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₵ 03-01-19 11:02 AM ₵

H.B. 178
1st Sub. (Buff)

Senator Allen M. Christensen proposes the following substitute bill:

1 # HEALTH CARE CHARGES

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brad M. Daw**

5 Senate Sponsor: Allen M. Christensen

6

7 **LONG TITLE**

8 **General Description:**

9 This bill creates provisions regarding health care price data.

10 **Highlighted Provisions:**

11 This bill:

12 ▸ amends certain reporting requirements;

13 ▸ requires the state auditor to create and maintain a health care price transparency tool

14 that is accessible by the public;

15 ▸ provides a sunset date; and

16 ▸ makes technical changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **26-33a-106.1**, as last amended by Laws of Utah 2017, Chapter 419

24 **26-33a-106.5**, as last amended by Laws of Utah 2016, Chapters 74 and 222

25 **63I-1-267**, as last amended by Laws of Utah 2017, Chapter 192

1st Sub. H.B. 178

26 ENACTS:
27 67-3-11, Utah Code Annotated 1953
28

29 *Be it enacted by the Legislature of the state of Utah:*
30 Section 1. Section **26-33a-106.1** is amended to read:
31 **26-33a-106.1. Health care cost and reimbursement data.**
32 (1) The committee shall, as funding is available:
33 (a) establish a plan for collecting data from data suppliers, as defined in Section
34 26-33a-102, to determine measurements of cost and reimbursements for risk-adjusted episodes
35 of health care;
36 (b) share data regarding insurance claims and an individual's and small employer
37 group's health risk factor and characteristics of insurance arrangements that affect claims and
38 usage with the Insurance Department, only to the extent necessary for:
39 (i) risk adjusting; and
40 (ii) the review and analysis of health insurers' premiums and rate filings; and
41 (c) assist the Legislature and the public with awareness of, and the promotion of,
42 transparency in the health care market by reporting on:
43 (i) geographic variances in medical care and costs as demonstrated by data available to
44 the committee; and
45 (ii) rate and price increases by health care providers:
46 (A) that exceed the Consumer Price Index - Medical as provided by the United States
47 Bureau of Labor Statistics;
48 (B) as calculated yearly from June to June; and
49 (C) as demonstrated by data available to the committee;
50 (d) provide on at least a monthly basis, enrollment data collected by the committee to a
51 not-for-profit, broad-based coalition of state health care insurers and health care providers that
52 are involved in the standardized electronic exchange of health data as described in Section
53 31A-22-614.5, to the extent necessary:
54 (i) for the department or the Medicaid Office of the Inspector General to determine
55 insurance enrollment of an individual for the purpose of determining Medicaid third party
56 liability;

57 (ii) for an insurer that is a data supplier, to determine insurance enrollment of an
58 individual for the purpose of coordination of health care benefits; and
59 (iii) for a health care provider, to determine insurance enrollment for a patient for the
60 purpose of claims submission by the health care provider; [~~and~~]
61 (e) coordinate with the State Emergency Medical Services Committee to publish data
62 regarding air ambulance charges under Section 26-8a-203[~~.~~]; and
63 (f) share data collected under this chapter with the state auditor for use in the health
64 care price transparency tool described in Section 67-3-11.
65 (2) (a) The Medicaid Office of Inspector General shall annually report to the
66 Legislature's Health and Human Services Interim Committee regarding how the office used the
67 data obtained under Subsection (1)(d)(i) and the results of obtaining the data.
68 (b) A data supplier shall not be liable for a breach of or unlawful disclosure of the data
69 obtained by an entity described in Subsection (1)(b).
70 (3) The plan adopted under Subsection (1) shall include:
71 (a) the type of data that will be collected;
72 (b) how the data will be evaluated;
73 (c) how the data will be used;
74 (d) the extent to which, and how the data will be protected; and
75 (e) who will have access to the data.
76 Section 2. Section **26-33a-106.5** is amended to read:
77 **26-33a-106.5. Comparative analyses.**
78 (1) The committee may publish compilations or reports that compare and identify
79 health care providers or data suppliers from the data it collects under this chapter or from any
80 other source.
81 (2) (a) Except as provided in Subsection (7)(c), the committee shall publish
82 compilations or reports from the data it collects under this chapter or from any other source
83 which:
84 (i) contain the information described in Subsection (2)(b); and
85 (ii) compare and identify by name at least a majority of the health care facilities, health
86 care plans, and institutions in the state.
87 (b) Except as provided in Subsection (7)(c), the report required by this Subsection (2)

88 shall:
89 (i) be published at least annually; [~~and~~]
90 (ii) list, as determined by the committee, the median paid amount for at least the top 50
91 medical procedures performed in the state by volume;
92 (iii) describe the methodology approved by the committee to determine the amounts
93 described in Subsection (2)(b)(ii); and
94 [~~(ii)~~] (iv) contain comparisons based on at least the following factors:
95 (A) nationally or other generally recognized quality standards;
96 (B) charges; and
97 (C) nationally recognized patient safety standards.
98 (3) (a) The committee may contract with a private, independent analyst to evaluate the
99 standard comparative reports of the committee that identify, compare, or rank the performance
100 of data suppliers by name.
101 (b) The evaluation described in this Subsection (3) shall include a validation of
102 statistical methodologies, limitations, appropriateness of use, and comparisons using standard
103 health services research practice.
104 (c) The independent analyst described in Subsection (3)(a) shall be experienced in
105 analyzing large databases from multiple data suppliers and in evaluating health care issues of
106 cost, quality, and access.
107 (d) The results of the analyst's evaluation shall be released to the public before the
108 standard comparative analysis upon which it is based may be published by the committee.
109 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
110 committee, with the concurrence of the department, shall adopt by rule a timetable for the
111 collection and analysis of data from multiple types of data suppliers.
112 (5) The comparative analysis required under Subsection (2) shall be available[~~: (a)~~]
113 free of charge and easily accessible to the public[~~; and~~].
114 [~~(b) on the Health Insurance Exchange either directly or through a link.~~]
115 (6) (a) The department shall include in the report required by Subsection (2)(b), or
116 include in a separate report, comparative information on commonly recognized or generally
117 agreed upon measures of cost and quality identified in accordance with Subsection (7), for:
118 (i) routine and preventive care; and

119 (ii) the treatment of diabetes, heart disease, and other illnesses or conditions as
120 determined by the committee.
121 (b) The comparative information required by Subsection (6)(a) shall be based on data
122 collected under Subsection (2) and clinical data that may be available to the committee, and
123 shall compare:
124 (i) [~~beginning December 31, 2014,~~] results for health care facilities or institutions;
125 (ii) [~~beginning December 31, 2014,~~] results for health care providers by geographic
126 regions of the state;
127 (iii) [~~beginning July 1, 2016,~~] a clinic's aggregate results for a physician who practices
128 at a clinic with five or more physicians; and
129 (iv) [~~beginning July 1, 2016,~~] a geographic region's aggregate results for a physician
130 who practices at a clinic with less than five physicians, unless the physician requests
131 physician-level data to be published on a clinic level.
132 (c) The department:
133 (i) may publish information required by this Subsection (6) directly or through one or
134 more nonprofit, community-based health data organizations;
135 (ii) may use a private, independent analyst under Subsection (3)(a) in preparing the
136 report required by this section; and
137 (iii) shall identify and report to the Legislature's Health and Human Services Interim
138 Committee by July 1, 2014, and every July 1 thereafter until July 1, 2019, at least three new
139 measures of quality to be added to the report each year.
140 (d) A report published by the department under this Subsection (6):
141 (i) is subject to the requirements of Section 26-33a-107; and
142 (ii) shall, prior to being published by the department, be submitted to a neutral,
143 non-biased entity with a broad base of support from health care payers and health care
144 providers in accordance with Subsection (7) for the purpose of validating the report.
145 (7) (a) The Health Data Committee shall, through the department, for purposes of
146 Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral,
147 non-biased entity with a broad base of support from health care payers and health care
148 providers.
149 (b) If the entity described in Subsection (7)(a) does not submit the quality measures,

150 the department may select the appropriate number of quality measures for purposes of the
151 report required by Subsection (6).
152 (c) (i) For purposes of the reports published on or after July 1, 2014, the department
153 may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through
154 (iv) if the department determines that the data available to the department can not be
155 appropriately validated, does not represent nationally recognized measures, does not reflect the
156 mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing
157 providers.
158 (ii) The department shall report to the Legislature's Health and Human Services Interim
159 Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).
160 Section 3. Section **63I-1-267** is amended to read:
161 **63I-1-267. Repeal dates, Title 67.**
162 (1) Section 67-1-15 is repealed December 31, 2027.
163 (2) Sections 67-1a-10 and 67-1a-11 creating the Commission on Civic and Character
164 Education and establishing its duties are repealed on July 1, 2021.
165 (3) Section 67-3-11 is repealed July 1, 2024.
166 Section 4. Section **67-3-11** is enacted to read:
167 **67-3-11. Health care price transparency tool -- Transparency tool requirements.**
168 (1) The state auditor shall create a health care price transparency tool:
169 (a) subject to appropriations from the Legislature and any available funding from
170 third-party sources;
171 (b) with technical support from the Public Employees' Benefit and Insurance Program
172 created in Section 49-20-103, the Department of Health, and the Insurance Department; and
173 (c) in accordance with the requirements in Subsection (2).
174 (2) A health care price transparency tool created by the state auditor under this section
175 shall:
176 (a) present health care price information for consumers in a manner that is clear and
177 accurate;
178 (b) be available to the public in a user-friendly manner;
179 (c) incorporate existing data collected under Section 26-33a-106.1;
180 (d) group billing codes for common health care procedures;

181 (e) be updated on a regular basis; and
182 (f) be created and operated in accordance with all applicable state and federal laws.
183 (3) The state auditor may make the health care pricing data from the health care price
184 transparency tool available to the public through an application program interface format if the
185 data meets state and federal data privacy requirements.
186 (4) (a) Before making a health care price transparency tool available to the public, the
187 state auditor shall:
188 (i) seek input from the Health Data Committee created in Section 26-1-7 on the overall
189 accuracy and effectiveness of the reports provided by the health care price transparency tool;
190 and
191 (ii) establish procedures to give data providers a 30-day period to review pricing
192 information before the state auditor publishes the information on the health care price
193 transparency tool.
194 (b) If the state auditor complies with the requirements of Subsection (7)(a), the health
195 care price transparency tool is not subject to the requirements of Section 26-33a-107.
196 (5) Each year in which a health care price transparency tool is operational, the state
197 auditor shall report to the Health and Human Services Interim Committee before November 1
198 of that year:
199 (a) the utilization of the health care price transparency tool; and
200 (b) policy options for improving access to health care price transparency data.