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SENATE BILL NO. 135

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact §§ 2.2-3705.6, 32.1-276.2, and 32.1-276.4 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 32.1-276.7:1 and 32.1-276.7:2, and to repeal § 32.1-276.5:1 of the Code of Virginia, relating to health care data reporting.

Patrons—Puller and Saslaw

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.6, 32.1-276.2, and 32.1-276.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 32.1-276.7:1 and 32.1-276.7:2 as follows:

§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.

2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

3. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade and tourism development or retention; and memoranda, working papers or other records related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where, if such records are made public, the financial interest of the public body would be adversely affected.

4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

7. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other records prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed

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SB135

59 under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or the Public Private Education
60 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.), where (i) if such records were made public
61 prior to or after the execution of an interim or a comprehensive agreement, § 56-573.1:1 or 56-575.17
62 notwithstanding, the financial interest or bargaining position of the public entity would be adversely
63 affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the
64 responsible public entity; and

65 b. Records provided by a private entity to a responsible public entity, affected jurisdiction, or
66 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 or
67 the Public-Private Education Facilities and Infrastructure Act of 2002, to the extent that such records
68 contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et
69 seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that
70 are not generally available to the public through regulatory disclosure or otherwise; or (iii) other
71 information submitted by the private entity, where, if the records were made public prior to the
72 execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining
73 position of the public or private entity would be adversely affected. In order for the records specified in
74 clauses (i), (ii) and (iii) to be excluded from the provisions of this chapter, the private entity shall make
75 a written request to the responsible public entity:

76 1. Invoking such exclusion upon submission of the data or other materials for which protection from
77 disclosure is sought;

78 2. Identifying with specificity the data or other materials for which protection is sought; and

79 3. Stating the reasons why protection is necessary.

80 The responsible public entity shall determine whether the requested exclusion from disclosure is
81 necessary to protect the trade secrets or financial records of the private entity. To protect other records
82 submitted by the private entity from disclosure, the responsible public entity shall determine whether
83 public disclosure prior to the execution of an interim agreement or a comprehensive agreement would
84 adversely affect the financial interest or bargaining position of the public or private entity. The
85 responsible public entity shall make a written determination of the nature and scope of the protection to
86 be afforded by the responsible public entity under this subdivision. Once a written determination is made
87 by the responsible public entity, the records afforded protection under this subdivision shall continue to
88 be protected from disclosure when in the possession of any affected jurisdiction or affected local
89 jurisdiction.

90 Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to
91 authorize the withholding of (a) procurement records as required by § 56-573.1:1 or 56-575.17; (b)
92 information concerning the terms and conditions of any interim or comprehensive agreement, service
93 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity
94 and the private entity; (c) information concerning the terms and conditions of any financing arrangement
95 that involves the use of any public funds; or (d) information concerning the performance of any private
96 entity developing or operating a qualifying transportation facility or a qualifying project.

97 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"
98 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation
99 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined
100 in the Public-Private Transportation Act of 1995 or in the Public-Private Education Facilities and
101 Infrastructure Act of 2002.

102 12. Confidential proprietary information or trade secrets, not publicly available, provided by a private
103 person or entity to the Virginia Resources Authority or to a fund administered in connection with
104 financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such
105 information were made public, the financial interest of the private person or entity would be adversely
106 affected, and, after June 30, 1997, where such information was provided pursuant to a promise of
107 confidentiality.

108 13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential
109 proprietary records that are not generally available to the public through regulatory disclosure or
110 otherwise, provided by a (a) bidder or applicant for a franchise or (b) franchisee under Chapter 21
111 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of
112 confidentiality from the franchising authority, to the extent the records relate to the bidder's, applicant's,
113 or franchisee's financial capacity or provision of new services, adoption of new technologies or
114 implementation of improvements, where such new services, technologies or improvements have not been
115 implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such
116 records were made public, the competitive advantage or financial interests of the franchisee would be
117 adversely affected.

118 In order for trade secrets or confidential proprietary information to be excluded from the provisions
119 of this chapter, the bidder, applicant, or franchisee shall (i) invoke such exclusion upon submission of
120 the data or other materials for which protection from disclosure is sought, (ii) identify the data or other

materials for which protection is sought, and (iii) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Records submitted as a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 22 (§ 23-277 et seq.) of Title 23 to the extent such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

18. Confidential proprietary records and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2, to the extent that disclosure of such records would be harmful to the competitive position of the locality. In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (i) invoke the protections of this subdivision, (ii) identify with specificity the records or portions thereof for which protection is sought, and (iii) state the reasons why protection is necessary.

19. Confidential proprietary records and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that records required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial records of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Minority Business Enterprise as part of an application for (i) certification as a small, women-owned, or minority-owned business in accordance with Chapter 14 (§ 2.2-1400 et seq.) of this title or (ii) a claim made by a disadvantaged business or an economically disadvantaged individual against the Capital Access Fund for Disadvantaged Businesses created pursuant to § 2.2-2311. In order for such trade secrets or financial records to be excluded from the provisions of this chapter, the business shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reasons why protection is necessary.

21. Documents and other information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to ~~§ 32.1-276.5:1~~ ~~32.1-276.7:1~~.

22. (Effective until July 1, 2012) Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Inspector General of the Virginia Department of Transportation for the purpose of an audit, special investigation, or any study requested by the Inspector General's Office in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the Department:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The Inspector General of the Virginia Department of Transportation shall determine whether the

requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. The Virginia Department of Transportation shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

22. (Effective July 1, 2012) Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Records submitted as a grant application, or accompanying a grant application, to the Virginia Tobacco Indemnification and Community Revitalization Commission to the extent such records contain (i) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (ii) financial records of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (iii) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other records prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the records specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data, records or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial records or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Records of the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if public disclosure would adversely affect the financial interest or bargaining position of the Authority or a private entity providing records to the Authority; or

b. Records provided by a private entity to the Commercial Space Flight Authority, to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity, where, if the records were made public, the financial interest or bargaining position of the Authority or private entity would be adversely affected.

In order for the records specified in clauses (i), (ii), and (iii) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

1. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

2. Identifying with specificity the data or other materials for which protection is sought; and

3. Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. To protect other records submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely

affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Documents and other information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

§ 32.1-276.2. Health care data reporting; purpose.

The General Assembly finds that the establishment of effective health care data analysis and reporting initiatives is essential to improving the quality and cost of health care, fostering competition among health care providers, and increasing consumer choice with regard to health care services in the Commonwealth, and that accurate and valuable health care data can best be identified by representatives of state government and the consumer, ~~hospital, nursing home, physician provider~~, insurance, and business communities. For this reason, the State Board of Health and the State Health Commissioner, assisted by the State Department of Health *and the Bureau of Insurance*, shall administer the health care data reporting initiatives established by this chapter.

§ 32.1-276.4. Agreements for certain data services.

A. The Commissioner shall negotiate and enter into contracts or agreements with a nonprofit organization for the compilation, storage, analysis, and evaluation of data submitted ~~by health care providers~~ pursuant to this chapter *for the operation of the All-Payer Claims Database pursuant to § 32.1-276.7:1* and for the development and administration of a methodology for the measurement and review of the efficiency and productivity of health care providers. Such nonprofit organization shall be governed by a board of directors composed of representatives of state government, including the Commissioner, *representatives of the Department of Medical Assistance Services and the Bureau of Insurance*, and the consumer, health care provider, and business communities. Of the health care provider representatives, there shall be an equal number of hospital, nursing home, physician, and health plan representatives. The articles of incorporation of such nonprofit organization shall require the nomination of such board members by organizations and associations representing those categories of persons specified for representation on the board of directors.

B. In addition to providing for the compilation, storage, analysis, and evaluation services described in subsection A, any contract or agreement with a nonprofit, tax-exempt health data organization made pursuant to this section shall require the board of directors of such organization to:

1. Develop and disseminate other health care cost and quality information designed to assist businesses and consumers in purchasing health care and long-term care services;

2. Prepare and make public summaries, compilations, or other supplementary reports based on the data provided ~~by health care providers~~ pursuant to this chapter;

3. Collect, compile, and publish Health Employer Data and Information Set (HEDIS) information or reports or other quality of care or performance information sets approved by the Board, pursuant to § 32.1-276.5, and submitted by health maintenance organizations or other health care plans;

4. Jointly determine with the Board of Medicine any data concerning safety services and quality health care services rendered by physicians to Medicaid recipients that should be identified, collected, and disseminated. The board of directors shall further determine jointly with the Board of Medicine the costs of requiring physicians to identify, submit, or collect such information and identify sufficient funding sources to appropriate to physicians for the collection of the same. No physician shall be required to collect or submit safety and quality of health care services information that is already identified, collected, or submitted under this chapter; or for which funds for collection are not appropriated;

5. Maintain the confidentiality *and security* of data as set forth in §§ 32.1-276.7:1 and 32.1-276.9;

6. Submit a report to the Board, the Governor, and the General Assembly no later than October 1 of each year for the preceding fiscal year. Such report shall include a certified audit and provide information on the accomplishments, priorities, and current and planned activities of the nonprofit organization;

7. Submit, as appropriate, strategic plans to the Board, the Governor, and the General Assembly recommending specific data projects to be undertaken and specifying data elements ~~that will be required from health care providers for collection under this chapter~~. In developing strategic plans, the nonprofit organization shall incorporate similar activities of other public and private entities to maximize the quality of data projects and to minimize the cost and duplication of data projects. In its strategic plans, the nonprofit organization shall also evaluate the continued need for and efficacy of current data initiatives, including the use of patient level data for public health purposes. ~~The nonprofit organization shall submit the first such strategic plan to the Board, the Governor, and the General Assembly by~~

October 1, 1996. Such initial plan shall include recommendations for measuring quality of care for all health care providers and for funding all data projects undertaken pursuant to this chapter. The approval of the General Assembly shall be required prior to the implementation of any recommendations set forth in a strategic plan submitted pursuant to this section; and

8. Competitively bid or competitively negotiate all aspects of all data projects, if feasible.

C. The Department shall take steps to increase public awareness of the data and information available through the nonprofit organization's website and how consumers can use the data and information when making decisions about health care providers and services.

D. Except as provided in subdivision A 2 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Commissioner authorized by this section. Funding for services provided pursuant to any such contract or agreement shall come from general appropriations and from fees determined pursuant to § 32.1-276.8 and from such fees and other public and private funding sources as may be authorized by this chapter.

§ 32.1-276.7:1. All-Payer Claims Database created; purpose; reporting requirements.

A. The Virginia All-Payer Claims Database is hereby created to facilitate data-driven, evidence-based improvements in access, quality, and cost of health care through the understanding of health care expenditure patterns and operation and performance of the health care system.

B. The Commissioner, in cooperation with the Bureau of Insurance, shall collect claims data for all covered benefits, pursuant to regulations promulgated by the Board as specified in subsection C, from:

1. Each insurer of individual or group accident and sickness insurance policies providing hospital, medical, and surgical or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services;

2. Each third-party administrator and pharmacy benefits administrator or manager, any other entity conducting similar administrative services for employers, and any other similar entity with claims data relating to health care provided in the Commonwealth;

3. The Department of Medical Assistance Services with respect to services provided under the state plan for medical assistance services; and

4. Federal health insurance plans, if available, including but not limited to Medicare, TRICARE, and the Federal Employees Health Benefits Plan.

C. The Board shall promulgate regulations for operation of the All-Payer Claims Database, consistent with the provisions of this chapter. Such regulations shall include requirements and procedures for submission, collection, aggregation, and distribution of specified data on quality, safety, timeliness, effectiveness, efficiency, outcomes, disparities, cost, utilization, and pricing of health care represented in claims reported pursuant to this section. Such regulations shall:

1. Protect patient privacy and data security pursuant to provisions of this chapter and state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended; § 32.1-127.01:3; and Chapter 6 (§ 38.2-600 et seq.) of Title 38.2;

2. Identify specific data elements from existing claims systems to be submitted and collected, including but not limited to patient demographics, diagnosis and procedure codes, provider information, plan payments, member payment responsibility, and service dates;

3. Foster geographic, demographic, economic, and peer group comparisons;

4. Allow public and private health care purchasers, providers, employers, consumers, and data analysts to identify and compare health plans, health insurers, and providers with regard to their provision of safe, cost-effective, and high-quality health care services;

5. Use and build upon existing national data collection standards and methods including the electronic Uniform Medical Claims Payer Reporting Standard, as adopted by The Accredited Standards Committee X12 (ASC X12) and APCD Council, to establish and maintain the database in a cost-effective manner and to facilitate uniformity among various all-payer claims databases of other states;

6. Incorporate and use existing claims, eligibility, and other available data to minimize the cost and administrative burden on data sources;

7. Establish data submission methods, schedules, and formats and procedures for verifying the accuracy of data submitted; and

8. Specify what data, reports, and other products shall be available to the public, insurers, employers, providers, public and private purchasers of health care, state agencies, and other public and private entities.

D. The Board's regulations for operation of the All-Payer Claims Database, consistent with the provisions of this chapter, shall establish a program implementation process and schedule that progresses in cumulative phases as follows:

1. Phase 1 shall include reporting of data that can be used to improve public health surveillance and population health, including reports on (i) injuries; (ii) chronic diseases including but not limited to

asthma, diabetes, cardiovascular disease, hypertension, arthritis, and cancer; (iii) health conditions of pregnant women, infants, and children; and (iv) geographic and demographic information for use in community health assessment, prevention education, and public health improvement. This data shall be developed in a format that allows comparison of information in the All-Payer Claims Database with other nationwide data programs and that allows employers to compare their employee health plans statewide between and among regions of the Commonwealth and nationally.

2. Phase 2 shall include reporting of data that health care purchasers, including employers and consumers, may use to compare costs of specific health care services and quality of health care. Phase 2 shall include development of information on utilization patterns and information that permits comparison of providers statewide between and among regions of the Commonwealth. The Advisory Board on Health Care Data Reporting (Advisory Board) created pursuant to § 32.1-276.7:2 shall make recommendations to the nonprofit organization on the appropriate level of specificity of reported data in order to protect patient privacy and to accurately attribute services and costs to providers.

3. Phase 3 shall include reporting of data that permits design and evaluation of alternative delivery and payment models.

Subsequent phases shall not commence until data for the previous phase has been processed and verified at levels of accuracy consistent with existing nonprofit organization data standards.

E. No provider-specific, facility-specific, or carrier-specific reimbursement information shall be disclosed or reported from the All-Payer Claims Database.

F. Prior to release of any report, the nonprofit organization shall provide affected entities with notice of the pending report and allow for a 60-day period of review to ensure accuracy. During this period, affected entities may seek explanations of results and correction of data that they prove to be inaccurate. The nonprofit organization shall make these corrections prior to any release of the report. At the end of the review period, upon completion of all necessary corrections, the report shall be released.

G. The Commissioner and the nonprofit organization shall develop recommendations for elimination of existing state health care data submission and reporting requirements, including those imposed by this chapter, that may be replaced by All-Payer Claims Database submissions and reports. In addition, the Commissioner and the nonprofit organization shall consider and recommend, as appropriate, integration of new data sources into the All-Payer Claims Database.

H. Information acquired pursuant to this section shall be confidential and shall be exempt from disclosure by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

I. No person shall assess costs or charge a fee to any provider related to formation or operation of the All-Payer Claims Database. However, a reasonable fee may be charged to providers who voluntarily subscribe to access the database for purposes other than data verification.

J. As used in this section, "provider" means a hospital or physician as defined in this chapter or any other provider licensed, certified, or authorized under state law to provide covered services represented in claims reported pursuant to this section.

§ 32.1-276.7:2. Advisory Board on Health Care Data Reporting.

The Advisory Board on Health Care Data Reporting (Advisory Board) is hereby established for the purpose of monitoring health information collection practices in the Commonwealth. The Advisory Board shall consist of seven members to be appointed by the Governor as follows: two members shall be licensed physicians who have practiced their professions in Virginia for not less than three years prior to their appointments; two shall be hospital representatives; two shall be representatives of health care plans; and one shall be a representative of the nonprofit organization with whom the Commissioner has entered into an agreement pursuant to § 32.1-276.4. After the initial staggering of terms, appointments shall be for four-year terms. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two successive terms.

2. That the Commissioner of Health is authorized to accept, hold, administer, and solicit grants, gifts, bequests, contributions, and other assistance from federal, local, or private sources for the purpose of operating the All-Payer Claims Database created pursuant to this act. The board of directors of the nonprofit organization defined in § 32.1-276.3 of the Code of Virginia shall develop short-term and long-term funding strategies that may include fees for access to data reports and for specific data projects and which may include access to data within the All-Payer Claims Database at discounted fees.

3. That § 32.1-276.5:1 of the Code of Virginia is repealed upon the effective date of final regulations promulgated by the Board of Health implementing the provisions of this act.

4. That the initial staggering of terms of the Advisory Board on Health Care Data Reporting created by this act shall be as follows: two members shall be appointed for two-year terms, two members shall be appointed for three-year terms, and three members shall be appointed for

428 **four-year terms.****<title>**