

CHAPTER 299

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 10-1330

BY REPRESENTATIVE(S) Kefalas and Kagan, Apuan, Court, Fischer, Gagliardi, Levy, Miklosi, Pace, Primavera, Rice, Riesberg, Solano, Tyler, Vigil, Casso, Curry, Frangas, Gerou, Labuda, Massey, Pommer, Roberts, McFadyen, Peniston, Priola, Schafer S., Todd, Carroll T.;
also SENATOR(S) Morse, Bacon, Boyd, Foster, Heath, Newell, Shaffer B., Steadman, Tapia, Tochtrop, Williams.

AN ACT

CONCERNING THE CREATION OF AN ADVISORY COMMITTEE TO MAKE RECOMMENDATIONS REGARDING THE CREATION OF A COLORADO ALL-PAYER HEALTH CLAIMS DATABASE FOR THE PURPOSE OF TRANSPARENT PUBLIC REPORTING OF HEALTH CARE INFORMATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 2 of article 1 of title 25.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25.5-1-204. Advisory committee to establish an all-payer health claims database - creation - members - duties - creation of all-payer health claims database - rules - repeal. (1) (a) WITHIN FORTY-FIVE BUSINESS DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL APPOINT AN ADVISORY COMMITTEE TO MAKE RECOMMENDATIONS REGARDING THE CREATION OF THE FRAMEWORK AND IMPLEMENTATION PLAN FOR A COLORADO ALL-PAYER CLAIMS DATABASE FOR THE PURPOSE OF FACILITATING THE REPORTING OF HEALTH CARE AND HEALTH QUALITY DATA THAT RESULTS IN TRANSPARENT AND PUBLIC REPORTING OF SAFETY, QUALITY, COST, AND EFFICIENCY INFORMATION AT ALL LEVELS OF HEALTH CARE. THE EXECUTIVE DIRECTOR SHALL APPOINT AN ADMINISTRATOR OF THE DATABASE.

(b) THE EXECUTIVE DIRECTOR SHALL APPOINT THE MEMBERS OF THE ADVISORY COMMITTEE, CONSISTING OF THE FOLLOWING MEMBERS:

(I) A MEMBER OF ACADEMIA WITH EXPERIENCE IN HEALTH CARE DATA AND COST EFFICIENCY RESEARCH;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) A REPRESENTATIVE OF A STATEWIDE ASSOCIATION OF HOSPITALS;

(III) A REPRESENTATIVE OF AN INTEGRATED MULTI-SPECIALTY ORGANIZATION;

(IV) A REPRESENTATIVE OF PHYSICIANS AND SURGEONS;

(V) A REPRESENTATIVE OF SMALL EMPLOYERS THAT PURCHASE GROUP HEALTH INSURANCE FOR EMPLOYEES, WHICH REPRESENTATIVE IS NOT A SUPPLIER OR BROKER OF HEALTH INSURANCE;

(VI) A REPRESENTATIVE OF LARGE EMPLOYERS THAT PURCHASE HEALTH INSURANCE FOR EMPLOYEES, WHICH REPRESENTATIVE IS NOT A SUPPLIER OR BROKER OF HEALTH INSURANCE;

(VII) A REPRESENTATIVE OF SELF-INSURED EMPLOYERS, WHICH REPRESENTATIVE IS NOT A SUPPLIER OR BROKER OF HEALTH INSURANCE;

(VIII) A REPRESENTATIVE OF AN ORGANIZATION THAT PROCESSES INSURANCE CLAIMS OR CERTAIN ASPECTS OF EMPLOYEE BENEFIT PLANS FOR A SEPARATE ENTITY;

(IX) A REPRESENTATIVE OF A NONPROFIT ORGANIZATION THAT DEMONSTRATES EXPERIENCE WORKING WITH EMPLOYERS TO ENHANCE VALUE AND AFFORDABILITY IN HEALTH INSURANCE;

(X) A PERSON WITH A DEMONSTRATED RECORD OF ADVOCATING HEALTH CARE PRIVACY ISSUES ON BEHALF OF CONSUMERS;

(XI) A PERSON WITH A DEMONSTRATED RECORD OF ADVOCATING HEALTH CARE ISSUES ON BEHALF OF CONSUMERS;

(XII) TWO REPRESENTATIVES OF HEALTH INSURERS, ONE WHO REPRESENTS NONPROFIT INSURERS AND ONE WHO REPRESENTS FOR-PROFIT INSURERS;

(XIII) A REPRESENTATIVE OF DENTAL INSURERS;

(XIV) A REPRESENTATIVE FROM A COMMUNITY MENTAL HEALTH CENTER THAT HAS EXPERIENCE IN BEHAVIORAL HEALTH DATA COLLECTION;

(XV) A REPRESENTATIVE OF PHARMACISTS OR AN AFFILIATE SOCIETY;

(XVI) A REPRESENTATIVE OF PHARMACY BENEFIT MANAGERS; AND

(XVII) TWO REPRESENTATIVES OF NONPROFIT ORGANIZATIONS THAT FACILITATE HEALTH INFORMATION EXCHANGE TO IMPROVE HEALTH CARE FOR ALL COLORADANS.

(c) THE FOLLOWING PERSONS SHALL SERVE AS EX OFFICIO MEMBERS OF THE ADVISORY COMMITTEE:

(I) THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE;

(II) A REPRESENTATIVE OF THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION;

(III) THE COMMISSIONER OF INSURANCE OR HIS OR HER DESIGNEE;

(IV) THE DIRECTOR OF THE OFFICE OF INFORMATION TECHNOLOGY OR HIS OR HER DESIGNEE; AND

(V) TWO MEMBERS OF THE GENERAL ASSEMBLY, ONE FROM THE MAJORITY PARTY AND ONE FROM THE MINORITY PARTY.

(d) WHEN MAKING APPOINTMENTS TO THE ADVISORY COMMITTEE, THE EXECUTIVE DIRECTOR SHALL INCLUDE AT LEAST TWO MEMBERS WHO RESIDE IN A RURAL COMMUNITY WITH A POPULATION OF LESS THAN FIFTY THOUSAND OR WHO REPRESENT RURAL INTERESTS.

(e) (I) THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 2013.

(II) PRIOR TO THE REPEAL OF THIS SUBSECTION (1), THE ADVISORY COMMITTEE SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

(2) THE ADVISORY COMMITTEE SHALL MAKE RECOMMENDATIONS TO THE ADMINISTRATOR REGARDING THE DATABASE THAT:

(a) INCLUDE SPECIFIC STRATEGIES TO MEASURE AND COLLECT DATA RELATED TO HEALTH CARE SAFETY AND QUALITY, UTILIZATION, HEALTH OUTCOMES, AND COST;

(b) FOCUS ON DATA ELEMENTS THAT FOSTER QUALITY IMPROVEMENT AND PEER GROUP COMPARISONS;

(c) FACILITATE VALUE-BASED, COST-EFFECTIVE PURCHASING OF HEALTH CARE SERVICES BY PUBLIC AND PRIVATE PURCHASERS AND CONSUMERS;

(d) RESULT IN USABLE AND COMPARABLE INFORMATION THAT ALLOWS PUBLIC AND PRIVATE HEALTH CARE PURCHASERS, CONSUMERS, AND DATA ANALYSTS TO IDENTIFY AND COMPARE HEALTH PLANS, HEALTH INSURERS, HEALTH CARE FACILITIES, AND HEALTH CARE PROVIDERS REGARDING THE PROVISION OF SAFE, COST-EFFECTIVE, HIGH-QUALITY HEALTH CARE SERVICES;

(e) USE AND BUILD UPON EXISTING DATA COLLECTION STANDARDS AND METHODS TO ESTABLISH AND MAINTAIN THE DATABASE IN A COST-EFFECTIVE AND EFFICIENT MANNER;

(f) ARE DESIGNED TO MEASURE THE FOLLOWING PERFORMANCE DOMAINS: SAFETY, TIMELINESS, EFFECTIVENESS, EFFICIENCY, EQUITY, AND PATIENT-CENTEREDNESS;

(g) INCORPORATE AND UTILIZE CLAIMS, ELIGIBILITY, AND OTHER PUBLICLY AVAILABLE DATA TO THE EXTENT IT IS THE MOST COST-EFFECTIVE METHOD OF COLLECTING DATA TO MINIMIZE THE COST AND ADMINISTRATIVE BURDEN ON DATA SOURCES;

(h) INCLUDE RECOMMENDATIONS ABOUT WHETHER TO INCLUDE DATA ON THE UNINSURED;

(i) DISCUSS THE HARMONIZATION OF A COLORADO DATABASE WITH OTHER STATES', REGIONS', AND FEDERAL EFFORTS CONCERNING ALL-PAYER CLAIMS DATABASES;

(j) DISCUSS THE HARMONIZATION OF A COLORADO DATABASE WITH FEDERAL LEGISLATION CONCERNING AN ALL-PAYER CLAIMS DATABASE;

(k) DISCUSS A LIMIT ON THE NUMBER OF TIMES THE ADMINISTRATOR MAY REQUIRE SUBMISSION OF THE REQUIRED DATA ELEMENTS;

(l) DISCUSS A LIMIT ON THE NUMBER OF TIMES THE ADMINISTRATOR MAY CHANGE THE REQUIRED DATA ELEMENTS FOR SUBMISSION IN A CALENDAR YEAR CONSIDERING ADMINISTRATIVE COSTS, RESOURCES, AND TIME REQUIRED TO FULFILL THE REQUESTS; AND

(m) DISCUSS COMPLIANCE WITH THE "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB. L. 104-191, AS AMENDED, AND OTHER PROPRIETARY INFORMATION RELATED TO COLLECTION AND RELEASE OF DATA.

(3) THE ADVISORY COMMITTEE SHALL MAKE RECOMMENDATIONS TO THE EXECUTIVE DIRECTOR TO DETERMINE HOW THE ONGOING OVERSIGHT OF THE OPERATIONS OF THE ALL-PAYER HEALTH CLAIMS DATABASE SHOULD FUNCTION, INCLUDING WHERE THE DATABASE SHOULD BE HOUSED.

(4) THE ADMINISTRATOR SHALL SEEK FUNDING FOR THE CREATION OF THE ALL-PAYER HEALTH CLAIMS DATABASE AND DEVELOP A PLAN FOR THE FINANCIAL STABILITY OF THE DATABASE. ON OR BEFORE MARCH 1, 2011, THE ADMINISTRATOR SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON THE STATUS OF THE FUNDING EFFORT AND ON THE STATUS OF THE RECOMMENDATIONS OF THE ADVISORY COMMITTEE. THE REPORT SHALL INCLUDE THE FINAL DATA ELEMENTS RECOMMENDED BY THE ADVISORY COMMITTEE, THE FINAL PROVISIONS CONTEMPLATED TO COMPLY WITH THE "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED, AND ANY OTHER FINAL RECOMMENDATIONS THAT ARE READY AT THE TIME OF THE REPORT. IF SUFFICIENT FUNDING IS RECEIVED THROUGH GIFTS, GRANTS, AND DONATIONS ON OR BEFORE JANUARY 1, 2012, AS DETERMINED BY THE EXECUTIVE DIRECTOR, THE ADMINISTRATOR SHALL, IN CONSULTATION WITH THE ADVISORY COMMITTEE, CREATE THE COLORADO ALL-PAYER CLAIMS DATABASE. THE COLORADO ALL-PAYER CLAIMS DATABASE SHALL BE OPERATIONAL NO LATER THAN JANUARY 1, 2013.

(5) IF SUFFICIENT FUNDING IS RECEIVED, THE EXECUTIVE DIRECTOR SHALL DIRECT THE ADMINISTRATOR TO CREATE THE DATABASE AND THE ADMINISTRATOR SHALL:

(a) DETERMINE THE DATA TO BE COLLECTED FROM PAYERS AND THE METHOD OF COLLECTION, INCLUDING MANDATORY AND VOLUNTARY REPORTING OF HEALTH CARE AND HEALTH QUALITY DATA. IF THE ADMINISTRATOR REQUIRES MANDATORY REPORTING, COVERCOLORADO, CREATED IN PART 5 OF ARTICLE 8 OF TITLE 10,

C.R.S., SHALL BE INCLUDED IN THE MANDATORY REPORTING REQUIREMENTS.

(b) SEEK TO ESTABLISH AGREEMENTS FOR VOLUNTARY REPORTING OF HEALTH CARE CLAIMS DATA FROM HEALTH CARE PAYERS THAT ARE NOT SUBJECT TO MANDATORY REPORTING REQUIREMENTS IN ORDER TO ENSURE AVAILABILITY OF THE MOST COMPREHENSIVE AND SYSTEMWIDE DATA ON HEALTH CARE COSTS AND QUALITY;

(c) SEEK TO ESTABLISH AGREEMENTS OR REQUESTS WITH THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES TO OBTAIN MEDICARE HEALTH CLAIMS DATA;

(d) DETERMINE THE MEASURES NECESSARY TO IMPLEMENT THE REPORTING REQUIREMENTS IN A MANNER THAT IS COST-EFFECTIVE AND REASONABLE FOR DATA SOURCES AND TIMELY, RELEVANT, AND RELIABLE FOR CONSUMERS, PUBLIC AND PRIVATE PURCHASERS, PROVIDERS, AND POLICYMAKERS;

(e) DETERMINE THE REPORTS AND DATA TO BE MADE AVAILABLE TO THE PUBLIC WITH RECOMMENDATIONS FROM THE ADVISORY COMMITTEE IN ORDER TO ACCOMPLISH THE PURPOSES OF THIS SECTION, INCLUDING CONDUCTING STUDIES AND REPORTING THE RESULTS OF THE STUDIES;

(f) COLLECT, AGGREGATE, DISTRIBUTE, AND PUBLICLY REPORT PERFORMANCE DATA ON QUALITY, HEALTH OUTCOMES, HEALTH DISPARITIES, COST, UTILIZATION, AND PRICING IN A MANNER ACCESSIBLE FOR CONSUMERS, PUBLIC AND PRIVATE PURCHASERS, PROVIDERS, AND POLICYMAKERS;

(g) PROTECT PATIENT PRIVACY IN COMPLIANCE WITH STATE AND FEDERAL MEDICAL PRIVACY LAWS WHILE PRESERVING THE ABILITY TO ANALYZE DATA AND SHARE WITH PROVIDERS AND PAYERS TO ENSURE ACCURACY PRIOR TO THE PUBLIC RELEASE OF INFORMATION;

(h) REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON OR BEFORE MARCH 1 OF EACH YEAR ON THE STATUS OF IMPLEMENTING THE DATABASE AND ANY RECOMMENDATIONS FOR STATUTORY OR REGULATORY CHANGES, WITH INPUT FROM THE ADVISORY COMMITTEE OR ITS SUCCESSOR GOVERNANCE ENTITY, THAT WOULD ADVANCE THE PURPOSES OF THIS SECTION;

(i) PROVIDE LEADERSHIP AND COORDINATION OF PUBLIC AND PRIVATE HEALTH CARE QUALITY AND PERFORMANCE MEASUREMENTS TO ENSURE EFFICIENCY, COST-EFFECTIVENESS, TRANSPARENCY, AND INFORMED CHOICE BY CONSUMERS AND PUBLIC AND PRIVATE PURCHASERS.

(6) THE ADMINISTRATOR, WITH INPUT FROM THE ADVISORY COMMITTEE:

(a) SHALL INCORPORATE AND UTILIZE PUBLICLY AVAILABLE DATA OTHER THAN ADMINISTRATIVE CLAIMS DATA IF NECESSARY TO MEASURE AND ANALYZE A SIGNIFICANT HEALTH CARE QUALITY, SAFETY, OR COST ISSUE THAT CANNOT BE ADEQUATELY MEASURED WITH ADMINISTRATIVE CLAIMS DATA ALONE;

(b) SHALL REQUIRE PAYER DATA SOURCES TO SUBMIT DATA NECESSARY TO

IMPLEMENT THE ALL-PAYER CLAIMS DATABASE;

(c) SHALL DETERMINE THE DATA ELEMENTS TO BE COLLECTED, THE REPORTING FORMATS FOR DATA SUBMITTED, AND THE USE AND REPORTING OF ANY DATA SUBMITTED. DATA COLLECTION SHALL ALIGN WITH NATIONAL, REGIONAL, AND OTHER UNIFORM ALL-PAYER CLAIMS DATABASES' STANDARDS WHERE POSSIBLE.

(d) MAY AUDIT THE ACCURACY OF ALL DATA SUBMITTED;

(e) MAY CONTRACT WITH THIRD PARTIES TO COLLECT AND PROCESS THE HEALTH CARE DATA COLLECTED PURSUANT TO THIS SECTION. THE CONTRACT SHALL PROHIBIT THE COLLECTION OF UNENCRYPTED SOCIAL SECURITY NUMBERS AND THE USE OF THE DATA FOR ANY PURPOSE OTHER THAN THOSE SPECIFICALLY AUTHORIZED BY THE CONTRACT. THE CONTRACT SHALL REQUIRE THE THIRD PARTY TO TRANSMIT THE DATA COLLECTED AND PROCESSED UNDER THE CONTRACT TO THE ADMINISTRATOR OR OTHER DESIGNATED ENTITY.

(f) MAY SHARE DATA REGIONALLY OR HELP DEVELOP A MULTI-STATE EFFORT IF RECOMMENDED BY THE ADVISORY COMMITTEE.

(7) THE ALL-PAYER HEALTH CLAIMS DATABASE SHALL:

(a) BE AVAILABLE TO THE PUBLIC WHEN DISCLOSED IN A FORM AND MANNER THAT ENSURES THE PRIVACY AND SECURITY OF PERSONAL HEALTH INFORMATION AS REQUIRED BY STATE AND FEDERAL LAW, AS A RESOURCE TO INSURERS, CONSUMERS, EMPLOYERS, PROVIDERS, PURCHASERS OF HEALTH CARE, AND STATE AGENCIES TO ALLOW FOR CONTINUOUS REVIEW OF HEALTH CARE UTILIZATION, EXPENDITURES, AND QUALITY AND SAFETY PERFORMANCE IN COLORADO;

(b) BE AVAILABLE TO STATE AGENCIES AND PRIVATE ENTITIES IN COLORADO ENGAGED IN EFFORTS TO IMPROVE HEALTH CARE, SUBJECT TO RULES PROMULGATED BY THE EXECUTIVE DIRECTOR;

(c) BE PRESENTED TO ALLOW FOR COMPARISONS OF GEOGRAPHIC, DEMOGRAPHIC, AND ECONOMIC FACTORS AND INSTITUTIONAL SIZE;

(d) PRESENT DATA IN A CONSUMER-FRIENDLY MANNER.

(8) THE COLLECTION, STORAGE, AND RELEASE OF HEALTH CARE DATA AND OTHER INFORMATION PURSUANT TO THIS SECTION IS SUBJECT TO THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED.

(9) THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES AS NECESSARY TO IMPLEMENT THIS SECTION, WHICH RULES SHALL INCLUDE THE ASSESSMENT OF A FINE FOR A PAYER REQUIRED TO SUBMIT DATA THAT DOES NOT COMPLY WITH THIS SECTION. ANY FINES COLLECTED SHALL BE DEPOSITED IN THE ALL-PAYER HEALTH CLAIMS DATABASE CASH FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. THE MONEYS IN THE FUND SHALL BE APPROPRIATED TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR THE PURPOSE OF MAINTAINING THE ALL-PAYER HEALTH CLAIMS DATABASE. THE MONEYS IN THE FUND SHALL REMAIN IN THE FUND

AND NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR.

(10) THIS SECTION IS REPEALED, JANUARY 1, 2012, UNLESS THE EXECUTIVE DIRECTOR NOTIFIES THE REVISOR OF STATUTES ON OR BEFORE SUCH DATE THAT SUFFICIENT FUNDING TO CREATE THE DATABASE, AS DETERMINED BY THE EXECUTIVE DIRECTOR, ADVISORY COMMITTEE, AND ADMINISTRATOR, HAS BEEN RECEIVED THROUGH GIFTS, GRANTS, AND DONATIONS.

(11) IF AT ANY TIME, THERE IS NOT SUFFICIENT FUNDING TO FINANCE THE ONGOING OPERATIONS OF THE DATABASE, THE DATABASE SHALL CEASE OPERATING AND THE ADVISORY COMMITTEE AND ADMINISTRATOR SHALL NO LONGER HAVE THE DUTY TO CARRY OUT THE FUNCTIONS REQUIRED PURSUANT TO THIS SECTION. IF THE DATABASE CEASES TO OPERATE, THE DATA SUBMITTED SHALL BE DESTROYED OR RETURNED TO ITS ORIGINAL SOURCE.

SECTION 2. 2-3-1203 (3) (z), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(z) July 1, 2013:

(VII) THE ADVISORY COMMITTEE TO ESTABLISH AN ALL-PAYER HEALTH CLAIMS DATABASE CREATED IN SECTION 25.5-1-204 (1), C.R.S.

SECTION 3. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 26, 2010