

1 HB210
2 209252-5
3 By Representative Lee
4 RFD: Health
5 First Read: 02-FEB-21
6 PFD: 01/29/2021

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2 ENROLLED, An Act,

3 Relating to the Alabama Department of Public Health;
4 to require the department to collect from hospitals certain
5 patient discharge data and to compile, analyze, and make
6 available the data to the Alabama Hospital Association and
7 make certain data available to the public; to establish the
8 Hospital Discharge Data Advisory Council to advise the
9 department on rulemaking and provide for its membership; to
10 require the department to adopt rules; to provide for civil
11 penalties for violations; and to provide for confidentiality
12 and privilege protections.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 (1) COUNCIL. The Hospital Discharge Data Advisory
17 Council established under Section 7.

18 (2) DEPARTMENT. The Alabama Department of Public
19 Health.

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

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

8 Section 2. (a) The department, upon consultation and
9 approval of the council, shall establish and maintain
10 processes and systems necessary for the protection,
11 collection, and dissemination of discharge data. The
12 department's discharge data collection systems and processes
13 required by this act shall become operational on or before
14 January 1, 2022.

15 (b) Commencing April 1, 2022, and quarterly
16 thereafter, all hospitals shall submit to the department
17 discharge data containing discharge data pursuant to rules
18 adopted by the department.

19 (c) The initial report and each report thereafter
20 shall only be required to include inpatient and outpatient
21 discharge data for those individuals provided services during
22 the three months immediately preceding the date of the
23 discharge data. Any discharges prior to the date immediately
24 preceding the three months prior to the initial report shall
25 not be reported under this act.

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

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

6 Section 4. (a) All hospitals shall report inpatient
7 and outpatient discharge data pursuant to rules adopted by the
8 department, including rules defining inpatient and outpatient
9 discharges.

10 (b) After receiving the discharge data, the
11 department shall promptly make the discharge data available to
12 the Alabama Hospital Association, which shall use the data
13 strictly for its own internal purposes and for internal
14 purposes of its membership. The department shall not otherwise
15 distribute the discharge data other than what is determined to
16 be permissible pursuant to the rules adopted to administer
17 this act.

18 (c) No discharge data or other information shall be
19 made available to the public by the association or the
20 department that reasonably could be expected to reveal the
21 identity of any patient. The discharge data reported under
22 this act is confidential and shall not be available to the
23 public until the department processes and verifies that the
24 discharge data otherwise satisfies the requirements for public
25 disclosure under this act and applicable federal law.

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

7 Section 5. Individually identifiable patient
8 information on discharge data submitted under this act shall
9 not be public information. Reports and studies prepared and
10 released by the department based upon discharge data shall not
11 include information obtained from the discharge data in a form
12 which could be used to identify any patient.

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

18 Section 7. (a) The Hospital Discharge Data Advisory
19 Council is established to assist in developing rules and
20 standards necessary to implement this act, to review and serve
21 as consultants to the department on matters related to any
22 reports, studies, or publications authorized under this act,
23 and to serve as consultants to the department on matters
24 relating to the protection, collection, and dissemination of
25 discharge data.

1 (b) The council shall consist of the following
2 members:

3 (1) Seven hospital representatives appointed by the
4 Alabama Hospital Association, including at least one
5 representative of each of the following: A rural hospital, an
6 urban hospital, a governmental hospital, a not-for-profit
7 hospital, a pediatric hospital, and a for-profit hospital.

8 (2) Two physicians appointed by the Medical
9 Association of the State of Alabama.

10 (3) One member appointed by Blue Cross Blue Shield
11 of Alabama.

12 (4) One consumer appointed by the Governor.

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

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

17 (c) The council members shall be appointed within 60
18 days of the effective date of this act, and shall meet within
19 30 days after the appointment of the council membership in
20 order to establish procedures and other policies necessary to
21 carry on the business of the council. A quorum for purposes of
22 conducting council business shall be seven of the appointed
23 members of the council. All meetings of the council shall be
24 announced in advance and conducted pursuant to the Open
25 Meetings Act, Chapter 25A, Title 36, Code of Alabama 1975. All

1 meetings shall require personal attendance of the members of
2 the council for purposes of determining whether a quorum is
3 present and conducting business.

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

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

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

20 (g) The council may appoint a technical advisory
21 committee if desired. The technical advisory committee members
22 may or may not be members of the council.

23 (h) The State Health Officer, or his or her
24 designee, shall serve as chair of the council and as an ex

1 officio member, without vote, except if there is a tie vote of
2 the voting members of the council.

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

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

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

21 (d) The maximum civil penalty for a delinquent
22 report is ten dollars (\$10) for each patient discharge record.
23 The department shall issue an assessment of the civil penalty
24 to any hospital that has a pending delinquent report.

1 (e) The hospital has a right to an informal
2 conference with the department if the hospital requests a
3 conference within 30 calendar days of receipt of the civil
4 penalty assessment. After the informal conference or, if no
5 conference is requested, after the time for requesting the
6 informal conference has expired, the department may proceed to
7 collect any applicable civil penalty assessment.

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

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

1 arrangements for payment have been made which are satisfactory
2 to the department.

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

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

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

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

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

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

1 Section 11. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.

