

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 9-166.3, 9-166.5, and 9-166.7 of the Code of Virginia, relating to the Virginia Patient Level Data System.

[H 639]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 9-166.3, 9-166.5, and 9-166.7 of the Code of Virginia are amended and reenacted as follows:

§ 9-166.3. Reporting requirements.

A. Every inpatient hospital shall submit to the Council patient level data as set forth in subsection B of this section. Any such hospital may report the required data directly to the nonprofit organization cited in § 9-166.4. Notwithstanding the provisions of Chapter 26 (§ 2.1-377 et seq.) of Title 2.1, it shall be lawful to provide information in compliance with the provisions of this chapter.

B. Patient level data elements for hospital inpatients reported by any source shall include:

1. Hospital identifier;
2. Attending physician identifier;
3. Operating physician identifier;
4. Payor identifier;
5. Employer identifier;
6. Patient identifier;
7. Patient sex, race, date of birth (including century indicator), zip code, patient relationship to insured, employment status code, status at discharge, and birth weight (for infants);
8. Admission type, source, date and hour, and diagnosis;
9. Discharge date and status;
10. Principal and secondary diagnoses;
11. External cause of injury;
12. Co-morbid conditions existing but not treated;
13. Procedures and procedure dates;
14. Revenue center codes, units, and charges; and
15. Total charges.

C. State agencies providing coverage for outpatient services shall submit patient level data regarding paid outpatient claims to the Council. Information to be submitted shall be extracted from standard claims forms and, where available, shall include:

1. Provider identifier;
2. Patient identifier;
3. Physician identifier;
4. Dates of service and diagnostic, procedural, demographic, pharmaceutical, and financial information; and
5. Other related information.

The Council shall promulgate regulations specifying the format for submission of such outpatient data. State agencies may submit this data directly to the nonprofit organization cited in § 9-166.4. Notwithstanding the provisions of Chapter 26 (§ 2.1-377 et seq.) of Title 2.1, it shall be lawful to provide information in compliance with the provisions of this chapter.

§ 9-166.5. Fees for processing and verification of data.

A. The Council shall prescribe a reasonable fee, not to exceed one dollar per discharge, for each hospital submitting patient level data pursuant to this article to cover the costs of the reasonable expenses in processing and verifying such data. The fees shall be established and reviewed annually by the Council. The payment of such fees shall be at such time as the Council designates. The Council may assess a late charge on any fees paid after their due date. The Council shall maintain records and account for and deposit such fees pursuant to § 9-163.

B. The nonprofit organization providing data compilation, storage, analysis, and evaluation services pursuant to an agreement or contract with the Council shall be authorized to charge and collect the fees prescribed by the Council for processing and verification of such data when the data are provided directly to the nonprofit organization. The Council shall promulgate regulations permitting hospitals submitting patient level data pursuant to this article to pay fees to the nonprofit organization compiling, storing, analyzing, and evaluating patient level data pursuant to an agreement or contract with the Executive Director. Such fees shall not exceed the amount authorized by the Council as provided in

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subsection A of this section and such regulations shall specify that the fees provided in subsection A of this section shall be waived for any hospital that submits the required data elements directly to the nonprofit organization and pays the fees charged by the nonprofit organization. Such regulations also shall include provisions for the nonprofit organization, at its discretion, to grant a reduction or waiver of such fees upon a determination by the nonprofit organization that the hospital has submitted processed, verified data.

C. State agencies shall not be assessed fees for the submission of data required by § 9-166.3 C. Individual employers, insurers, and other organizations may voluntarily provide the nonprofit organization with outpatient data for processing, storage, and comparative analysis and shall be subject to fees negotiated with and charged by the nonprofit organization for services provided.

§ 9-166.7. Confidentiality, subsequent release of data and relief from liability for reporting; penalty for wrongful disclosure; individual action for damages.

A. Patient level data collected by the Council pursuant to this article shall be exempt from the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.), shall be considered confidential, and shall not be disclosed other than as specifically authorized by this ~~Article~~ article; however, upon processing and verification by the nonprofit organization, all patient level data shall be publicly available, except patient, physician, and employer identifier elements, which shall be released only as provided in subsection B of this section. No report published by the nonprofit organization, the Council, or other person may present information that reasonably could be expected to reveal the identity of any patient. Publicly available information shall be designed to prevent persons from being able to gain access to combinations of patient characteristic data elements that reasonably could be expected to reveal the identity of any patient.

B. Any agreement or contract between the Executive Director and a nonprofit organization made pursuant to this article shall specify that, upon processing, verification, and release by the nonprofit organization of patient level data, the patient identifier information may, if otherwise permitted by law, be released for research purposes only, provided that such identifier is encrypted and cannot be reasonably expected to reveal the patient's identity. Such nonprofit organization may, in its discretion, release physician and employer identifier information. All other processed and verified patient level data specified in ~~subsection~~ subsections B and C of § 9-166.3 shall be publicly available. Data not specified in ~~subsection~~ subsections B and C of § 9-166.3 that are collected by the nonprofit organization may be released by the nonprofit organization at its discretion.

C. No person or entity, including the nonprofit organization contracting with the Executive Director, shall be held liable in any civil action with respect to any report or disclosure of information made under this article unless such person or entity has knowledge of any falsity of the information reported or disclosed.

D. Any disclosure of information made in violation of this article, and any disclosure by any person of information provided for research purposes in accordance with subsection B of this section that permits identification of any patient, or that permits identification from information not publicly available of any physician or employer without approval of the nonprofit organization, shall be subject to a civil penalty of not more than \$5,000 per violation. This provision shall be enforceable upon petition to the appropriate circuit court by the Attorney General, any attorney for the Commonwealth, or any attorney for the county, city or town in which the violation occurred. Any penalty imposed shall be payable to the Literary Fund. In addition, any person or entity who is the subject of any disclosure in violation of this article shall be entitled to initiate an action to recover actual damages, if any, or \$500, whichever is greater, together with reasonable attorney's fees and court costs.