9)~~(10) Ensure that data released pursuant to this Part shall not include any
 2 identifier which is listed in 45 CFR 164.514(b) as being necessary to be removed in
 3 order for the data to be de-identified within the meaning of 45 CFR 164.514(a).

4 ~~(10)~~(11) Promulgate rules and regulations, in accordance with the
 5 Administrative Procedure Act, to carry out the provisions of this Part.

6 ~~(11)~~ Implement the initial phase of the Internet website created pursuant to
 7 this Part on or before April 30, 2009.

8 ~~(12)~~ B. In the event that sufficient funds are not appropriated to implement
 9 this Part, to include the collection, storage, analysis, and dissemination of data to
 10 participating agencies, organizations, and the general public, the application and
 11 enforcement of this Part shall be suspended pending the appropriation of sufficient
 12 funds, and all accumulated health care data shall be stored with appropriate
 13 confidentiality safeguards, destroyed, or transferred to another appropriate agency
 14 or organization in accordance with state law.

15 ~~§1300.113~~ §1300.114. Health Data Panel; advisory council to the secretary of the
 16 Department of Health and Hospitals

17 A. ~~The Department of Health and Hospitals~~ department shall create the
 18 Health Data Panel. The purpose of the Health Data Panel shall be to make
 19 recommendations to the secretary ~~of the Department of Health and Hospitals~~ for the
 20 implementation of the requirements of this Part. ~~The Health Data Panel shall~~
 21 ~~consider the provisions set forth in R.S. 40:1300.112.~~

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

29 C. The Health Data Panel shall consider the provisions set forth in R.S.
 30 40:1300.113.

1 D. The secretary or his designee shall serve as the chairman of the meetings
 2 of the Health Data Panel. The secretary shall convene meetings of the Health Data
 3 Panel on an annual basis and as needed to fulfill the provisions of this Part. The
 4 secretary may use the recommendations of the Health Data Panel to fulfill the
 5 ~~Department of Health and Hospitals'~~ responsibilities of the department as set forth
 6 in this Part.

7 ~~D.~~ E. Members of the Health Data Panel shall serve without compensation.
 8 §1300.115. Release of information

9 A. To ensure the privacy and protection of Louisianans' health information,
 10 the department shall not release confidential or protected health information
 11 collected from hospitals and other health care providers pursuant to this Part. The
 12 department shall adhere to and comply fully with appropriate privacy protection
 13 protocols that are at least as stringent as the HIPAA Privacy Rule.

14 B. Notwithstanding Subsection A of this Section, the department may release
 15 data collected pursuant to this Part for the purpose of conducting health care research
 16 which is a systematic investigation, including research development, testing and
 17 evaluation, designed to develop or contribute to generalizable knowledge. All
 18 requests for data collected pursuant to this Part shall be submitted to the department
 19 and reviewed by the department's Institutional Review Board. The department shall
 20 deny any requests for data that it determines will be utilized for business or
 21 commercial purposes, including but not limited to market analysis and software
 22 development. The department shall have one representative of the provider group
 23 whose data is subject to the data release on the Institutional Review Board.

24 C. Each data request shall state the proposed use of the data requested and
 25 include an affirmation by the recipient that no attempts will be made to combine
 26 patient level data provided for in the request with other data to identify patients and
 27 that no confidential information shall be released.

28 D. The department shall inform the Health Data Panel prior to the release of
 29 requested data collected pursuant to this Part.

1 ~~§1300.114~~ §1300.116. Violations; penalties

2 A. All state agencies and health professional licensing, certification, or
3 registration boards and commissions, which collect, maintain, or distribute health
4 data, shall provide to the ~~Department of Health and Hospitals~~ department such data
5 as are necessary for the department to carry out its responsibilities as defined in this
6 Part.

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

12 C. Any person, firm, corporation, organization, or institution that violates
13 any of the provisions of this Part or any rules and regulations promulgated
14 thereunder regarding patient confidentiality of information shall be guilty of a
15 misdemeanor and upon conviction thereof shall be punished by a fine of not less than
16 five hundred dollars nor more than one thousand dollars or by imprisonment not
17 exceeding one month, or both. Each day of the violation shall constitute a separate
18 offense.

19 D. Any person, firm, corporation, organization, or institution knowingly
20 violating any of the provisions of this Part or any rules and regulations promulgated
21 thereunder shall be guilty of a misdemeanor and upon a plea of guilty, a plea of nolo
22 contendere or conviction, shall be punished by a fine of not more than one thousand
23 dollars.

24 E. Renewal of state licenses issued by the Department of Health and
25 Hospitals, Department of Insurance, or health professional licensing, certification,
26 or registration boards and commissions shall be predicated in part on compliance
27 with data reporting requirements of this Part and rules and regulations promulgated
28 thereunder. Prior to relicensing, the secretary of the ~~Department of Health and~~
29 ~~Hospitals~~ shall confirm compliance with data reporting requirements in writing to
30 the appropriate permitting or licensing authority. The permit, certification, or license

1 of any health care provider, health plan, or facility covered by this Part shall be
2 suspended until such time as the required data is submitted to the ~~Department of~~
3 ~~Health and Hospitals~~ department.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____