

Senate Bill 299

By: Senator McKoon of the 29th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to
2 general provisions of insurance, so as to create the Georgia Health Care Transparency
3 Initiative; to provide for definitions; to provide for a purpose; to provide for a Georgia Health
4 Care Initiative Board; to provide for the board's membership and duties; to provide for the
5 Commissioner's duties; to provide for subcommittees; to provide for submission of data and
6 its uses; to provide for data confidentiality; to provide for penalties; to provide for funding;
7 to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general
11 provisions of insurance, is amended by adding a new Code section to read as follows:

12 "33-1-25.

13 (a) As used in this Code section, the term:

14 (1) 'Claims data' means information included in an institutional, professional, or
15 pharmacy claim or equivalent information transaction for a covered individual, including
16 the amount paid to a provider of health care services plus any amount owed by the
17 covered individual.

18 (2) 'Covered individual' means a natural person who is a Georgia resident and is eligible
19 to receive medical, dental, or pharmaceutical benefits under any policy, contract,
20 certificate, evidence of coverage, rider, binder, or endorsement that provides for or
21 describes coverage.

22 (3) 'Direct personal identifiers' means information relating to a covered individual that
23 contains primary or obvious identifiers, such as the individual's name, street address,
24 e-mail address, telephone number, and social security number. This term does not
25 include geographic or demographic information that would not identify a covered
26 individual.

27 (4) 'Georgia Health Care Transparency Initiative' means an initiative to create a data base
 28 which shall include an all-payor claims data base administered by the Commissioner that
 29 receives and stores data from a submitting entity relating to medical, dental, and
 30 pharmaceutical and other insurance claims information; unique identifiers; geographic
 31 and demographic information for covered individuals as permitted in this Code section;
 32 and provider files.

33 (5) 'Georgia resident' means an individual for whom the submitting entity has identified
 34 a Georgia address as the individual's primary place of residence.

35 (6) 'Protected health information' means health information that is protected by the
 36 federal Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191.

37 (7) 'Provider' means a physician, hospital, or other person who is licensed or otherwise
 38 authorized in this state to furnish health care services.

39 (8) 'Submitting entity' means:

40 (A) An accident and sickness insurer, fraternal benefit society, nonprofit hospital
 41 service corporation, nonprofit medical service corporation, health care corporation,
 42 health maintenance organization, preferred provider organization, provider sponsored
 43 health care corporation, or any similar entity and any self-insured health benefit plan,
 44 which entity provides for the financing or delivery of health care services through a
 45 health plan;

46 (B) Any entity listed in subparagraph (A) of this paragraph and located or domiciled
 47 outside of this state shall be subject to the provisions of this Code section if it receives,
 48 processes, adjudicates, pays, or denies any claim for health care services submitted by
 49 or on behalf of any patient, insured, or other beneficiary who resides or receives health
 50 care services in this state;

51 (C) The plan administration or any health benefit plan established pursuant to Article 1
 52 of Chapter 18 of Title 45;

53 (D) A health benefit plan offered or administered by or on behalf of the federal
 54 government with the agreement of the federal government;

55 (E) The State Board of Workers' Compensation;

56 (F) Any other entity providing a plan of health insurance or health benefits subject to
 57 state insurance regulation, a third-party administrator, or a pharmacy benefits manager;

58 (G) A health benefit plan subject to the Employee Retirement Income Security Act
 59 of 1974, 29 U.S.C. Section 1001, et seq., as permitted by federal law, provided that the
 60 health benefit plan does not include an employee welfare benefit plan, as defined by
 61 federal law and as amended from time to time, that is also a trust established pursuant
 62 to collective bargaining subject to the Labor Management Relations Act of 1947, (87
 63 Stat. 314, 29 U.S.C.A. Section 186(c)(8)); or

64 (H) An entity that contracts with the Department of Corrections or Department of
 65 Juvenile Justice for the sole and exclusive purpose of providing health care services in
 66 a secure environment to prisoners within a penal institution, penitentiary, prison,
 67 detention center, or other secure correctional institution, including correctional
 68 institutions operated by private entities in this state which house inmates under the
 69 Department of Corrections or the Department of Juvenile Justice to provide medical,
 70 dental, or pharmaceutical care to inmates.

71 Submitting entity does not mean an entity that provides health insurance or a health
 72 benefit plan that is accident-only, specified disease, hospital indemnity, long-term care,
 73 disability income, or other supplemental benefit coverage.

74 (b) The Georgia Health Care Transparency Initiative is established with the purpose to
 75 create a data base that receives and stores data from a submitting entity relating to medical,
 76 dental, and pharmaceutical and other insurance claims information; unique identifiers;
 77 geographic and demographic information for covered individuals as permitted in this Code
 78 section; and provider files.

79 (c) The Georgia Health Care Transparency Initiative shall be governed by the
 80 Commissioner and advised by the Georgia Health Care Transparency Initiative Board.

81 (d)(1) There is created the Georgia Health Care Transparency Initiative Board, which
 82 shall be composed of the following members:

83 (A) A representative of the Department of Human Services;

84 (B) A representative of the Department of Public Health; and

85 (C) Nine members appointed by the Governor as follows:

86 (i) Two representatives from the health insurance industry;

87 (ii) Two representatives from the health care provider community;

88 (iii) One representative from a self-insured employer;

89 (iv) One representative from an employer of fewer than 100 full-time employees that
 90 provides health care coverage to employees through a fully insured product;

91 (v) One representative from a health care consumer organization;

92 (vi) One representative from the academic research community with expertise in
 93 health care claims data analysis; and

94 (vii) One representative with expertise in health data privacy and security.

95 (2) Members of the board appointed by the Governor shall serve for a term of three
 96 years.

97 (3) The board shall appoint one member as a chairperson and determine the
 98 qualifications, duties, and the term of office of the chair. Seven members present shall
 99 constitute a quorum.

- 100 (4) The Georgia Health Care Transparency Initiative Board shall hold its first meeting
101 no later than August 1, 2016.
- 102 (5) The board shall provide assistance and guidance as consultants to the Commissioner
103 to assist him or her in the development, administration, and oversight of the Georgia
104 Health Care Transparency Initiative consistent with the powers and duties of the
105 Commissioner pursuant to this Code section.
- 106 (e) The Commissioner shall have the authority to:
- 107 (1) Collect, validate, analyze, and present health data including claims data;
108 (2) Assess penalties for noncompliance with this Code section;
109 (3) With the assistance of the Department of Public Health, establish and convene the
110 following subcommittees:
- 111 (A) The Data Oversight Subcommittee of the Georgia Health Care Transparency
112 Initiative shall consist of three Governor appointed board members. This subcommittee
113 shall review and make recommendations to the Commissioner regarding data requests
114 for consistency with the intent and purpose of this Code section, including whether the
115 data request contains the minimum required information, and reports and publications
116 generated from data requests to ensure compliance with this Code section; and
- 117 (B) The Scientific Advisory Subcommittee of the Georgia Health Care Transparency
118 Initiative shall consist of one Governor appointed member of the board from the
119 academic research community and two nonmembers of the board who are academic
120 researchers who shall be appointed by the Governor. This subcommittee shall serve as
121 peer review for academic researchers and provide advice regarding data requests for
122 academic proposals and the scientific rigor of analytic work; and
- 123 (4) Establish and convene any additional subcommittees to carry out the purposes of this
124 Code section.
- 125 (f) In consultation with the Georgia Health Care Transparency Initiative Board, the
126 Commissioner shall exercise his or her powers and duties under this Code section to:
- 127 (1) Establish policies and procedures necessary for the administration and oversight of
128 the Georgia Health Care Transparency Initiative Board, including procedures for the
129 collection, processing, storage, analysis, use, and release of data;
130 (2) Identify and explore the key health care issues, questions, and problems that may be
131 improved through more transparent information, including without limitation data
132 required to be disclosed to patients related to provider relationships or affiliations with
133 payors and providers, financial interests in health care businesses, and payments or items
134 of any value given to providers from pharmaceutical or medical device manufacturers or
135 agents thereof; and

136 (3) Provide a biennial report to the General Assembly on the operations of the Georgia
 137 Health Care Transparency Initiative.

138 (g) No later than January 1, 2017, and every quarter thereafter, a submitting entity shall
 139 submit health and dental claims data, unique identifiers, geographic and demographic
 140 information for covered individuals as required by this Code section, and provider files to
 141 the Georgia Health Care Transparency Initiative in accordance with standards and
 142 procedures adopted by the Commissioner.

143 (h) Data submitted under this Code section shall be treated as confidential and shall not
 144 be subject to Article 4 of Chapter 18 of Title 50, relating to open records, or subject to
 145 subpoena, discovery, or introduction into evidence in any civil or criminal proceeding.

146 (i) The collection, storage, and release of data and other information under this Code
 147 section are subject to applicable state and federal data privacy and security laws.

148 (j) The Georgia Health Care Transparency Initiative data shall, to the extent authorized by
 149 the Commissioner, be available:

150 (1) When disclosed in a form and manner that ensures the privacy and security of
 151 protected health information as required by state and federal laws, as a resource to
 152 insurers, employers, purchasers of health care, researchers, state agencies, and health care
 153 providers to allow for assessment of health care utilization, expenditures, and
 154 performance in this state, including without limitation as a resource for hospital
 155 community health needs assessments; and

156 (2) To state programs regarding health care quality and costs for use in improving health
 157 care in this state, subject to rules promulgated by the Insurance Department conforming
 158 to state and federal privacy laws.

159 (k) The Georgia Health Care Transparency Initiative data shall not be utilized to:

160 (1) Disclose trade secrets of submitting entities;

161 (2) Reidentify or attempt to reidentify an individual who is the subject of any submitted
 162 data without obtaining the individual's consent; or

163 (3) Create or augment data contained in a national claims data base.

164 (l) Notwithstanding the Health Insurance Portability and Accountability Act of 1996,
 165 Pub. L. 104-191, or any other provision of law, the Georgia Health Care Transparency
 166 Initiative shall not publicly disclose any data that contains direct personal identifiers.

167 (m) Except for state or federal agencies that are submitting entities, a submitting entity that
 168 fails to submit data as required by this Code section or the rules and regulations of the
 169 Commissioner may be subject to a penalty. The Commissioner shall have the authority to
 170 subject such nongovernmental entity to a monetary penalty of up to \$1,000.00 per day for
 171 each and every act in violation of this Code section or of the rules and regulations of the
 172 Commissioner.

173 (n) The Commissioner shall be authorized to receive donations or gifts from individuals,
174 private organizations, foundations, or other sources and shall be authorized to receive state
175 funds or any federal funds which may be available. Any funds received as donations or
176 gifts shall be deemed trust funds to be held and applied solely for the purposes of this Code
177 section."

178 **SECTION 2.**

179 All laws and parts of laws in conflict with this Act are repealed.