

Senate Bill 482

By: Senators Burke of the 11th, Miller of the 49th, Dugan of the 30th, Watson of the 1st and Kirkpatrick of the 32nd

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 53 of Title 31 of the Official Code of Georgia Annotated, relating to the
2 Office of Health Strategy and Coordination, so as to provide for a state all-payer claims
3 database; to provide for definitions; to provide for the establishment of an advisory
4 committee; to provide for its composition and duties; to provide for recommendations to the
5 director of health strategy and coordination; to provide for private and public funding of the
6 database; to provide for the objectives of a state all-payer claims database; to provide for the
7 establishment of the Georgia All-Payer Claims Database; to provide for an administrator; to
8 provide for design criteria; to provide for the collection and compilation of health related
9 information; to provide for data submission; to provide for a public website; to provide for
10 an annual report; to provide for rules and regulations; to provide for statutory construction;
11 to amend Code Section 33-6-4 of the Official Code of Georgia Annotated, relating to
12 enumeration of unfair methods of competition and unfair or deceptive acts or practices and
13 penalty, so as to provide that the failure to submit claims data to the Georgia All-Payer
14 Claims Database shall constitute a violation; to provide for related matters; to repeal
15 conflicting laws; and for other purposes.

16 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

17 **SECTION 1.**

18 Chapter 53 of Title 31 of the Official Code of Georgia Annotated, relating to the Office of
19 Health Strategy and Coordination, is amended by adding a new article to read as follows:

20 **"ARTICLE 3**

21 **31-53-40.**

22 **As used in this article, the term:**

23 **(1) 'Administrator' means the administrator of the GAPCD.**

24 (2) 'Advisory committee' means the GAPCD Advisory Committee established pursuant
 25 to Code Section 31-53-41.

26 (3) 'Claims data' means information included in an institutional, professional, or
 27 pharmacy claim or equivalent information transaction for a covered individual, including
 28 the amount paid to a provider of health care services plus any amount owed by the
 29 covered individual.

30 (4) 'Direct personal identifiers' means information relating to a covered individual that
 31 contains primary or obvious identifiers, such as the individual's name, street address,
 32 email address, telephone number, and Social Security number, but does not include
 33 geographic or demographic information that would prohibit the identification of a
 34 covered individual.

35 (5) 'GAPCD' means the Georgia All-Payer Claims Database established pursuant to this
 36 article.

37 (6) 'Submitting entity' means:

38 (A) An entity that provides health or dental insurance or a health or dental benefit plan
 39 in the state, including without limitation an insurance company, medical services plan,
 40 hospital plan, hospital medical service corporation, health maintenance organization,
 41 or fraternal benefit society, provided that the entity has covered individuals and the
 42 entity had at least 1,000 covered lives in the previous calendar year;

43 (B) The Department of Community Health in the administration of Medicaid
 44 fee-for-service claims and the State Health Benefit Plan;

45 (C) Medicaid care management organizations;

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

48 (E) Any other entity providing a plan of health insurance or health benefits subject to
 49 state insurance regulation, including, but not limited to a third-party administrator or
 50 pharmacy benefits manager, provided that the entity had at least 1,000 covered lives in
 51 the previous calendar year;

52 (F) An entity that contracts with institutions of the Department of Corrections to
 53 provide medical, dental, or pharmaceutical care to inmates;

54 (G) Any other health benefit plan offered or administered by or on behalf of the state
 55 or an agency or instrumentality of the state;

56 (H) The State Board of Workers' Compensation; and

57 (I) The Georgia Access to Medical Cannabis Commission.

58 This term does not include an entity that provides health insurance or a health benefit
 59 plan that is accident-only, specified disease, hospital indemnity, long-term care, disability
 60 income, or other supplemental benefit coverage.

61 31-53-41.

62 (a) There is established the GAPCD Advisory Committee for the purpose of making
63 recommendations regarding the creation of the framework and implementation plan for the
64 GAPCD to facilitate the reporting of health care and health quality data resulting in
65 transparent and public reporting of safety, quality, cost, and efficiency information at all
66 levels of health care. The advisory committee shall consist of the following members:

67 (1) The director, who shall serve as chairperson;

68 (2) The chairperson of the Senate Appropriations Community Health Subcommittee;

69 (3) The chairperson of the House Appropriations Health Subcommittee;

70 (4) The director of the Office of Planning and Budget, or his or her designee;

71 (5) One member from the hospital industry to be appointed by the Governor;

72 (6) One member from the health care philanthropic community to be appointed by the
73 Governor;

74 (7) One member from the insurance industry to be appointed by the Speaker of the
75 House of Representatives;

76 (8) One member who is a medical provider to be appointed by the Lieutenant Governor;

77 (9) The commissioner of public health, or his or her designee;

78 (10) The commissioner of community health, or his or her designee;

79 (11) The Commissioner of Insurance, or his or her designee; and

80 (12) The director of the Center for Health Analytics and Informatics of the Georgia
81 Institute of Technology.

82 (b) The members appointed pursuant to paragraphs (5), (6), (7), and (8) of subsection (a)
83 of this Code section shall be appointed no later than August 15, 2020; provided, however,
84 that the advisory committee shall be operational and shall conduct its work even if one or
85 more of such members is not timely appointed. Appointed members of the advisory
86 committee shall each serve for a term of two years. A vacancy in an appointed seat shall
87 be filled by appointment for the remainder of the term, and each appointing authority
88 retains the right to reappoint members whose terms of appointment have expired.

89 (c) The advisory committee shall meet at the call of the chairperson and shall meet at least
90 quarterly.

91 (d) Members of the advisory committee shall serve without compensation but shall be
92 entitled to receive reimbursement for per diem and travel expenses as provided in Code
93 Section 45-7-21.

94 (e) The director shall be authorized to appoint ad hoc nonvoting members to the advisory
95 committee, convene one or more panels, and consult with experts when expertise is deemed
96 necessary in the performance of the functions of the advisory committee.

97 31-53-42.

98 (a) The advisory committee shall make initial recommendations to the director no later
99 than March 1, 2021, regarding the creation and operation of a state all-payer claims
100 database, to be known as the GAPCD, that:

101 (1) Include specific strategies to measure and collect data related to health care safety
102 and quality, utilization, health outcomes, and cost;

103 (2) Focus on data elements that foster quality improvement and peer group comparisons;

104 (3) Facilitate value based, cost-effective purchasing of health care services by public and
105 private purchasers and consumers;

106 (4) Result in usable and comparable information that allows public and private health
107 care purchasers, consumers, and data analysts to identify and compare health plans,
108 health insurers, health care facilities, and health care providers regarding the provision
109 of safe, value based, cost-effective, high-quality health care services;

110 (5) Use and build upon existing data collection standards and methods to establish and
111 maintain the GAPCD in a cost-effective and efficient manner;

112 (6) Are designed to measure the following performance domains: safety, timeliness,
113 effectiveness, efficiency, equity, and patient-centeredness;

114 (7) Incorporate and utilize claims, eligibility, and other publicly available data to the
115 extent it is the most cost-effective method of collecting data to minimize the cost and
116 administrative burden on data sources;

117 (8) Include recommendations about whether to include data on the uninsured;

118 (9) Address the harmonization of the GAPCD with other states', regions', and federal
119 efforts concerning all-payer claims databases;

120 (10) Address the harmonization of the GAPCD with federal legislation concerning an
121 all-payer claims database;

122 (11) Address a limit on the number of times the administrator may require submission
123 of the required data elements;

124 (12) Address a limit on the number of times the administrator may change the required
125 data elements for submission in a calendar year considering administrative costs,
126 resources, and time required to fulfill the requests; and

127 (13) Address compliance with the Health Insurance Portability and Accountability Act
128 of 1996, P.L. 104-191, as amended, and other proprietary information related to
129 collection and release of data.

130 (b) The advisory committee shall make ongoing recommendations to the director to ensure
131 the operations and design of the GAPCD continue to be effective and meet the objectives
132 of the GAPCD.

133 (c) The advisory committee shall conduct an evaluation of the GAPCD at least every five
 134 years to ensure that the purposes are met.

135 31-53-43.

136 (a) The director shall seek funding for the creation of the all-payer health claims database
 137 and develop a plan for the financial stability of the GAPCD. No later than March 15, 2021,
 138 the director shall report to the Governor and the General Assembly on the status of the
 139 funding effort and on the status of the recommendations of the advisory committee. The
 140 report shall include the final data elements recommended by the advisory committee, the
 141 final provisions contemplated to comply with the Health Insurance Portability and
 142 Accountability Act of 1996, P.L. 104-191, as amended, and any other final
 143 recommendations that are ready at the time of the report.

144 (b) If sufficient funding is received through gifts, grants, and donations or through
 145 appropriations on or before January 1, 2022, as determined by the director, the
 146 administrator shall, in consultation with the advisory committee, create the GAPCD in
 147 accordance with this article.

148 (c) The GAPCD shall be operational no later than January 1, 2023.

149 31-53-44.

150 The objectives of the GAPCD shall be to facilitate data-driven, evidence-based
 151 improvements in access, quality, and cost of health care and to promote and improve public
 152 health through the understanding of health care expenditure patterns and operation and
 153 performance of the health care system. Specific uses of the GAPCD include, but are not
 154 limited to:

- 155 (1) Establishing baseline health care cost information;
- 156 (2) Monitoring and analyzing health care costs;
- 157 (3) Assessing population health;
- 158 (4) Measuring utilization of health care services;
- 159 (5) Identifying health disparities;
- 160 (6) Informing consumers of cost and quality of health care;
- 161 (7) Supporting the planning and evaluation of health care operations and care;
- 162 (8) Improving coordination of care;
- 163 (9) Enabling oversight of health insurance premium medical loss ratios; and
- 164 (10) Conducting waste, fraud, and abuse studies.

165 31-53-45.

166 (a) The administrator of the GAPCD shall be the Center for Health Analytics and
 167 Informatics of the Georgia Institute of Technology. The administrator, in consultation with
 168 the advisory committee, shall:

169 (1) Determine the data to be collected from submitting entities and the method of
 170 collection, including mandatory and voluntary reporting of health care and health quality
 171 data;

172 (2) Seek to establish agreements for voluntary reporting of health care claims data from
 173 health care payers that are not subject to mandatory reporting requirements in order to
 174 ensure availability of the most comprehensive and systemwide data on health care costs
 175 and quality;

176 (3) Seek to establish agreements or requests with the federal Centers for Medicare and
 177 Medicaid Services to obtain Medicare health claims data;

178 (4) Determine the measures necessary to implement the reporting requirements in a
 179 manner that is cost-effective and reasonable for data sources and timely, relevant, and
 180 reliable for public and private health care purchasers and consumers, providers, and
 181 policymakers;

182 (5) Determine the reports and data to be made available to the public with
 183 recommendations from the advisory committee in order to accomplish the purposes of
 184 this Code section, including conducting studies and reporting the results of the studies;

185 (6) Collect, aggregate, distribute, and publicly report performance data on quality, health
 186 outcomes, health disparities, cost, utilization, and pricing in a manner accessible for
 187 public and private health care purchasers and consumers, providers, and policymakers;

188 (7) Protect patient privacy in compliance with state and federal health record
 189 confidentiality laws while preserving the ability to analyze data and share with providers
 190 and submitting entities to ensure accuracy prior to the public release of information;

191 (8) Report to the Governor and the General Assembly on or before March 1 of each year
 192 on the status of implementing the GAPCD and any recommendations for statutory or
 193 regulatory changes, with input from the advisory committee, that would advance the
 194 purposes of this article; and

195 (9) Provide leadership and coordination of public and private health care quality and
 196 performance measurements to ensure efficiency, cost-effectiveness, transparency, and
 197 informed choice by public and private health care purchasers and consumers.

198 (b) The administrator, with input from the advisory committee, shall:

199 (1) Incorporate and utilize publicly available data other than administrative claims data,
 200 if necessary, to measure and analyze a significant health care quality, safety, or cost issue
 201 that cannot be adequately measured with administrative claims data alone;

202 (2) Require submitting entities to submit data necessary to implement the GAPCD; and
 203 (3) Determine the data elements to be collected, the reporting formats for data submitted,
 204 and the use and reporting of any data submitted. Data collection shall align with national,
 205 regional, and other uniform all-payer claims databases' standards when possible.

206 (c) The administrator, with input from the advisory committee, may:

207 (1) Audit the accuracy of all data submitted;

208 (2) Contract with third parties to collect and process the health care data collected
 209 pursuant to this article. The contract shall prohibit the collection of unencrypted social
 210 security numbers and the use of the data for any purpose other than those specifically
 211 authorized by the contract. The contract shall require the third party to transmit the data
 212 collected and processed under such contract to the administrator or other designated
 213 entity; and

214 (3) Share data regionally or help develop a multistate effort if recommended by the
 215 advisory committee.

216 31-53-46.

217 The advisory committee and the administrator should consider the following design
 218 criteria:

219 (1) Allowing the use of federal Health Insurance Portability and Accountability Act of
 220 1996 compliant, government level secured cloud computing resources to save funding;

221 (2) Ensuring all inbound data is converted to a common standard and ensuring that data
 222 quality checks are done on inbound data;

223 (3) Requiring all communications to and from the database to use encryption and IP
 224 whitelisting where appropriate;

225 (4) Providing industry standard interfaces for accessing the data from approved users;

226 (5) Grouping the data in ways to match the relevant cohorts of interest; and

227 (6) Insuring that at no point does any personally identifiable information reside in the
 228 database.

229 31-53-47.

230 (a) Beginning in January, 2023, and every month thereafter, all submitting entities shall
 231 submit claims data for state residents to the GAPCD in accordance with this article and
 232 rules and regulations promulgated pursuant to this article.

233 (b) Submitting entities shall submit 95 percent of data within 60 days from the day that the
 234 adjudicated claims were paid, and 100 percent of data within 180 days from the day
 235 adjudicated claims were sent for payment. The administrator shall establish a Data
 236 Submission Guide to ensure uniformity of data, which may be based on currently existing

237 data standards, such as the National Council for Prescription Drug Programs (NCPDP) and
238 ASC X12 Post Adjudicated Claims Data Reporting (PACDR).

239 (c) Self-funded employer sponsored plans may voluntarily submit monthly claims data to
240 the GAPCD when the employer has opted in writing to the submission of the data. The
241 carrier or administrator shall notify the employer of the employer's option to authorize the
242 submission of the data.

243 (d) Direct personal identifiers contained in claim data submitted pursuant to this article
244 shall not be considered a public record and shall not be subject to Article 4 of Chapter 18
245 of Title 50, relating to open records.

246 31-53-48.

247 (a) The GAPCD shall be designed to:

248 (1) Provide access to the public through a public portal, contingent on funding, in a form
249 and manner that ensures the privacy and security of personal health information as
250 required by state and federal law, as a resource to insurers, consumers, employers,
251 providers, purchasers of health care, and state agencies to allow for continuous review
252 of health care utilization, expenditures, and quality and safety performance in this state;

253 (2) Provide access through memoranda of understanding and after consultation with the
254 advisory committee to the Department of Community Health, Department of Public
255 Health, Department of Behavioral Health and Developmental Disabilities, and other
256 departments of state government for the purposes of objectives and uses included in Code
257 Section 31-53-44;

258 (3) Provide for custom data requests from communities, individuals, researchers,
259 organizations, and private companies, subject to rules promulgated by the office;

260 (4) Allow for comparisons of geographic, demographic, and economic factors and
261 institutional size; and

262 (5) Present data in a consumer-friendly manner.

263 (b) The collection, storage, and release of health care data and other information pursuant
264 to this article shall be subject to the federal Health Insurance Portability and Accountability
265 Act of 1996, P.L. 104-191, as amended.

266 31-53-49.

267 (a) The administrator shall prepare an annual report to include:

268 (1) Any policies established or revised pursuant to state and federal medical privacy
269 laws, including the federal Health Insurance Portability and Accountability Act of 1996,
270 P.L. 104-191, as amended;

- 271 (2) The number of requests for data and reports from the GAPCD, whether the request
 272 was submitted by a state agency or private entity, the purpose of the project, a list of the
 273 requests for which the administrator was advised that the release was consistent with rule
 274 and the federal Health Insurance Portability and Accountability Act of 1996,
 275 P.L. 104-191, as amended, and a list of the requests not recommended for release;
 276 (3) For each request recommended, the administrator must provide the federal regulation
 277 pursuant to which the use or disclosure was recommended, and whether a data use
 278 agreement or limited data set data use agreement was executed for the use or disclosure;
 279 (4) A description of any data breaches, actions taken to provide notifications, if
 280 applicable, and actions taken to prevent a recurrence;
 281 (5) The uses of the data in the GAPCD;
 282 (6) Public studies produced by the administrator;
 283 (7) The cost of administering the GAPCD, the sources of the funding, and the total
 284 revenue taken in by the GAPCD;
 285 (8) The recipients of the data, the purposes of the data requests, and whether a fee was
 286 charged for the data; and
 287 (9) A fee schedule displaying the fees for providing custom data reports from the
 288 GAPCD.
- 289 (b) Such annual report for the previous calendar year shall be provided no later than
 290 March 1 to the Governor, Lieutenant Governor, the Speaker of the House of
 291 Representatives, the chairperson of the House Committee on Health and Human Services,
 292 and the chairperson of the Senate Health and Human Services Committee.
- 293 31-53-50.
- 294 (a) Except as otherwise provided in this Code section, any submitting entity that fails to
 295 submit claims data in accordance with this article shall be subject to penalty. The office
 296 shall adopt a schedule of penalties not to exceed \$1,000.00 per day of violation, determined
 297 by the severity of the violation. A penalty imposed under this subsection may be remitted
 298 or mitigated upon such terms and conditions as the director considers proper and consistent
 299 with the public health and safety. Any fines collected pursuant to this subsection shall be
 300 deposited into the state treasury.
- 301 (b) Any submitting entity that is subject to the jurisdiction of the Commissioner of
 302 Insurance that fails to submit claims data in accordance with this article shall be subject to
 303 violation of paragraph (14.2) of subsection (b) of Code Section 33-6-4, and any other
 304 penalties that may be imposed by the Commissioner of Insurance. The GAPCD may refer
 305 violations by such submitting entities to the Commissioner of Insurance for enforcement
 306 action for each instance in which such submitting entity fails to submit claims data to the

307 GAPCD in accordance with this article. The rules promulgated pursuant to Code
 308 Section 31-53-51, shall include processes for referring violations to the Commissioner of
 309 Insurance pursuant to this subsection.

310 (c) This Code section shall not apply to state or federal agencies that are submitting
 311 entities.

312 31-53-51.

313 The office shall promulgate rules and regulations necessary to implement the provisions
 314 of this article.

315 31-53-52.

316 If at any time it is determined that there is not sufficient funding to finance the ongoing
 317 operations of the GAPCD, the GAPCD shall cease operating and the advisory committee
 318 and administrator shall no longer have the duty to carry out the functions required pursuant
 319 to this article. If the GAPCD ceases to operate, any data submitted shall be destroyed or
 320 returned to its original source.

321 31-53-53.

322 Nothing in this article shall be construed to impose any reporting obligation on any
 323 self-funded employer or plan sponsor, or to impose any requirement with respect to the
 324 manner in which any such self-funded plan is administered. Nothing in this article shall
 325 prevent an insurer or third-party administrator from communicating its views to an
 326 employer about the employer's decision whether to opt into the submission of claims data."

327 **SECTION 2.**

328 Code Section 33-6-4 of the Official Code of Georgia Annotated, relating to enumeration of
 329 unfair methods of competition and unfair or deceptive acts or practices and penalty, is
 330 amended by adding a new paragraph to subsection (b) to read as follows:

331 "(14.2) Failing to submit all claims data to the Georgia All-Payer Claims Database as
 332 required in Article 3 of Chapter 53 of Title 31."

333 **SECTION 3.**

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