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Bill Analysis
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BILL SUMMARY

- Requires each hospital to disclose to the Department of Health, on a quarterly basis, patient billing data for each patient who was admitted to, or received outpatient services at, the hospital.
- Requires the Department to permit a hospital to verify the accuracy of all patient billing data disclosed to the Department and provide corrections of the data in a timely manner.
- Requires the Department to aggregate the patient billing data by hospital and make the aggregated data available on its internet web site and permit persons to purchase electronic access to the aggregated data.
- Requires the Department to make available on its internet web site price and performance data for each hospital using the aggregated patient billing data and other data voluntarily reported to the Department.
- Requires the Department to allow a hospital 30 days to verify the accuracy of any hospital-specific data before the Department makes price and performance data that identifies the hospital available on the Department's web site.
- Prohibits the use of price and performance data or any other information released by the Department under the bill to establish or alter any professional standard of care or be admissible as evidence in any civil, criminal, or administrative proceeding.
- Requires a hospital's price information list that is mandated by current law to include the hospital's billing policies, including whether the

hospital charges interest on an amount not paid in full by any person or government entity and the interest rate charged.

- Requires a hospital to make its price information list available free of charge on its web site to any person and post an announcement of the list's availability in each of the hospital's billing offices and admission, patient waiting, and reception areas.
- Prohibits a hospital from changing the amount it charges for room and board or any service for which the charge is included in its price information list until at least 30 days after the hospital (1) creates a notice of the pending change that identifies the amount and percentage by which the charge is to be increased or decreased, (2) makes the notice available free of charge to the public on the hospital's internet web site, and (3) posts an announcement regarding the availability of the notice.
- Permits the Department to contract with a person to fulfill several of the Department's duties created by the bill.

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CONTENT AND OPERATION

Background

Disclosure of data regarding non-Medicare and non-Medicaid patients

Under current law,¹ every hospital is required to disclose annually to the Department of Health certain data for nongovernmental patients² in each of the 100 diagnosis related groups³ most frequently treated on an inpatient basis as represented by discharges during the previous calendar year. The disclosures are due on or before the first day of each March. The Department must maintain the disclosures as a public record.

The data that a hospital must disclose are (1) the total number of patients discharged, (2) the mean, median, and range of total hospital charges, (3) the mean, median, and range of length of stay, (4) the number of admissions, and (5) the number of nongovernmental patients falling within certain diagnosis related group numbers used in federal Medicare regulations. A hospital is not required to disclose data for any diagnosis related group for which the hospital treated fewer than ten nongovernmental patients during the year.

A hospital is permitted to include with the data commentary concerning reasons for major deviations in the range of data for any diagnosis related group. A hospital's commentary must be included in all reports and other releases of information identifying the hospital that the Department makes.

A hospital is required make the data disclosures available for inspection by any person at any reasonable time. On request, the hospital must make copies

¹ Sections 3727.11 to 3727.16.

² Current law defines "nongovernmental patient" as any patient other than a patient for whom primary charges are paid under the Medicare or Medicaid program or by the Bureau for Children with Medical Handicaps in the Department of Health. (R.C. 3727.11(A).)

³ "Diagnosis related group" is a term used in federal Medicare regulations governing the Medicare's prospective payment system for inpatient hospital services.

available for a reasonable fee. The hospital must also advise the requesting person that the information is available from the Department. If a hospital has information available on the average prices of diagnosis related groups or specific procedures not required to be disclosed to the Department, the hospital must make that information available at the request of any person.

Information about Medicare and Medicaid patients

In addition to receiving data about nongovernmental patients, the Department of Health is authorized by current law to obtain information about Medicaid patients from the Department of Job and Family Services and about Medicare patients from the United States Department of Health and Human Services. At least 30 days before releasing the information about Medicaid patients, the Department of Job and Family Services is required to provide each hospital that has provided information to it with a copy of the information in a form that makes it possible for the hospital to review and verify the information's accuracy. After receiving comments from a hospital, the Department of Job and Family Services must correct any information it agrees is in error.

The data base of the information about Medicare and Medicaid patients that the Department of Health obtains and any analysis of the information must be maintained as a public record. However, the data cannot be released to the public except on an aggregate basis by geographic area, institution, or other aggregation.

Department of Health permitted to issue reports

Current law permits the Department of Health to issue reports concerning the data about nongovernmental patients hospitals disclosed to the Department and information about Medicare and Medicaid patients the Department is authorized to obtain. Prior to releasing a report that identifies a hospital, the Department must allow the hospital 30 days to verify the accuracy of any hospital-specific data that has not previously been provided for hospital review. After receiving comments from a hospital, the Department is required to correct any information the Department agrees is in error. The Department must include in the reports commentary from hospitals concerning major deviations in the range of data for any of the diagnosis related groups for which information is reported.

Patient billing data

New hospital disclosure requirement

(R.C. 3727.30, 3727.31, and 3727.42; R.C. 3727.11, 3727.13, and 3727.14 (repealed))

The bill repeals the current law discussed above. In the place of the repealed law, the bill requires each hospital to disclose to the Department, on a quarterly basis, patient billing data for each patient who was admitted to, or received outpatient services at, the hospital.⁴ The bill defines "patient billing data" as all of the following information with respect to an individual patient:

- (1) Gender;
- (2) Age;
- (3) Zip code of primary residence;
- (4) Date of hospital admission;
- (5) Date of hospital discharge;
- (6) Type of hospital admission;
- (7) The uniform identifier of the physician or dentist who admits the patient to the hospital in accordance with state law governing admissions to hospitals;
- (8) Diagnosis codes applicable at the time of hospital admission;
- (9) Patient status at time of discharge from the hospital;
- (10) Diagnosis codes applicable at the time of discharge from the hospital;
- (11) Codes of the procedures performed in the hospital and the dates of such procedures;
- (12) Uniform hospital identifier;

⁴ Current law authorizes the Director of Health to apply to a court of common pleas for a temporary or permanent injunction restraining a hospital from failure to disclose the specified data for nongovernmental patients. The bill grants the Director this authority regarding a hospital that fails to disclose the required patient billing data. (R.C. 3727.48.)

- (13) Zip code of the hospital;
- (14) Uniform identifier of the attending physician or dentist;
- (15) Uniform identifier of any physician or dentist who operates on the patient if the patient has surgery;
- (16) Total charges incurred by revenue or hospital department code;
- (17) Uniform primary insurer identifier;
- (18) Any other information that the Public Health Council requires in rules.

Time and manner of disclosures

(R.C. 3727.31 and 3727.42)

The patient billing data disclosures must be made not later than 45 days after end of each calendar quarter and in a format the Public Health Council is required to specify in rules. The format must comply with the electronic transaction standards and code sets adopted by the United States Secretary of Health and Human Services under the medical information privacy part of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Hospitals permitted to verify data

(R.C. 3727.32)

The Department is required to permit a hospital to verify the accuracy of all patient billing data disclosed to the Department and provide corrections of the data in a timely manner. The bill does not specify what a "timely manner" is.

Immunity from liability

(R.C. 3727.33; R.C. 3727.14 (repealed))

No hospital that discloses data to the Department of Health under current law that the bill repeals is liable for misuse or improper release of the data. The bill repeals this immunity provision and provides instead that no hospital that discloses patient billing data to the Department in accordance with the bill is liable for the misuse or improper release of the data by the Department, a person with whom the Department contracts as permitted by the bill, or a person whose misuse or improper release of the data is not done on behalf of the hospital.

Department of Health to aggregate data

(R.C. 3727.34 and 3727.42)

The bill requires the Department of Health to aggregate patient billing data by hospital in accordance with a procedure specified in rules the Public Health Council must adopt. The procedure must comply with federal regulations governing the privacy of individually identifiable health information.

The Department is required make the aggregated data available on the Department's internet web site. The Department must also permit persons to purchase electronic access to it.

Department of Health permitted to receive other data

(R.C. 3727.35; R.C. 3727.13 (repealed))

The bill maintains current law that authorizes the Department of Health to receive other data reported voluntarily by hospitals, other health-care providers, third-party payers, or other entities.⁵ The bill provides that the data is in addition to the patient billing data the bill requires hospitals to disclose to the Department.

Price and performance outcome data

Department of Health to make data available on internet

(R.C. 3727.30, 3727.36, and 3727.41)

The bill requires the Department of Health to make available on its internet web site price and performance data for each hospital in the state. The bill defines "price and performance outcome data" as all of the following information regarding each of the 60 conditions and procedures that the Public Health Council is required to specify in rules:

- (1) Number of cases;
- (2) Average billed charges;
- (3) Average length of patient stay in the hospital;

⁵ The bill repeals and reenacts this law, with the result that it moves from R.C. 3727.13 to 3727.35.

- (4) Readmission rate;⁶
- (5) Complication rate;⁷
- (6) Mortality rate;⁸
- (7) Infection data;⁹
- (8) Whether the hospital uses an electronic system to order drugs.

Time and manner of making data available

(R.C. 3727.30, 3727.36, and 3727.42)

The Department of Health must begin making that data available on its web site not later than October 1, 2005. The Department is to make the data available using the patient billing data the Department must aggregate under the bill and other data voluntarily reported to the Department under continuing law. The Department is required to risk-adjust the price and performance outcome data for case mix¹⁰ and severity of illness,¹¹ if applicable, pursuant to a procedure that the Public Health Council must specify in rules.

The web site on which the Department makes the data available must use an interactive query system that does all of the following for each price and performance outcome data:

⁶ *The bill defines "readmission rate" as the percentage of patients who are readmitted to a hospital within 30 days following a previous admission.*

⁷ *The bill defines "complication rate" as the percentage of patients who experience a medical complication or a new medical problem while admitted as a patient in a hospital.*

⁸ *The bill defines "mortality rate" as the number of patients who die while admitted as a patient in a hospital.*

⁹ *The bill defines "infection data" as data related to nosocomial infections in accordance with the National Nosocomial Infections Surveillance (NNIS) System or the Surgical Infection Prevention (SIP) measures. "Nosocomial infections" are infections that originate or occur in a hospital or hospital-like setting.*

¹⁰ *The bill defines "case mix" as the distribution of patients into categories reflecting the differences in severity of illness or resource consumption.*

¹¹ *The bill defines "severity of illness" as the measurable degree of the potential for failure of one or more vital organs.*

- (1) Allows a person to view and compare the data for each hospital;
- (2) Include a map that allows a person to compare the data for hospitals within a county;
- (3) Includes a description of each condition and procedure to which the data pertains;
- (4) Includes an explanation of why the data may differ from hospital to hospital.

Hospitals permitted to verify data

(R.C. 3727.37)

The bill requires that the Department of Health allow a hospital 30 days to verify the accuracy of any hospital-specific data before the Department makes price and performance data that identifies the hospital available on the Department's web site. The Department must correct any information it agrees is in error.

Updating data

(R.C. 3727.39)

The bill requires that the Department of Health update the price and performance data made available on its web site. The updates must be made each calendar quarter.

Data neither to be used to establish standard of care nor be admissible in a proceeding

The bill prohibits the price and performance data the Department of Health must make available on its web site from being used to establish or alter any professional standard of care or be admissible as evidence in any civil, criminal, or administrative proceeding.

Protection of confidentiality

(R.C. 3727.40 and 3727.41; R.C. 3727.14 (repealed))

Neither the name nor the social security number of a patient or physician may be included in the data about nongovernmental patients that hospitals report to the Department of Health under current law or in the information the Department is authorized to receive about Medicare and Medicaid patients. The bill repeals this law and, in its place, prohibits the name and social security

number of a patient, physician, or dentist from being included in patient billing data a hospital discloses to the Department of Health or price and performance data the Department makes available.

Continuing law requires the Department, and any person under contract with the Department, to collect, compile, analyze, and disseminate information in a manner that protects the confidentiality of patients and physicians. The bill requires that the confidentiality of dentists also be protected.

Current law prohibits a Department's report from including any information that violates the confidentiality of patients and physicians. The bill requires the Department to exclude from any data it releases any information that violates the confidentiality of physicians or dentists and to protect patient confidentiality in accordance with the Ohio statute that incorporates the patient confidentiality provisions of the Health Insurance Portability and Accountability Act (HIPAA) with respect to data reported to or obtained by the Department.¹²

Public Health Council rules

(R.C. 3727.42)

In addition to the rules discussed above, the bill requires the Public Health Council to adopt rules to specify or provide for anything else that is necessary to carry out the purposes of the bill's provisions regarding patient billing data and price and performance data. All of the rules must be adopted in accordance with the Ohio Administrative Procedure Act (R.C. Chapter 119.).

Hospitals' price information lists and restriction on price changes

Current law requires every hospital to compile and make available for public inspection a list containing certain information regarding charges for services.¹³ The list must be updated periodically to maintain current information.

¹² R.C. 3701.17 is the Ohio statute that incorporates the patient confidentiality provisions of the Health Insurance Portability and Accountability Act (HIPAA) with respect to data reported to or obtained by the Department of Health. Ohio's general public records law, R.C. 149.43, expressly provides that medical records and "records the release of which are prohibited by state or federal law" are not public records.

¹³ R.C. 3727.12 in current law.

Lists to comply with HIPAA privacy requirements

(R.C. 3727.43(A))

The bill requires a hospital's price information list to be compiled and made available in a format that complies with the electronic transaction standards and code sets adopted by the United States Secretary of Health and Human Services under the medical information privacy part of HIPAA.

Content of lists

(R.C. 3727.43(B))

The bill revises the list's required content. Under continuing law, the list must include the usual and customary room and board charges for each level of care within a hospital and, if a hospital charges separately for nursing care, rates charged for nursing care. The list must also include the usual and customary charges for certain hospital services.¹⁴ The hospital services include the 30 most common laboratory procedures, emergency room services, operating room services, and delivery room services. Under current law, the hospital services also include the 30 most common x-ray procedures. The bill provides that the hospital services include the 30 most common *x-ray and radiological* procedures. The bill also adds new information a hospital's list must include: the hospital's billing policies, including whether the hospital charges interest on an amount not paid in full by any person or government entity and the interest rate charged.

Availability of list

(R.C. 3727.43(C))

Current law requires a hospital to inform each patient of the availability of the price information list at the time of admission or as soon as practicable thereafter and provide the patient a free copy of the list on request. A hospital must also provide a copy of the list on request to any person or government agency, subject to payment of a reasonable fee for copying and processing. The bill specifies that the copy provided for charge to a person or government agency be a paper copy. The bill also requires hospitals to make the list available free of charge on the hospital's web site to any person and posts an announcement of the list's availability in each of the hospital's billing offices and admission, patient waiting, and reception areas.

¹⁴ *The charges must be stated separately for inpatients and outpatients if different charges are imposed.*

Restriction on changing prices

(R.C. 3727.44 and 3727.47)

The bill prohibits a hospital from changing the amount it charges for room and board or any service for which the charge is included in the price information list until at least 30 days after the date the hospital (1) creates a notice of the pending change that identifies the amount and percentage by which the charge is to be increased or decreased, (2) makes the notice available free of charge to the public on the hospital's internet web site, and (3) posts in the hospital's billing offices and admission, patient waiting, and reception areas an announcement regarding the availability of the notice. The bill does not establish a penalty for violation of the prohibition but does authorize the Public Health Council to adopt rules to carry out the prohibition.¹⁵ The rules must be adopted in accordance with the Ohio Administrative Procedure Act.

Permissive authority to outsource certain duties

(R.C. 3727.46)

The bill permits the Department of Health to contract with a person to perform certain Department duties created by the bill. The duties the Department is permitted to contract out for include the Department's duty to aggregate and make available on the Department's web site and for purchase patient billing data, receive data voluntarily reported by hospitals, and risk adjust price and performance data and create the interactive query system.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-14-05	p. 668

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¹⁵ Current law authorizes the Public Health Council to adopt rules to carry out the purposes of the price information list.

