Utah Health Data Authority Act

Sunset Overview

Purpose

Title 26B, Chapter 8, Part 5 establishes the duties and powers of the Health Data Committee. The committee's statutory purpose is (1) to direct a statewide effort to collect, analyze, and distribute health care data to facilitate the promotion and accessibility of quality and cost-effective health care and (2) to facilitate interaction among those with concern for health care issues. The committee has representatives from various perspectives, including public health, purchasers, providers, payers, and patients.

Current Sunset Date

July 1, 2024 (Utah Code Section 63I-1-226)

Sections of Code that Sunset

- Title 26B, Chapter 8, Part 5

26B-8-501. Definitions.

As used in this part:

(1) "Committee" means the Health Data Committee created in Section 26B-1-413.

(2) "Control number" means a number assigned by the committee to an individual's health data as an identifier so that the health data can be disclosed or used in research and statistical analysis without readily identifying the individual.

(3) "Data supplier" means a health care facility, health care provider, self-funded employer, third-party payor, health maintenance organization, or government department which could reasonably be expected to provide health data under this part.

(4) "Disclosure" or "disclose" means the communication of health care data to any individual or organization outside the committee, its staff, and contracting agencies.

(5)

(a) "Health care facility" means a facility that is licensed by the department under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may by rule add, delete, or modify the list of facilities that come within this definition for purposes of this part.

(6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(7) "Health data" means information relating to the health status of individuals, health services delivered, the availability of health manpower and facilities, and the use and costs of resources and services to the consumer, except vital records as defined in Section 26B-8-101 shall be excluded.

(8) "Health maintenance organization" means the same as that term is defined in Section 31A-8-101.

(9) "Identifiable health data" means any item, collection, or grouping of health data that makes the individual supplying or described in the health data identifiable.

(10) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part thereof.
(11) "Research and statistical analysis" means activities using health data analysis including:
(a) describing the group characteristics of individuals or organizations;
(b) analyzing the noncompliance among the various characteristics of individuals or organizations;
(c) conducting statistical procedures or studies to improve the quality of health data;
(d) designing sample surveys and selecting samples of individuals or organizations; and
(e) preparing and publishing reports describing these matters.
(12) "Self-funded employer" means an employer who provides for the payment of health care services for employees directly from the employer's funds, thereby assuming the financial risks rather than passing them on to an outside insurer through premium payments.
(13) "Plan" means the plan developed and adopted by the Health Data Committee under Section 26B-1-413.
(14) "Third party payor" means:
(a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at least 2,500 enrollees in the state;
(b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;
(c) a program funded or administered by Utah for the provision of health care services, including the Medicaid and medical assistance programs described in Chapter 3, Part 1, Health Care Assistance; and
(d) a corporation, organization, association, entity, or person:
(i) which administers or offers a health benefit plan to at least 2,500 enrollees in the state; and
(ii) which is required by administrative rule adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the committee.

26B-8-502. Executive secretary -- Appointment -- Powers.
(1) An executive secretary shall be appointed by the executive director, with the approval of the committee, and shall serve under the administrative direction of the executive director.
(2) The executive secretary shall:
(a) employ full-time employees necessary to carry out this part;
(b) supervise the development of a draft health data plan for the committee's review, modification, and approval; and
(c) supervise and conduct the staff functions of the committee in order to assist the committee in meeting its responsibilities under this part.

26B-8-503. Limitations on use of health data.
The committee may not use the health data provided to it by third-party payors, health care providers, or health care facilities to make recommendations with regard to a single health care provider or health care facility, or a group of health care providers or health care facilities.

26B-8-504. Health care cost and reimbursement data.

(1) The committee shall, as funding is available:

(a) establish a plan for collecting data from data suppliers to determine measurements of cost and reimbursements for risk-adjusted episodes of health care;

(b) share data regarding insurance claims and an individual's and small employer group's health risk factor and characteristics of insurance arrangements that affect claims and usage with the Insurance Department, only to the extent necessary for:

(i) risk adjusting; and

(ii) the review and analysis of health insurers' premiums and rate filings; and

(c) assist the Legislature and the public with awareness of, and the promotion of, transparency in the health care market by reporting on:

(i) geographic variances in medical care and costs as demonstrated by data available to the committee; and

(ii) rate and price increases by health care providers:

(A) that exceed the Consumer Price Index - Medical as provided by the United States Bureau of Labor Statistics;

(B) as calculated yearly from June to June; and

(C) as demonstrated by data available to the committee;

(d) provide on at least a monthly basis, enrollment data collected by the committee to a not-for-profit, broad-based coalition of state health care insurers and health care providers that are involved in the standardized electronic exchange of health data as described in Section 31A-22-614.5, to the extent necessary:

(i) for the department or the Medicaid Office of the Inspector General to determine insurance enrollment of an individual for the purpose of determining Medicaid third party liability;

(ii) for an insurer that is a data supplier, to determine insurance enrollment of an individual for the purpose of coordination of health care benefits; and

(iii) for a health care provider, to determine insurance enrollment for a patient for the purpose of claims submission by the health care provider;

(e) coordinate with the State Emergency Medical Services Committee to publish data regarding air ambulance charges under Section 26B-4-106;

(f) share data collected under this part with the state auditor for use in the health care price transparency tool described in Section 67-3-11; and

(g) publish annually a report on primary care spending within Utah.

(2) A data supplier is not liable for a breach of or unlawful disclosure of the data caused by an entity that obtains data in accordance with Subsection (1).

(3) The plan adopted under Subsection (1) shall include:

(a) the type of data that will be collected;

(b) how the data will be evaluated;

(c) how the data will be used;

(d) the extent to which, and how the data will be protected; and

(e) who will have access to the data.

26B-8-505. Comparative analyses.

(1) The committee may publish compilations or reports that compare and identify health care providers or data suppliers from the data it collects under this part or from any other source.

(2)

(a) Except as provided in Subsection (7)(c), the committee shall publish compilations or reports from the data it collects under this part or from any other source which:

(i) contain the information described in Subsection (2)(b); and

(ii) compare and identify by name at least a majority of the health care facilities, health care plans, and institutions in the state.

(b) Except as provided in Subsection (7)(c), the report required by this Subsection (2) shall:

(i) be published at least annually;

(ii) list, as determined by the committee, the median paid amount for at least the top 50 medical procedures performed in the state by volume;

(iii) describe the methodology approved by the committee to determine the amounts described in Subsection (2)(b)(ii); and

(iv) contain comparisons based on at least the following factors:

(A) nationally or other generally recognized quality standards;

(B) charges; and

(C) nationally recognized patient safety standards.

(3)

(a) The committee may contract with a private, independent analyst to evaluate the standard comparative reports of the committee that identify, compare, or rank the performance of data suppliers by name.

(b) The evaluation described in this Subsection (3) shall include a validation of statistical methodologies, limitations, appropriateness of use, and comparisons using standard health services research practice.

(c) The independent analyst described in Subsection (3)(a) shall be experienced in analyzing large databases from multiple data suppliers and in evaluating health care issues of cost, quality, and access.

(d) The results of the analyst's evaluation shall be released to the public before the standard comparative analysis upon which it is based may be published by the committee.

(4) The committee, with the concurrence of the department, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adopt a timetable for the collection and analysis of data from multiple types of data suppliers.

(5) The comparative analysis required under Subsection (2) shall be available free of charge and easily accessible to the public.

(6)

(a) The department shall include in the report required by Subsection (2)(b), or include in a separate report, comparative information on commonly recognized or generally agreed upon measures of cost and quality identified in accordance with Subsection (7), for:

(i) routine and preventive care; and

(ii) the treatment of diabetes, heart disease, and other illnesses or conditions as determined by the committee.

(b) The comparative information required by Subsection (6)(a) shall be based on data collected under Subsection (2) and clinical data that may be available to the committee, and shall compare:

(i) results for health care facilities or institutions;

(ii) results for health care providers by geographic regions of the state;

(iii) a clinic's aggregate results for a physician who practices at a clinic with five or more physicians; and

(iv) a geographic region's aggregate results for a physician who practices at a clinic with less than five physicians, unless the physician requests physician-level data to be published on a clinic level.

(c) The department:

(i) may publish information required by this Subsection (6) directly or through one or more nonprofit, community-based health data organizations; and

(ii) may use a private, independent analyst under Subsection (3)(a) in preparing the report required by this section.

(d) A report published by the department under this Subsection (6):

(i) is subject to the requirements of Section 26B-8-506; and

(ii) shall, prior to being published by the department, be submitted to a neutral, non-biased entity with a broad base of support from health care payers and health care providers in accordance with Subsection (7) for the purpose of validating the report.

(7)

(a) The Health Data Committee shall, through the department, for purposes of Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral, non-biased entity with a broad base of support from health care payers and health care providers.

(b) If the entity described in Subsection (7)(a) does not submit the quality measures, the department may select the appropriate number of quality measures for purposes of the report required by Subsection (6).

(c)

(i) For purposes of the reports published on or after July 1, 2014, the department may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through (iv) if the department determines that the data available to the department can not be appropriately validated, does not represent nationally recognized measures, does not reflect the mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing providers.

(ii) The department shall report to the Legislature's Health and Human Services Interim Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).

26B-8-506. Limitations on release of reports.

The committee may not release a compilation or report that compares and identifies health care providers or data suppliers unless it:

(1) allows the data supplier and the health care provider to verify the accuracy of the information submitted to the committee and submit to the committee any corrections of errors with supporting evidence and comments within a reasonable period of time to be established by rule , with the concurrence of the department, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act ;

(2) corrects data found to be in error; and

(3) allows the data supplier a reasonable amount of time prior to publication to review the committee's interpretation of the data and prepare a response.

26B-8-507. Disclosure of identifiable health data prohibited.

(1)

(a) All information, reports, statements, memoranda, or other data received by the committee are strictly confidential.

(b) Any use, release, or publication of the information shall be done in such a way that no person is identifiable except as provided in Sections 26B-8-506 and 26B-8-508.

(2) No member of the committee may be held civilly liable by reason of having released or published reports or compilations of data supplied to the committee, so long as the publication or release is in accordance with the requirements of Subsection (1).

(3) No person, corporation, or entity may be held civilly liable for having provided data to the committee in accordance with this part.

26B-8-508. Exceptions to prohibition on disclosure of identifiable health data.

(1) The committee may not disclose any identifiable health data unless:

(a) the individual has authorized the disclosure;

(b) the disclosure is to the department or a public health authority in accordance with Subsection (2); or

(c) the disclosure complies with the provisions of:

(i) Subsection (3);

(ii) insurance enrollment and coordination of benefits under Subsection 26B-8-504(1)(d); or

(iii) risk adjusting under Subsection 26B-8-504(1)(b).

(2) The committee may disclose identifiable health data to the department or a public health authority under Subsection (1)(b) if:

(a) the department or the public health authority has clear statutory authority to possess the identifiable health data; and

(b) the disclosure is solely for use:

(i) in the Utah Statewide Immunization Information System operated by the department;

(ii) in the Utah Cancer Registry operated by the University of Utah, in collaboration with the department; or

(iii) by the medical examiner, as defined in Section 26B-8-201, or the medical examiner's designee.

(3) The committee shall consider the following when responding to a request for disclosure of information that may include identifiable health data:

(a) whether the request comes from a person after that person has received approval to do the specific research or statistical work from an institutional review board; and

(b) whether the requesting entity complies with the provisions of Subsection (4).

(4) A request for disclosure of information that may include identifiable health data shall:

(a) be for a specified period; or

(b) be solely for bona fide research or statistical purposes as determined in accordance with administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act , which shall require:

(i) the requesting entity to demonstrate to the department that the data is required for the research or statistical purposes proposed by the requesting entity; and

(ii) the requesting entity to enter into a written agreement satisfactory to the department to protect the data in accordance with this part or other applicable law.

(5) A person accessing identifiable health data pursuant to Subsection (4) may not further disclose the identifiable health data:

(a) without prior approval of the department; and

(b) unless the identifiable health data is disclosed or identified by control number only.

(6) Identifiable health data that has been designated by a data supplier as being subject to regulation under 42 C.F.R. Part 2, Confidentiality of Substance Use Disorder Patient Records, may only be used or disclosed in accordance with applicable federal regulations.

26B-8-509. Penalties.

(1) Any use, release, or publication of health care data contrary to the provisions of Sections 26B-8-507 and 26B-8-508 is a class A misdemeanor.

(2) Subsection (1) does not relieve the person or organization responsible for that use, release, or publication from civil liability.

26B-8-510. Health data not subject to subpoena or compulsory process -- Exception.

Identifiable health data obtained in the course of activities undertaken or supported under this part are not subject to subpoena or similar compulsory process in any civil or criminal, judicial, administrative, or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data under the provisions of this part be compelled to testify with regard to such health data, except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this part.

26B-8-511. Consumer-focused health care delivery and payment reform demonstration project.

(1) The Legislature finds that:

(a) current health care delivery and payment systems do not provide system wide incentives for the competitive delivery and pricing of health care services to consumers;

(b) there is a compelling state interest to encourage consumers to seek high quality, low cost care and educate themselves about health care options;

(c) some health care providers and health care payers have developed consumer-focused ideas for health care delivery and payment system reform, but lack the critical number of patient lives and payer involvement to accomplish system-wide consumer-focused reform; and

(d) there is a compelling state interest to encourage as many health care providers and health care payers to join together and coordinate efforts at consumer-focused health care delivery and payment reform that would provide to consumers enrolled in a high-deductible health plan:

(i) greater choice in health care options;

(ii) improved services through competition; and

(iii) more affordable options for care.

(2)

(a) The department shall meet with health care providers and health care payers for the purpose of coordinating a demonstration project for consumer-based health care delivery and payment reform.

(b) Participation in the coordination efforts is voluntary, but encouraged.

(3) The department, in order to facilitate the coordination of a demonstration project for consumer-based health care delivery and payment reform, shall convene and consult with pertinent entities including:

(a) the Utah Insurance Department;

(b) the Office of Consumer Services;

(c) the Utah Medical Association;

(d) the Utah Hospital Association; and

(e) neutral, non-biased third parties with an established record for broad based, multi-provider and multi-payer quality assurance efforts and data collection.

(4) The department shall supervise the efforts by entities under Subsection (3) regarding:

(a) applying for and obtaining grant funding and other financial assistance that may be available for demonstrating consumer-based improvements to health care delivery and payment;

(b) obtaining and analyzing information and data related to current health system utilization and costs to consumers; and

(c) consulting with those health care providers and health care payers who elect to participate in the consumer-based health delivery and payment demonstration project.

26B-8-512. Health care billing data.

(1) Subject to Subsection (2), the department shall make aggregate data produced under this part available to the public through a standardized application program interface format.

(2)

(a) The department shall ensure that data made available to the public under Subsection (1):

(i) does not contain identifiable health data of a patient; and

(ii) meets state and federal data privacy requirements, including the requirements of Section 26B-8-506.

(b) The department may not release any data under Subsection (1) that may be identifiable health data of a patient.

26B-8-513. Identifying potential overuse of non-evidence-based health care.

(1) The department shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with an entity to provide a nationally-recognized health waste calculator that:

(a) uses principles such as the principles of the Choosing Wisely initiative of the American Board of Internal Medicine Foundation; and

(b) is approved by the committee.

(2) The department shall use the calculator described in Subsection (1) to:

(a) analyze the data in the state's All Payer Claims Database; and

(b) flag data entries that the calculator identifies as potential overuse of non- evidence-based health care.

(3) The department, or a third party organization that the department contracts with in accordance with Title 63G, Chapter 6a, Utah Procurement Code, shall:

(a) analyze the data described in Subsection (2)(b);

(b) review current scientific literature about medical services that are best practice;

(c) review current scientific literature about eliminating duplication in health care;

(d) solicit input from Utah health care providers, health systems, insurers, and other stakeholders regarding duplicative health care quality initiatives and instances of non-alignment in metrics used to measure health care quality that are required by different health systems;

(e) solicit input from Utah health care providers, health systems, insurers, and other stakeholders on methods to avoid overuse of non-evidence-based health care; and

(f) present the results of the analysis, research, and input described in Subsections (3)(a) through (e) to the committee.

(4) The committee shall:

(a) make recommendations for action and opportunities for improvement based on the results described in Subsection (3)(f);

(b) make recommendations on methods to bring into alignment the various health care quality metrics different entities in the state use; and

(c) identify priority issues and recommendations to include in an annual report.

(5) The department, or the third party organization described in Subsection (3) shall:

(a) compile the report described in Subsection (4)(c); and

(b) submit the report to the committee for approval.

(6) Beginning in 2021, on or before November 1 each year, the department shall submit the report approved in Subsection (5)(b) to the Health and Human Services Interim Committee.

26B-8-514. Standard health record access form.

(1) As used in this section:

(a) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(b) "Patient" means the individual whose information is being requested.

(c) "Personal representative" means an individual described in 45 C.F.R. Sec. 164.502(g).

(2) Before December 31, 2022, the department shall create a standard form that:

(a) is compliant with HIPAA and 42 C.F.R. Part 2; and

(b) a patient or a patient's personal representative may use to request that a copy of the patient's health records be sent to any of the following:

(i) the patient;

(ii) the patient's personal representative;

(iii) the patient's attorney; or

(iv) a third party authorized by the patient.

(3) The form described in Subsection (2) shall include fields for:

(a) the patient's name;

(b) the patient's date of birth;

(c) the patient's phone number;

(d) the patient's address;

(e)

(i) the patient's signature and date of signature, which may not require notarization; or

(ii) the signature of the patient's personal representative and date of signature, which may not require notarization;

(f) the name, address, and phone number of the person to which the information will be disclosed;

(g) the records requested, including whether the patient is requesting paper or electronic records;

(h) the duration of time the authorization is valid; and

(i) the dates of service requested.

(4) The form described in Subsection (2) shall include the following options for the field described in Subsection (3)(g):

(a) history and physical examination records;

(b) treatment plans;

(c) emergency room records;

(d) radiology and lab reports;

(e) operative reports;

(f) pathology reports;

(g) consultations;

(h) discharge summary;

(i) outpatient clinic records and progress notes;

(j) behavioral health evaluation;

(k) behavioral health discharge summary;

(l) mental health therapy records;
(m) financial information including an itemized billing statement;
(n) health insurance claim form;
(o) billing form; and
(p) other.