

RS 40:1173.1

SUBPART C. LOUISIANA HEALTH CARE CONSUMERS' RIGHT TO KNOW

§1173.1. Findings; legislative intent

A. The legislature hereby finds all of the following:

(1) As a result of rising healthcare costs, the shortage of health professionals and healthcare services in many areas of the state, and the concerns expressed by consumers, healthcare providers, third-party payers, and others involved with making informed decisions regarding healthcare services, treatment, and coverage, there is a need to have access to provider specific healthcare cost, quality, and outcome data on healthcare facilities, healthcare providers, and health plans as well as continued access to global patterns and trends in the availability, use, and charges for healthcare services and the associated health circumstances.

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

B. It is the intent of the legislature to improve transparency in prices and care quality measures by providing for the creation and maintenance of a useful and comprehensive health service information database that can be publicly accessed in a manner that ensures protection of individuals' confidential health information and respects providers of care.

Acts 1997, No. 622, §1, eff. July 3, 1997; Acts 2007, No. 410, §1; Acts 2008, No. 537, §1, eff. June 30, 2008; Acts 2014, No. 790, §1; Redesignated from R.S. 40:1300.111 by HCR 84 of 2015 R.S.; Acts 2015, No. 338, §1.

RS 40:1173.2

§1173.2. Definitions

As used in this Subpart, the following terms have the meaning ascribed to them in this Section:

- (1) "Confidential information" means at least one of the following:
 - (a) Patient level data elements that could be used alone or in combination with other available data elements to identify a patient.
 - (b) Information requested that the department determines will be utilized for business or commercial purposes, including but not limited to market analysis and software development.
 - (c) Protected health information as defined in the HIPAA Privacy Rule, 45 CFR Part 164, and R.S. 29:762.
- (2) "Department" means the Department of Health and Hospitals.
- (3) "HIPAA" means the Health Insurance Portability and Accountability Act, Pub. L. 104-191.
- (4) "Secretary" means the secretary of the Department of Health and Hospitals.

Acts 1997, No. 622, §1, eff. July 3, 1997; Acts 2007, No. 410, §1; Acts 2008, No. 537, §1, eff. June 30, 2008; Acts 2014, No. 790, §1; Redesignated from R.S. 40:1300.112 by HCR 84 of 2015 R.S.

RS 40:1173.3

§1173.3. Data collection; powers and duties of the Department of Health and Hospitals

The department, through the office of public health and in consultation with the Health Data Panel, shall:

(1) Identify and define the healthcare cost, quality, and performance data elements to be reported to the department in accordance with existing national and international data standards for facilitating meaningful comparison by consumers of costs for specific healthcare services and specific quality of care measures between and among medical facilities, healthcare providers, and health plans. Such data elements shall include, without limitation, the items specified in Paragraph (9) of this Subsection.

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

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

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

(5) Ensure confidentiality of patients by enforcing appropriate rules and regulations at least as stringent as those regulations applicable to covered entities promulgated under HIPAA privacy regulations, 45 CFR Part 164.

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

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

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

(9)(a) Provide the process for Internet publication of provider and health plan specific cost, quality, and performance data collected pursuant to this Subpart for access and use by a consumer or requesting entity. At minimum, this data shall include all of the following items:

(i) Healthcare quality information that is easily understandable by the average consumer and is published in a format that allows the user to compare such information across providers to the extent practicable.

(ii) Data related to payments for health services rendered by healthcare facilities and practitioners published in an interactive format from which the user can generate reports of such data.

(iii) Data identifying at least fifteen of the most commonly used diagnosis codes, at least fifteen of the most commonly used procedure codes, and any emerging health trends for diagnosis and treatment related to hospitalization. The department shall publish this data in a format that facilitates comparison of the data from hospitals and other licensed health facilities of this state to similar data for medical care rendered in other states, to the extent that such data is available.

(iv) A list of the hospitals and other licensed health facilities that are in compliance with the reporting requirements promulgated by the department, and

a list of the hospitals and other licensed health facilities that are not in compliance with such requirements.

(9b) The department shall update the information provided for in this Paragraph at least annually.

Acts 1997, No. 622, §1, eff. July 3, 1997; Acts 2008, No. 537, §1, eff. June 30, 2008; Acts 2014, No. 790, §1; Redesignated from R.S. 40:1300.113 by HCR 84 of 2015 R.S.; Acts 2015, No. 338, §§1, 2.

RS 40:1173.4

§1173.4. Health Data Panel; advisory council to the secretary of the Department of Health and Hospitals

A. The department shall create the Health Data Panel. The purpose of the Health Data Panel shall be to make recommendations to the secretary for the implementation of the requirements of this Subpart.

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

C. The Health Data Panel shall consider the provisions set forth in R.S. 40:1173.3.

D. The secretary or his designee shall serve as the chairman of the meetings of the Health Data Panel. The secretary shall convene meetings of the Health Data Panel on an annual basis and as needed to fulfill the provisions of this Subpart. The secretary may use the recommendations of the Health Data Panel to fulfill the responsibilities of the department as set forth in this Subpart.

E. Members of the Health Data Panel shall serve without compensation.

Acts 2008, No. 537, §1, eff. June 30, 2008; Acts 2014, No. 790, §1; Redesignated from R.S. 40:1300.114 by HCR 84 of 2015 R.S.

RS 40:1173.5

§1173.5. Release of information

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

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

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

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

Acts 2014, No. 790, §1; Redesignated from R.S. 40:1300.115 by HCR 84 of 2015 R.S.

RS 40:1173.6

§1173.6. Violations; penalties

A. All state agencies and health professional licensing, certification, or registration boards and commissions, which collect, maintain, or distribute health data, shall provide to the department such data as are necessary for the department to carry out its responsibilities as defined in this Subpart.

B. All health care providers licensed by the state, including but not limited to hospitals, outpatient surgical facilities, and outpatient clinical facilities shall submit information in the manner and form prescribed in rules and regulations promulgated by the department pursuant to this Subpart.

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

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

E. Renewal of state licenses issued by the Department of Health and Hospitals, Department of Insurance, or health professional licensing, certification, or registration boards and commissions shall be predicated in part on compliance with data reporting requirements of this Subpart and rules and regulations promulgated thereunder. Prior to relicensing, the secretary shall confirm compliance with data reporting requirements in writing to the appropriate permitting or licensing authority. The permit, certification, or license of any health care provider, health plan, or facility covered by this Subpart shall be suspended until such time as the required data is submitted to the department.

Acts 2014, No. 790, §1; Redesignated from R.S. 40:1300.116 by HCR 84 of 2015 R.S.