

LD 30

**DRAFT Proposed Amendment to Replace Concept Draft as Printed
Proposed by Rep. Perry, Bill's Sponsor
Revised Feb. 19, 2020 Draft ---Reflects Discussions with Stakeholders**

Proposed Draft Amendment to LD 30, An Act to Improve Health Care Data Analysis

Amend the bill by striking everything after the enacting clause and before the summary and inserting in its place the following:

Part A

Sec. A-1. 22 MRSA §42, sub-§5 is amended to read:

5. Confidentiality of records containing certain medical information. Department records that contain personally identifying medical information that are created or obtained in connection with the department's public health activities or programs are confidential. These records include, but are not limited to, information on genetic, communicable, occupational or environmental disease entities, and information gathered from public health nurse activities, or any program for which the department collects personally identifying medical information.

The department's confidential records may not be open to public inspection, are not public records for purposes of Title 1, chapter 13, subchapter 1 and may not be examined in any judicial, executive, legislative or other proceeding as to the existence or content of any individual's records obtained by the department.

Exceptions to this subsection include release of medical and epidemiologic information in such a manner that an individual can not be identified; disclosures that are necessary to carry out the provisions of chapter 250; disclosures made upon written authorization by the subject of the record, except as otherwise provided in this section; disclosures that are specifically required for purposes of reporting data to the Maine Health Data Organization as provided for by statute or by rules adopted by the Maine Health Data Organization; and disclosures that are specifically provided for by statute or by departmental rule. The department may participate in a regional or national tracking system as provided in sections 1533 and 8824.

Nothing in this subsection precludes the department, during the data collection phase of an epidemiologic investigation, from refusing to allow the inspection or copying of any record or survey instrument, including any redacted record or survey instrument, containing information pertaining to an identifiable individual that has been collected in the course of that investigation. The department's refusal is not reviewable.

Sec. A-2. 22 MRSA §8703, sub-§ 1 is amended to read:

1. Objective. The purposes of the organization are to create and maintain a useful, objective, reliable and comprehensive health information database that is used to improve the health of Maine citizens and to issue reports, as provided in this chapter sections 8712 and 8736. This database must be publicly accessible while protecting patient confidentiality and respecting providers of care. The organization shall collect, process, analyze and report clinical, financial, quality and restructuring data as defined in this chapter.

Sec. A -3. ~~A-2~~ 22 MRSA §8712, sub-§ 2 is amended to read:

2. Payments. The organization shall create a publicly accessible interactive website that presents reports related to payments for services rendered by health care facilities and practitioners to residents of the State. The services presented must include, but not be limited to, imaging, preventative health,

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radiology, surgical services, comparable health care services as defined in Title 24-A, section 4318-A, subsection 1, paragraph A and other services that are predominantly elective and may be provided to a large number of patients who do not have health insurance or are underinsured. The website must also be constructed to display prices paid by individual commercial health insurance companies, 3rd-party administrators and, unless prohibited by federal law, governmental payors. Beginning October 1, 2012, price information posted on the website must be posted annually ~~semiannually~~, must display the date of posting and, when posted, must be current to within 12 months of the date of submission of the information. Payment reports and price information posted on the website must include data submitted by payors with regard to all health care facilities and practitioners that provide comparable health care services as defined in Title 24-A, section 4318-A, subsection 1, paragraph A or services for which the organization reports data pertaining to the statewide average price pursuant to this subsection or Title 24-A, section 4318-B. Upon notice made by a health care facility or practitioner that data posted by the organization pertaining to that facility or practitioner is inaccurate or incomplete, the organization shall remedy the inaccurate or incomplete data within the earlier of 30 days of receipt of the notice and the next semiannual posting date.

Sec. A-4. ~~A-3.~~ 22 MRSA §8712, sub-§3 is repealed:

~~3. Comparison report.~~ At a minimum, the organization shall develop and produce an annual report that compares the 15 most common diagnosis related groups and the 15 most common outpatient procedures for all hospitals in the State and the 15 most common procedures for nonhospital health care facilities in the State to similar data for medical care rendered in other states, when such data are available.

Sec. A-5. ~~A-4.~~ 22 MRSA §8712, sub-§4 is repealed:

~~4. Physician services.~~ The organization shall provide an annual report of the 10 services and procedures most often provided by osteopathic and allopathic physicians in the private office setting in this State. The organization shall distribute this report to all physician practices in the State. The first report must be produced by July 1, 2004.

Sec. A-6 ~~A-5.~~ 22 MRSA §8715-A is enacted to read:

§8715-A. Oversight and reporting on substance use disorder data ~~public health activities~~

~~1. Emergency visits due to substance use.~~ The organization serves as the State's public health authority responsible for the review and evaluation of rates, costs and trends of emergency department visits due to substance use statewide among commercial payers, MaineCare and Medicare, using all payer claims data and hospital encounter data. The organization may not make public any information that is confidential pursuant to section 8733. The organization shall submit the report required by this section to the Commissioner of the Department of Health and Human Services, the joint standing committee of Health and Human Services and Health Coverage and the joint standing committee of Health Coverage, Insurance and Financial Services.

1. Substance use disorder data. The organization serves as the Department of Health and Human Services' repository and evaluator, and is responsible for the collection, review, and evaluation of substance use disorder data across 42 CFR Part 2 programs and providers, including, but not limited to, rates, costs, and trends of emergency department visits due to substance use statewide among

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commercial payers, MaineCare and Medicare, using all payer claims data and hospital encounter data. Substance use disorder data, including patient identifying information, covered by 42 CFR Part 2 that is submitted to the organization is data of the organization. All substance use disorder data that is patient identifying information covered by 42 CFR Part 2 or that is a member (individual) specific number assigned by the organization in reference to such data is confidential; is not a public record under Title 1, chapter 13 or subject to any judicial or administrative process regarding disclosure of such data; and no such data shall be released pursuant to 90-590 CMR Chapter 120 until such time as the 42 CFR Part 2 regulations are amended to allow for such use. The organization shall submit the report regarding emergency room visits required by this section to the Commissioner of the Department of Health and Human Services, the joint standing committee of Health and Human Services and Health Coverage and the joint standing committee of Health Coverage, Insurance and Financial Services.

2. Cancer data and vital statistics data. The organization may adopt rules to require the reporting of data from the cancer-incidence registry established pursuant to section 1404 and data related to the registration of vital statistics pursuant to section 2701. Rules adopted pursuant to this subsection are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

Sec. A-7 A-6. 22 MRSA §8718 is enacted to read:

§8718. Maine Health Data Organization Health Information Trend Advisory Committee

The Maine Health Data Organization Health Information Advisory Committee is established in accordance with the following to make recommendations to the organization regarding public reporting of health care trends developed from data reported to the organization.

1. Membership. The advisory committee consists of the following 11 members:

A. The executive director of the organization;

B. One legislator who is a member of the House of Representatives, appointed by the Speaker of the House of Representatives;

C. One legislator who is a member of the Senate, appointed by the President of the Senate;

D. The Commissioner of the Department of Health and Human Services or the commissioner's designee; and

E. The Superintendent of Insurance or the superintendent's designee; and

F. Six members appointed by the board as follows:

- (1) One member representing consumers of health care;
- (2) One member representing providers of health care;
- (3) One member representing hospitals;
- (4) One member representing employers;
- (5) One member representing insurance carriers; and
- (6) One member representing the state employee health plan.

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2. Duties. The advisory committee shall:

A. Make recommendations to the organization to establish priorities for health care trend data items;

B. Make recommendations to the organization on the annual public reporting of health care trend data items; and

C. Make additional health care data trend-related recommendations as requested by the executive director of the organization.

Part B

Sec. B-1. 22 MRSA §3173 is further amended by adding at the end a new paragraph to read:

The department shall use the *multi-payer* provider and service locator database established in Title 22, section 8719 as its ~~single~~ *primary* source of information to update the department's own data and publicly available information regarding health provider and service location *directory* information, *where the information required by the department is already available through the provider database.* ~~The department may not require or ask a provider to separately report information already furnished to the Maine Health Data Organization by a provider in accordance with Title 22, section 8719.~~

Sec. B-2. 22 MRSA §8704, sub-§1, ¶ A is amended to read:

1. **Uniform reporting systems.** The board shall establish uniform reporting systems.

A. The board shall develop and implement policies and procedures for the collection, processing, storage and analysis of clinical, financial, quality, ~~restructuring~~ and provider data and prescription drug price data in accordance with this subsection for the following purposes:

- (1) To use, build and improve upon and coordinate existing data sources and measurement efforts through the integration of data systems and standardization of concepts;
- (2) To coordinate the development of a linked public and private sector information system;
- (3) To emphasize data that is useful, relevant and not duplicative of existing data;
- (4) To minimize the burden on those providing data; and
- (5) To preserve the reliability, accuracy and integrity of collected data while ensuring that the data is available in the public domain.

Sec. B-3. 22 MRSA § 8719 is enacted to read:

§8719. Provider Database and Service Locator Tool

1. Provider database. The organization shall develop and maintain a *multi-payer* provider database, which will be used by the Department of Health and Human Services to populate a service locator available on a publicly accessible website for use by the public, by providers and by State agencies in accordance with this section. *The organization and the Department of Health and Human Services shall leverage existing data sources to populate the database wherever possible, as allowable*

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by state and federal law. Creation and population of the database may not increase mandatory reporting requirements for providers of physical health services, and shall keep reporting requirements for providers of behavioral health services to the minimum necessary to ensure development of a useful database and tool for analytic, consumer service and provider identification and referral purposes. The organization shall collaborate with the Department of Health and Human Services as necessary on the development and maintenance of the provider database.

2. Funding. The development of the provider database and service locator tool must be funded using existing resources within the Department of Health and Human Services and grant funding obtained by the Department of Health and Human Services from public and private sources. The organization and the Office of MaineCare Services within the Department of Health and Human Services are jointly responsible for the ongoing maintenance costs of the provider database using existing resources.

~~Sec. B-3. 24 A MRSA § 4303, sub §24 is enacted to read:~~

~~24. Reporting of information by providers. A carrier that covers 100 or more lives in this State shall use the provider database and service locator tool established in Title 22, section 8719 as its single source of information to update the carrier's own data and publicly available websites regarding health provider and service location information. A carrier may not require or ask a provider to separately report to them information already furnished to the Maine Health Data Organization by a provider in accordance with Title 22, section 8719.~~

Sec. B-3. Development of multi-payer provider database. The Maine Health Data Organization shall develop a plan, in collaboration with the Department of Health and Human Services, payers, providers, health care purchasers and representatives of consumers, to develop a broad, multi-payer provider database. The organization's objective is to develop reporting, use and structure requirements for a multi-payer database that will enable carriers to fulfill their obligation to provide timely and accurate provider directories without placing undue, additional administrative burden on providers, and to improve the accuracy and mapping of such data for analytic and consumer service and provider identification purposes. The organization shall consult with other state and national agencies and organizations to determine best and promising practices for the development of such a database. The organization shall submit the plan, its findings and any recommendations for suggested legislation to the Joint Standing Committee on Health Coverage, Insurance and Financial Services no later than April 1, 2021. The Committee may report out legislation based upon the report to the Second Regular Session of the 130th Legislature.

SUMMARY

The amendment replaces the bill, which is a concept draft pursuant to Joint Rule 208.

Part A of the amendment does the following.

1. It reduces the timing of when updates of price information must be posted on the Maine Health Data Organization from twice annually to once annually and also repeals the annual reports required related to a comparison of the 15 most common inpatient and outpatient services and to the 10 services and procedures most often provided by physicians in a private office setting.

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2. It establishes that the Maine Health Data Organization is the State's ~~public health authority~~ **repository** for review and evaluation of the rates, costs and trends of emergency department visits due to substance use statewide among commercial payers, MaineCare and Medicare.
3. It authorizes the Maine Health Data Organization to adopt rules related to the reporting of data from the statewide cancer-incidence registry and data related to vital statistics.
4. It establishes the Maine Health Data Organization Health Information Advisory Committee to make recommendations to the organization regarding public reporting of health care trends developed from data reported to the organization.

Part B of the amendment directs the Maine Health Data Organization to develop and maintain a ~~single source~~ **multi-payer** provider database and service locator tool in conjunction with the Department of Health and Human Services.

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