

1 HB388
2 205584-2
3 By Representatives Lee and Lovvorn
4 RFD: Health
5 First Read: 05-MAR-20

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8 SYNOPSIS: Under existing law, the Department of Public
9 Health licenses and regulates certain health care
10 facilities. The department also accumulates and
11 disseminates statistical health information on
12 births, deaths, and cancer cases in this state.
13 Existing law does not provide for the comprehensive
14 statewide collection of hospital discharge data by
15 the department.

16 This bill would provide for the statewide
17 reporting and collection of hospital discharge data
18 by the Department of Public Health. The department
19 would be required to adopt rules for the
20 protection, collection, and dissemination of the
21 hospital discharge data and would be authorized to
22 release limited data sets which are compliant with
23 federal and state law. The bill would also
24 establish a council to advise the department on
25 rules necessary to carry out the act and provide
26 for confidentiality and privilege protection for
27 patient information provided pursuant to the act.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT

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6 Relating to the Department of Public Health; to
7 provide for the mandatory reporting and collection of hospital
8 discharge data; to designate the Department of Public Health
9 as the state agency to collect, compile, and analyze hospital
10 discharge data; to provide for the availability of hospital
11 discharge data from the department; to authorize the
12 department to adopt rules to implement this act; to establish
13 the Hospital Discharge Data Advisory Council to advise the
14 department on the adoption of rules; to provide for civil
15 penalties; to require the submission of inpatient and
16 outpatient discharge data by hospitals, which data will be
17 protected from public disclosure; to authorize the department
18 to release to the public limited data sets compliant with the
19 federal Health Insurance Portability and Accountability Act of
20 1996 that have been processed and verified according to rules
21 as adopted pursuant to this act; and to provide
22 confidentiality and privilege protections for patient
23 identifying information submitted in compliance with this act.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. For purposes of this Act, the following
26 words have the following meanings:

1 (1) COUNCIL. The Hospital Discharge Data Advisory
2 Council established in Section 7 of this act.

3 (2) DEPARTMENT. The Department of Public Health.

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

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

16 Section 2. (a) The department, upon consultation and
17 approval of the council, shall establish and maintain
18 processes and systems necessary for the protection,
19 collection, and dissemination of discharge data. The
20 department's discharge data collection systems and processes
21 required by this act shall be operational on or before January
22 1, 2021.

23 (b) All hospitals shall submit discharge data
24 pursuant to rules adopted by the department beginning on April
25 1, 2021, and shall submit discharge data quarterly thereafter.

26 (c) The initial report and each quarterly report
27 thereafter shall only be required to include inpatient and

1 outpatient discharge data for those persons provided services
2 during the three months immediately preceding the date of the
3 report. Any discharges prior to the date immediately preceding
4 the three months prior to the initial report shall not be
5 required to be reported under this act.

6 (d) The department may contract for any services
7 needed to carry out this act.

8 Section 3. The department, after consultation and
9 with the approval of the council, may adopt all rules
10 necessary to implement this act.

11 Section 4. All hospitals shall report inpatient and
12 outpatient discharge data pursuant to rules adopted by the
13 department including rules defining inpatient and outpatient
14 discharges.

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

23 (b) No discharge data or other information shall be
24 made available to the public by the association or the
25 department that reasonably could be expected to reveal the
26 identity of any patient. The discharge data reported under
27 this act is confidential and shall not be available to the

1 public until the department processes and verifies that the
2 discharge data otherwise satisfies the requirements for public
3 disclosure under this act and applicable federal law.

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

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

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

21 Section 7. (a) There is established the Hospital
22 Discharge Data Advisory Council to assist in developing rules
23 and standards necessary to implement this act, to review and
24 serve as consultants to the department on matters related to
25 any reports or publications required under the act, and to
26 serve as consultant to the department on matters relating to

1 the protection, collection, and dissemination of discharge
2 data.

3 (b) The council shall consist of all of the
4 following members:

5 (1) Seven hospital representatives appointed by the
6 Alabama Hospital Association, including at least one
7 representative of a rural hospital, one representative of an
8 urban hospital, one representative of a governmental hospital,
9 one representative of a not-for-profit hospital, one
10 representative of a pediatric hospital, and one representative
11 of a for-profit hospital.

12 (2) Two physician members appointed by the Medical
13 Association of the State of Alabama.

14 (3) One member appointed by Blue Cross Blue Shield
15 of Alabama.

16 (4) One consumer member appointed by the Governor.

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

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

1 Alabama 1975. All meetings shall require personal attendance
2 of the members of the council for purposes of determining
3 whether a quorum is present and conducting business.

4 (d) The membership of the council shall be
5 representative of the geographic, gender, and racial diversity
6 of the State of Alabama.

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) The members of the council shall not receive a
19 salary or per diem allowance for serving as members of the
20 council.

21 (g) The council may appoint a technical advisory
22 committee if desired. The technical advisory committee members
23 are not required to be members of the council.

24 (h) The State Health Officer or his or her designee
25 shall serve as Chair of the Council as an ex officio member,
26 without a vote, except if there is a tie vote of the voting
27 members of the council.

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

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

9 (b) If the department receives a discharge data
10 report in incomplete form, the department shall notify the
11 hospital making the report and provide 15 additional calendar
12 days to correct the error and submit complete discharge data
13 as required under this act and the rules adopted by the
14 department to implement this act. The notice shall provide the
15 hospital making the report an additional 15 calendar days to
16 complete the form and return it to the department prior to the
17 imposition of any civil penalty.

18 (c) The maximum civil penalty for a delinquent
19 report is ten dollars (\$10) for each patient discharge record.
20 The department shall issue an assessment of the civil penalty
21 to any hospital which has a pending delinquent report.

22 (d) The hospital has a right to an informal
23 conference with the department, if the hospital requests a
24 conference within 30 calendar days of receipt of the civil
25 penalty assessment. After the informal conference or, if no
26 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,
8 for other reasons reasonably related to compliance with this
9 act. Waiver of the penalty is in the sole discretion of the
10 State 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 money penalties imposed pursuant to this
14 section shall be remitted to the department, shall be
15 deposited in the State General Fund, and shall not be
16 earmarked for the department. No hospital may renew its
17 license to operate if it has any unpaid civil money penalties
18 which were imposed more than 30 days prior to the facility's
19 license expiration date, except for any penalties imposed
20 which are subject to appeal and except for penalties for which
21 arrangements for payment have been made that are satisfactory
22 to the department.

23 Section 9. No person or entity may be held liable in
24 any civil action with respect to any report or disclosure of
25 discharge data made under this act, unless the person or
26 entity has knowledge of the falsity of the discharge data
27 reported or disclosed or unless the discharge data is publicly

1 disclosed in violation of this act or federal law regarding
2 confidentiality of individually identifiable health
3 information. Nothing in this act is intended to create a new
4 private cause of action in any court of this state.

5 Section 10. Individual patient data submitted
6 pursuant to this act by hospitals shall at all times remain
7 confidential and privileged from discovery. This act does not
8 expand or repeal any protections from discovery, privilege, or
9 confidentiality for patient specific information that exist by
10 statute, regulation, or decision by a court of final
11 jurisdiction, except for the protections afforded by this act.

12 Section 11. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.