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**HOUSE BILL NO. 2798**

Offered January 18, 2019

A *BILL to amend and reenact §§ 2.2-2101, 32.1-276.3, and 32.1-276.7:1 of the Code of Virginia, relating to the All-Payer Claims Database; penalty.*

\_\_\_\_\_  
Patron—Garrett

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Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2101, 32.1-276.3, and 32.1-276.7:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-2101. Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.**

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3126; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3121; to members of the Board of Directors of the New College Institute, who shall be appointed as provided for in § 23.1-3112; to members of the Advisory Board on Teacher Education and Licensure, who shall be appointed as provided for in § 22.1-305.2; to members of the Virginia Interagency Coordinating Council, who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23.1-3117; to members of the Board of Trustees of the Online Virginia Network Authority, who shall be appointed as provided in § 23.1-3136; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the State Executive Council for Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure and Resilient Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2485; ~~or~~ to members of the Henrietta Lacks Commission, who shall be appointed as provided in § 2.2-2538; *or to members of the advisory committee established to the All Payer Claims Database, who shall be appointed as provided in § 32.1-276.7:1.*

**§ 32.1-276.3. Definitions.**

As used in this chapter:

"Actual reimbursement amount" means reimbursement information included in the claims data submitted by data suppliers to the Virginia All-Payer Claims Database, whether such information is referred to in the claims data as "paid amounts," "allowed amounts," or another term having the same or similar meaning and whether in reference to the payer who paid the actual reimbursement amount or the provider who received the actual reimbursement amount.

"Board" means the Board of Health.

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HB2798

59 *"Common data layout" means the national data collection standard adopted and maintained by the*  
60 *APCD Council.*

61 *"Consumer" means any person (i) whose occupation is other than the administration of health*  
62 *activities or the provision of health services, (ii) who has no fiduciary obligation to a health care*  
63 *institution or other health agency or to any organization, public or private, whose principal activity is an*  
64 *adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering*  
65 *of health services.*

66 *"Covered lives" means subscribers, policyholders, members, enrollees, or dependents, as the case*  
67 *may be, under a policy or contract issued or issued for delivery in Virginia by a managed care health*  
68 *insurance plan licensee, insurer, health services plan, or preferred provider organization.*

69 *"Employee welfare benefit plan" has the meaning set forth in the Employee Retirement Income*  
70 *Security Act of 1974, 29 U.S.C. § 1002(1).*

71 *"Health care provider" means (i) a general hospital, ordinary hospital, outpatient surgical hospital,*  
72 *nursing home or certified nursing facility licensed or certified pursuant to Article 1 (§ 32.1-123 et seq.)*  
73 *of Chapter 5 of this title; (ii) a mental or psychiatric hospital licensed pursuant to Article 2 (§ 37.2-403*  
74 *et seq.) of Chapter 4 of Title 37.2; (iii) a hospital operated by the Department of Behavioral Health and*  
75 *Developmental Services; (iv) a hospital operated by the University of Virginia or the Virginia*  
76 *Commonwealth University Health System Authority; (v) any person licensed to practice medicine or*  
77 *osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; (vi) any*  
78 *person licensed to furnish health care policies or plans pursuant to Chapter 34 (§ 38.2-3400 et seq.),*  
79 *Chapter 42 (§ 38.2-4200), or Chapter 43 (§ 38.2-4300) of Title 38.2; or (vii) any person licensed to*  
80 *practice dentistry pursuant to Chapter 27 (§ 54.1-2700 et seq.) of Title 54.1 who is registered with the*  
81 *Board of Dentistry as an oral and maxillofacial surgeon and certified by the Board of Dentistry to*  
82 *perform certain procedures pursuant to § 54.1-2709.1. In no event shall such term be construed to*  
83 *include continuing care retirement communities which file annual financial reports with the State*  
84 *Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 or any nursing care*  
85 *facility of a religious body which depends upon prayer alone for healing.*

86 *"Health maintenance organization" means any person who undertakes to provide or to arrange for*  
87 *one or more health care plans pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2.*

88 *"Inpatient hospital" means a hospital providing inpatient care and licensed pursuant to Article 1*  
89 *(§ 32.1-123 et seq.) of Chapter 5 of this title, a hospital licensed pursuant to Article 2 (§ 37.2-403 et*  
90 *seq.) of Chapter 4 of Title 37.2, a hospital operated by the Department of Behavioral Health and*  
91 *Developmental Services for the care and treatment of individuals with mental illness, or a hospital*  
92 *operated by the University of Virginia or the Virginia Commonwealth University Health System*  
93 *Authority.*

94 *"Nonprofit organization" means a nonprofit, tax-exempt health data organization with the*  
95 *characteristics, expertise, and capacity to execute the powers and duties set forth for such entity in this*  
96 *chapter.*

97 *"Oral and maxillofacial surgeon" means, for the purposes of this chapter, a person who is licensed to*  
98 *practice dentistry in Virginia, registered with the Board of Dentistry as an oral and maxillofacial*  
99 *surgeon, and certified to perform certain procedures pursuant to § 54.1-2709.1.*

100 *"Oral and maxillofacial surgeon's office" means a place (i) owned or operated by a licensed and*  
101 *registered oral and maxillofacial surgeon who is certified to perform certain procedures pursuant to §*  
102 *54.1-2709.1 or by a group of oral and maxillofacial surgeons, at least one of whom is so certified,*  
103 *practicing in any legal form whatsoever or by a corporation, partnership, limited liability company or*  
104 *other entity that employs or engages at least one oral and maxillofacial surgeon who is so certified, and*  
105 *(ii) designed and equipped for the provision of oral and maxillofacial surgery services to ambulatory*  
106 *patients.*

107 *"Outpatient surgery" means all surgical procedures performed on an outpatient basis in a general*  
108 *hospital, ordinary hospital, outpatient surgical hospital or other facility licensed or certified pursuant to*  
109 *Article 1 (§ 32.1-123 et seq.) of Chapter 5 of this title or in a physician's office or oral and maxillofacial*  
110 *surgeon's office, as defined above. Outpatient surgery refers only to those surgical procedure groups on*  
111 *which data are collected by the nonprofit organization as a part of a pilot study.*

112 *"Physician" means a person licensed to practice medicine or osteopathy in the Commonwealth*  
113 *pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.*

114 *"Physician's office" means a place (i) owned or operated by a licensed physician or group of*  
115 *physicians practicing in any legal form whatsoever or by a corporation, partnership, limited liability*  
116 *company or other entity that employs or engages physicians; and (ii) designed and equipped solely for*  
117 *the provision of fundamental medical care, whether diagnostic, therapeutic, rehabilitative, preventive or*  
118 *palliative, to ambulatory patients.*

119 *"Surgical procedure group" means at least five procedure groups, identified by the nonprofit*  
120 *organization designated pursuant to § 32.1-276.4 in compliance with regulations adopted by the Board,*

based on criteria that include, but are not limited to, the frequency with which the procedure is performed, the clinical severity or intensity, and the perception or probability of risk. The nonprofit organization shall form a technical advisory group consisting of members nominated by its Board of Directors' nominating organizations to assist in selecting surgical procedure groups to recommend to the Board for adoption.

"System" means the Virginia Patient Level Data System.

**§ 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 and to promote and improve the public health through the understanding of health care expenditure patterns and operation and performance of the health care system.

B. *The Commissioner shall ensure the Department meets the requirements to be a health oversight agency as defined in 45 C.F.R. § 164.501.*

C. The Commissioner, in cooperation with the Bureau of Insurance, ~~may~~ shall collect paid claims data for covered benefits, ~~pursuant to data submission and use agreements as specified in subsection C, from entities electing to participate as from data suppliers, which may shall include:~~

1. Issuers of individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; corporations providing individual or group accident and sickness subscription contracts; and health maintenance organizations providing a health care plan for health care services, *for at least 1,000 covered lives in the most recent calendar year;*

2. ~~Third-party~~ *Except as provided in subsection Q, third-party* administrators and any other entities that receive or collect charges, contributions, or premiums for, or adjust or settle health care claims for, *at least 1,000 Virginia residents covered lives on behalf of group health plans;*

3. *Third-party administrators and any other entities that receive or collect charges, contributions, or premiums for, or adjust or settle health care claims for, an employer that maintains an employee welfare benefit plan that has agreed to participate in the All-Payer Claims Database pursuant to subsection P.*

4. The Department of Medical Assistance Services with respect to services provided under programs administered pursuant to Titles XIX and XXI of the Social Security Act; ~~and~~

4. 5. *State government health insurance plans and, subject to their ability to provide such data, local government health insurance plans,*

6. Federal health insurance plans, ~~if available to the extent permitted by federal law, including but not limited to~~ Medicare, TRICARE, and the Federal Employees Health Benefits Plan.

~~C. D.~~ The Commissioner shall ensure that the nonprofit organization ~~executes a standard data submission and use agreement with each entity listed in subsection B that submits paid claims data to the All-Payer Claims Database and each entity that subscribes to data products and reports. Such agreements shall include procedures for submission, collection, aggregation, and distribution of specified data and shall provide for, at a minimum:~~

1. ~~Protection of~~ *Protects* 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); Titles XIX and XXI of the Social Security Act; § 32.1-127.1:03; Chapter 6 (§ 38.2-600 et seq.) of Title 38.2; and the Health Information Technology for Economic and Clinical Health (HITECH) Act, as included in the American Recovery and Reinvestment Act (P.L. 111-5, 123 Stat. 115);

2. ~~Identification of~~ *Identifies* the type of paid claims to be collected by the All-Payer Claims Database, and the entities that are subject to the submission of such claims as well as identification of 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. ~~Geographic~~ *Administers the All-Payer Claims Database in a manner to allow for geographic,* demographic, economic, and peer group comparisons;

4. ~~Identification and comparison of~~ *Develops public analyses identifying and comparing* health plans by public and private health care purchasers, providers, employers, consumers, health plans, health insurers, and data analysts, health insurers, and providers with regard to their provision of safe, cost-effective, and high-quality health care services;

5. ~~Use of existing~~ *Uses common data layout or other* national data collection standards and methods; ~~including the electronic Uniform Medical Claims Payer Reporting Standard, that utilize a standard set of core data elements for data submissions, as adopted or endorsed by The Accredited Standards Committee X12 (ASC X12) and the 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~~

182 states and specification of data fields to be included in the submitted claims, consistent with such  
183 national standards, allowing for exemptions when submitting entities do not collect the specified data or  
184 pay on a per-claim basis, such exemption process to be managed by the advisory committee created  
185 pursuant to subsection D;

186 6. ~~Prohibition on disclosure or reporting of~~ *Does not disclose or report* provider-specific,  
187 facility-specific, or carrier-specific reimbursement information, ~~and of or~~ information capable of being  
188 reverse-engineered, combined, or otherwise used to calculate or derive such reimbursement information,  
189 from the All-Payer Claims Database;

190 7. ~~Responsible~~ *Promotes the responsible* use of claims data to improve health care value and  
191 preserve the integrity and utility of the All-Payer Claims Database; and

192 8. ~~Stipulation~~ *Requires that all public reports and analyses* comparing providers or health plans using  
193 data from the All-Payer Claims Database use national standards, or, when such national standards are  
194 unavailable, provide full transparency to providers or health plans of the alternative methodology used.

195 ~~D. E.~~ *The Commissioner shall appoint establish* an advisory committee to assist in the formation and  
196 operation of the All-Payer Claims Database. Such committee shall ~~include a balanced representation of~~  
197 ~~all the stakeholders serving on the governing board of the nonprofit organization as well as individuals~~  
198 ~~with expertise in public health and specific expertise in health care performance measurement and~~  
199 ~~reporting. Each stakeholder on the board of the nonprofit organization shall nominate a member and an~~  
200 ~~alternate member to serve on the committee consist of (i) one member of the Senate, to be appointed by~~  
201 ~~the Senate Committee on Rules; (ii) one member of the House of Delegates, to be appointed by the~~  
202 ~~Speaker of the House of Delegates; (iii) a representative from each of the following: a statewide~~  
203 ~~hospital association, a statewide association of health plans, a professional organization representing~~  
204 ~~physicians, a professional organization representing pharmacists, an organization that processes~~  
205 ~~insurance claims or certain aspects of employee benefits plans for a separate entity, a community mental~~  
206 ~~health center who has experience in behavioral health data collection, a nursing home health care~~  
207 ~~provider who has experience with medical claims data, a nonprofit health insurer, and a for-profit~~  
208 ~~health insurer; (iv) two representatives with a demonstrated record of advocating health care issues on~~  
209 ~~behalf of consumers; (v) two representatives of hospitals or health systems; (vi) an individual with~~  
210 ~~academic experience in health care data and cost-efficiency research; (vii) and a representative who is~~  
211 ~~not a supplier or broker of health insurance from small employers that purchase group health insurance~~  
212 ~~for employees, large employers that purchase health insurance for employees, or self-insured employers,~~  
213 ~~all of whom shall be appointed by the Commissioner. The Commissioner, the chairman of the board of~~  
214 ~~directors of the nonprofit organization, the Commissioner of Insurance, the Director of the Department~~  
215 ~~of Medical Assistance Services, the Director of the Department of Human Resource Management, or~~  
216 ~~their designees, shall serve ex officio.~~

217 *In appointing members to the advisory committee, the Commissioner shall adopt reasonable*  
218 *measures to select representatives in a manner that provides balanced representation within and among*  
219 *the appointments and that any representative appointed is without any actual or apparent conflict of*  
220 *interest, including conflicts of interest created by virtue of the individual's employer's corporate*  
221 *affiliations or ownership interests.*

222 *The nonprofit organization shall provide the advisory committee with details at least annually on the*  
223 *use and disclosure of All-Payer Claims Database data, including reports developed by the nonprofit*  
224 *organization; details on methods used to extract, transform, and load data; and efforts to protect patient*  
225 *privacy and data security.*

226 *The meetings of the advisory committee shall be open to all nominating member organizations and to*  
227 *the public.*

228 ~~E. F.~~ *The Commissioner shall establish a data release committee to review and approve requests for*  
229 *access to data. The data release committee shall consist of the Commissioner or his designee, and upon*  
230 *recommendation of the advisory committee, the Commissioner shall appoint an individual with academic*  
231 *experience in health care data and cost-efficiency research, a representative of a health insurer, a*  
232 *health care practitioner, a representative from a hospital with a background in administration, analytics,*  
233 *or research, and a representative with a demonstrated record of advocating health care issues on behalf*  
234 *of consumers. In making its recommendations, the advisory committee shall adopt reasonable measures*  
235 *to select representatives in a manner that provides balanced representation within and among the*  
236 *appointments and that any representative appointed is without any actual or apparent conflict of*  
237 *interest, including conflicts of interest created by virtue of the individual's employer's corporate*  
238 *affiliations or ownership interests.*

239 *G.* The nonprofit organization shall implement the All-Payer Claims Database, consistent with the  
240 provisions of this chapter, to include:

241 1. The reporting of data that can be used to improve public health surveillance and population health,  
242 including reports on (i) injuries; (ii) chronic diseases, including but not limited to asthma, diabetes,  
243 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 and between and among regions of the Commonwealth and nationally.

2. The reporting of data that health care purchasers, including employers and consumers, may use to compare quality and efficiency of health care, including development of information on utilization patterns and information that permits comparison of providers statewide between and among regions of the Commonwealth. The advisory committee created pursuant to subsection ~~D~~ *F* 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 resource utilization rates to providers.

3. The reporting of data that permits design and evaluation of alternative delivery and payment models.

*H. Except as provided in subsection P, the nonprofit organization shall not provide data or access to data without the approval of the data release committee. Upon approval, the nonprofit organization may provide data or access to data at levels of detail that may include: (i) aggregate reports, which are defined as data releases with all observation counts greater than 10; (ii) de-identified data sets that meet the standard set forth in 45 C.F.R. § 164.514(a); and (iii) limited data sets that comply with the National Institutes of Health guidelines for release of personal health information.*

~~F. I.~~ Reporting of data shall not commence until such data has been processed and verified at levels of accuracy consistent with existing nonprofit organization data standards. Prior to *public* release of any report specifically naming any provider or payer, *or public reports in which an individual provider or payers represents 60 percent or more of the data*, 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 *public* release of the report. At the end of the review period, upon completion of all necessary corrections, the report may be released. *For the purposes of this subsection, "public release" means the release of any report to the general public and does not include the preparation of reports for, or use of the All-Payer Claims Database by, organizations that have been approved for access by the data release committee and have entered into written agreements with the nonprofit organization or the Department of Health.*

~~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 *J.* The Commissioner and the nonprofit organization shall consider and recommend, as appropriate, integration of new data sources into the All-Payer Claims Database, based on the findings and recommendations of the ~~workgroup established pursuant to § 32.1-276.9-1~~ *advisory committee*.

~~H.~~ *K.* 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.~~ *L.* No person shall assess costs or charge a fee to any health care practitioner related to formation or operation of the All-Payer Claims Database. However, a reasonable fee may be charged to health care practitioners who voluntarily ~~subscribe to~~ access the ~~database~~ *All-Payer Claims Database* for purposes other than data verification.

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

~~K.~~ *N.* The Commissioner, in consultation with the board of directors of the nonprofit organization shall develop short-term and long-term funding strategies for the ~~creation and operation of the All-Payer Claims Database that may include public and private grant funding, subscriptions for access to data reports, and revenue for specific data projects~~ *operation of the All-Payer Claims Database to provide necessary funding in excess of any budget appropriation by the Commonwealth.*

~~L.~~ *O.* The Department of Health, the Department of Medical Assistance Services, and the Bureau of Insurance shall have access to data reported by the All-Payer Claims Database pursuant to this section ~~at~~ *no cost* for the purposes of public health improvement research and activities.

*P.* Each employer that maintains a self-funded employee welfare benefit plan may agree to participate in the All-Payer Claims Database. For any such employer that agrees to submit data, the third-party administrator or other entity shall (i) submit data for the next reporting period after the agreement and all future reporting periods until the agreement is revoked and (ii) include data from any such employer as part of its data submission, if any, otherwise required by this section. Such an employer may revoke its agreement to participate but shall provide written notice to the third-party

305 administrator or other entity of its revocation at least 30 days prior to the start of the next reporting  
306 period. No employer that maintains a self-funded welfare benefit plan shall be required to agree to  
307 participate in the All-Payer Claims Database and no third-party administrator or other entity shall be  
308 required to submit claims processed before it was contracted to provide services. Each third-party  
309 administrator or other entity providing claim administration services for an employer shall submit  
310 annually to the nonprofit organization by January 31 of each year a list of the self-funded employee  
311 welfare benefit plans whose employer agreed to participate in the All-Payer Claims Database and a list  
312 identifying all employers that maintain a self-funded employee benefit plan with Virginia employees for  
313 which it provides claim administration services.

314 Q. The Department may request that the nonprofit organization generate the following reports based  
315 on actual reimbursement amounts: (i) the total cost burden of a disease, chronic disease, injury, or  
316 health condition across the state, health planning region, health planning district, county, or city,  
317 provided that the total cost shall be an aggregate amount encompassing costs attributable to all data  
318 suppliers and not identifying or attributable to any individual provider, and (ii) any analyses to  
319 determine the average reimbursement that is paid for health care services that may include inpatient  
320 and outpatient diagnostic services, surgical services or the treatment of certain conditions or diseases.  
321 Any additional report of analysis based on actual reimbursement amounts shall require the approval of  
322 the data release committee. Any other releases to the Department shall make use of a masked proxy  
323 reimbursement amount, for which the methodology is publicly available and approved by the data  
324 release committee.

325 R. The nonprofit organization shall ensure the timely reporting of information by private data  
326 suppliers to meet the requirements of this section. The nonprofit organization shall notify private data  
327 suppliers of any applicable reporting deadlines. The nonprofit shall notify, in writing, a private data  
328 supplier of a failure to meet a reporting deadline, and that failure to respond within two weeks  
329 following receipt of the written notice may result in a penalty. The Board may assess a civil penalty of  
330 up to \$1,000 per week per violation, not to exceed a total of \$50,000 per violation, against a private  
331 data supplier that fails, within its determination, to make a good faith effort to provide the requested  
332 information within two weeks following receipt of the written notice required by this subsection. Civil  
333 penalties assessed under this subsection shall be paid into the Literary Fund.