

1 HB186
2 209252-2
3 By Representative Lee
4 RFD: Health
5 First Read: 02-FEB-21
6 PFD: 01/28/2021

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8 SYNOPSIS: Under existing law, the Alabama Department
9 of Public Health, which licenses and regulates
10 certain health care facilities, accumulates and
11 disseminates statistical health information on
12 births, deaths, and cancer cases in Alabama.
13 Existing law does not require the department to
14 collect comprehensive statewide hospital discharge
15 data.

16 This bill would require the department to
17 periodically collect, compile, and analyze certain
18 patient discharge data from certain hospitals.

19 This bill would require the department to
20 adopt rules for the protection, collection, and
21 dissemination of hospital discharge data, require
22 the department to release certain discharge data to
23 the Alabama Hospital Association, and make certain
24 data available to the public in compliance with
25 federal and state health privacy laws.

1 This bill would authorize the department to
2 levy civil penalties for failure of a hospital to
3 timely report discharge data to the department.

4 This bill would establish the Hospital
5 Discharge Data Advisory Council to advise the
6 department on rulemaking and would provide for its
7 membership.

8 This bill would also provide for
9 confidentiality and privilege protection for
10 patient information provided under this act.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 Relating to the Alabama Department of Public Health;
17 to require the department to collect from hospitals certain
18 patient discharge data and to compile, analyze, and make
19 available the data to the Alabama Hospital Association and
20 make certain data available to the public; to establish the
21 Hospital Discharge Data Advisory Council to advise the
22 department on rulemaking and provide for its membership; to
23 require the department to adopt rules; to provide for civil
24 penalties for violations; and to provide for confidentiality
25 and privilege protections.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. For purposes of this act, the following
2 terms have the following meanings:

3 (1) COUNCIL. The Hospital Discharge Data Advisory
4 Council established under Section 7.

5 (2) DEPARTMENT. The Alabama Department of Public
6 Health.

7 (3) DISCHARGE DATA. Data regarding a patient's
8 discharge as an inpatient or outpatient from a hospital, as
9 required on the UB-04 claim form, or any successor form, and
10 on other forms that include services provided for covered
11 inpatient and outpatient discharges.

12 (4) HOSPITAL. General acute care, critical access
13 and specialized hospitals, as well as any freestanding
14 emergency department that is separately licensed by the
15 department as a provider-based division of a hospital, as
16 defined by rules of the department and licensed pursuant to
17 Article 2 of Chapter 21 of Title 22, Code of Alabama 1975, and
18 that are located in this state.

19 Section 2. (a) The department, upon consultation and
20 approval of the council, shall establish and maintain
21 processes and systems necessary for the protection,
22 collection, and dissemination of discharge data. The
23 department's discharge data collection systems and processes
24 required by this act shall become operational on or before
25 January 1, 2022.

26 (b) Commencing April 1, 2022, and quarterly
27 thereafter, all hospitals shall submit to the department

1 discharge data containing discharge data pursuant to rules
2 adopted by the department.

3 (c) The initial report and each report thereafter
4 shall only be required to include inpatient and outpatient
5 discharge data for those individuals provided services during
6 the three months immediately preceding the date of the
7 discharge data. Any discharges prior to the date immediately
8 preceding the three months prior to the initial report shall
9 not be reported under this act.

10 (d) The department may contract for any services
11 needed to carry out the provisions of this act.

12 Section 3. The department, after consultation and
13 with the approval of the council, shall adopt all rules
14 necessary to implement this act.

15 Section 4. (a) All hospitals shall report inpatient
16 and outpatient discharge data pursuant to rules adopted by the
17 department, including rules defining inpatient and outpatient
18 discharges.

19 (b) After receiving the discharge data, the
20 department shall promptly make the discharge data available to
21 the Alabama Hospital Association, which shall use the data
22 strictly for its own internal purposes and for internal
23 purposes of its membership. The department shall not otherwise
24 distribute the discharge data other than what is determined to
25 be permissible pursuant to the rules adopted to administer
26 this act.

1 (c) No discharge data or other information shall be
2 made available to the public by the association or the
3 department that reasonably could be expected to reveal the
4 identity of any patient. The discharge data reported under
5 this act is confidential and shall not be available to the
6 public until the department processes and verifies that the
7 discharge data otherwise satisfies the requirements for public
8 disclosure under this act and applicable federal law.

9 (d) The department shall adopt rules regarding the
10 processed and verified data that is made available to the
11 public and for the release of limited data sets, which are
12 compliant with the federal Health Insurance Portability and
13 Accountability Act of 1996 (HIPAA), Public Law 104-191, its
14 amendments and implementing regulations.

15 Section 5. Individually identifiable patient
16 information on discharge data submitted under this act shall
17 not be public information. Reports and studies prepared and
18 released by the department based upon discharge data shall not
19 include information obtained from the discharge data in a form
20 which could be used to identify any patient.

21 Section 6. The department may conduct studies and
22 publish information based upon the discharge data obtained
23 pursuant to this act, provided the studies and published
24 information do not include information in a form which could
25 be used to identify any patient or violate HIPAA.

26 Section 7. (a) The Hospital Discharge Data Advisory
27 Council is established to assist in developing rules and

1 standards necessary to implement this act, to review and serve
2 as consultants to the department on matters related to any
3 reports, studies, or publications authorized under this act,
4 and to serve as consultants to the department on matters
5 relating to the protection, collection, and dissemination of
6 discharge data.

7 (b) The council shall consist of the following
8 members:

9 (1) Seven hospital representatives appointed by the
10 Alabama Hospital Association, including at least one
11 representative of each of the following: A rural hospital, an
12 urban hospital, a governmental hospital, a not-for-profit
13 hospital, a pediatric hospital, and a for-profit hospital.

14 (2) Two physicians appointed by the Medical
15 Association of the State of Alabama.

16 (3) One member appointed by Blue Cross Blue Shield
17 of Alabama.

18 (4) One consumer appointed by the Governor.

19 (5) The Commissioner of the Alabama Medicaid Agency,
20 or his or her designee.

21 (6) The Executive Director of the State Health
22 Planning and Development Agency, or his or her designee.

23 (c) The council members shall be appointed within 60
24 days of the effective date of this act, and shall meet within
25 30 days after the appointment of the council membership in
26 order to establish procedures and other policies necessary to
27 carry on the business of the council. A quorum for purposes of

1 conducting council business shall be seven of the appointed
2 members of the council. All meetings of the council shall be
3 announced in advance and conducted pursuant to the Open
4 Meetings Act, Chapter 25A, Title 36, Code of Alabama 1975. All
5 meetings shall require personal attendance of the members of
6 the council for purposes of determining whether a quorum is
7 present and conducting business.

8 (d) All appointing authorities shall coordinate
9 their appointments so that diversity of gender, race, and
10 geographical areas is reflective of the makeup of the state.

11 (e) The terms of the appointed members of the
12 council shall be staggered as follows: The State Health
13 Officer shall divide the members into two equal groups. The
14 members of the first group shall be appointed for an initial
15 term of two years. The members of the second group shall be
16 appointed for an initial term of four years. Thereafter, the
17 term of office of each member shall be for four years. A
18 member may serve two consecutive terms. A member shall serve
19 until a successor is appointed. If a vacancy occurs, the
20 original appointing authority shall fill the vacancy for the
21 remainder of the unexpired term.

22 (f) Members shall not receive a salary or per diem
23 allowance for serving as members of the council.

24 (g) The council may appoint a technical advisory
25 committee if desired. The technical advisory committee members
26 may or may not be members of the council.

1 (h) The State Health Officer, or his or her
2 designee, shall serve as chair of the council and as an ex
3 officio member, without vote, except if there is a tie vote of
4 the voting members of the council.

5 Section 8. (a) A hospital shall pay to the
6 department a civil penalty of five cents (\$.05) per patient
7 discharge record for each day the discharge data required to
8 be reported under this act is delinquent.

9 (b) A discharge data report is delinquent if the
10 department does not receive the report within 60 calendar days
11 after the end of the quarter for which the discharge data is
12 required to be reported.

13 (c) If the department receives a discharge data
14 report in incomplete form, the department shall notify the
15 hospital making the report and provide 15 additional calendar
16 days to correct the error and submit complete discharge data
17 as required under this act and the rules adopted by the
18 department to implement this act. If the hospital fails to
19 correct the error and submit complete discharge data within
20 the 15 additional calendar days, the incomplete discharge data
21 report shall be considered delinquent at the end of that
22 15-day period.

23 (d) The hospital has a right to an informal
24 conference with the department if the hospital requests a
25 conference within 30 calendar days of receipt of the civil
26 penalty assessment. After the informal conference or, if no
27 conference is requested, after the time for requesting the

1 informal conference has expired, the department may proceed to
2 collect any applicable civil penalty assessment.

3 (e) In its request for an informal conference, the
4 hospital may request the department to waive the civil penalty
5 assessment. The State Health Officer may waive the penalty in
6 cases of an act of God or other acts beyond the control of the
7 hospital or, at the discretion of the State Health Officer, or
8 other reasons reasonably related to compliance with this act.
9 Waiver of the penalty is in the sole discretion of the State
10 Health Officer.

11 (f) The imposition of a civil penalty under this
12 section may be appealed pursuant to the Alabama Administrative
13 Procedure Act. All civil penalties collected pursuant to this
14 section shall be remitted to the department and shall be
15 deposited in the General Fund, and shall not be earmarked for
16 the department. A hospital may not renew its license to
17 operate if the hospital has any unpaid civil penalties that
18 were levied more than 30 days before the hospital license
19 expiration date, except for any civil penalties that are
20 subject to appeal and except for penalties for which
21 arrangements for payment have been made which are satisfactory
22 to the department.

23 Section 9. (a) No person or entity may be held
24 liable in any civil action with respect to a report or
25 disclosure of discharge data made under this act, except under
26 the following circumstances:

1 (1) The person or entity has knowledge of the
2 falsity of the discharge data reported or disclosed.

3 (2) The discharge data is publicly disclosed in
4 violation of this act or federal law regarding confidentiality
5 of individually identifiable health information.

6 (3) The disclosure is made wantonly, arbitrarily,
7 capriciously, or through an abuse of discretion.

8 (b) Nothing in this section is intended to create a
9 new private cause of action in any court of this state.

10 Section 10. Individual patient data submitted by a
11 hospital pursuant to this act shall remain at all times
12 confidential and privileged from discovery. This act shall not
13 be construed to prohibit discovery of patient specific
14 information from original sources where the information is
15 otherwise non privileged and discoverable under applicable
16 law. This act does not expand or repeal any protections from
17 discovery, privilege, or confidentiality that exist by law,
18 rule, regulation, or decision by a court of final
19 jurisdiction, except for the protections afforded by this act.

20 Section 11. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.