



House of Representatives

File No. 622

General Assembly

February Session, 2012

(Reprint of File No. 437)

Substitute House Bill No. 5038
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 3, 2012

**AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET
RECOMMENDATIONS CONCERNING AN ALL-PAYER CLAIMS
DATABASE PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) Subject to the ability of
2 the Office of Health Reform and Innovation to secure funding in
3 accordance with subsection (b) of this section, there is established an
4 all-payer claims database program. The Office of Health Reform and
5 Innovation shall: (1) Oversee the planning, implementation and
6 administration of the all-payer claims database program for the
7 purpose of collecting, assessing and reporting health care information
8 relating to safety, quality, cost-effectiveness, access and efficiency for
9 all levels of health care; (2) ensure that data received from reporting
10 entities, as defined in section 19a-724 of the general statutes, as
11 amended by this act, is securely collected, compiled and stored in
12 accordance with state and federal law; and (3) conduct audits of data
13 submitted by reporting entities in order to verify its accuracy.

14 (b) The Special Advisor to the Governor on Healthcare Reform shall

15 seek funding from the federal government and other private sources to
16 cover costs associated with the planning, implementation and
17 administration of the all-payer claims database program. Not later
18 than June fifteenth, annually, the special advisor shall submit to the
19 Secretary of the Office of Policy and Management, for the secretary's
20 approval, a proposed budget for said program for the fiscal year
21 beginning the July first of the same calendar year in which the budget
22 is submitted. The special advisor shall not incur costs or contract for
23 services associated with said program for which funding has not been
24 secured in accordance with this subsection.

25 (c) A reporting entity shall report health care information for
26 inclusion in the all-payer claims database, as defined in section 19a-724
27 of the general statutes, as amended by this act, in the form and manner
28 prescribed by the Special Advisor to the Governor on Healthcare
29 Reform and the Secretary of the Office of Policy and Management.

30 (d) Notwithstanding the provisions of subsection (h) of section 19a-
31 724 of the general statutes, as amended by this act, the Special Advisor
32 to the Governor on Healthcare Reform may (1) in consultation with the
33 All-Payer Claims Database Advisory Group, established pursuant to
34 section 19a-724a of the general statutes, as amended by this act, enter
35 into a contract with a person or entity to plan, implement or
36 administer the all-payer claims database program; (2) enter into a
37 contract or take any action that is necessary to obtain fee-for-service
38 health claims data under the state medical assistance program or
39 Medicare Part A or Part B; and (3) enter into a contract for the
40 collection, management or analysis of data received from reporting
41 entities. Any such contract for the collection, management or analysis
42 of such data shall expressly prohibit the disclosure of such data for
43 purposes other than the purposes described in this subsection.

44 (e) The Special Advisor to the Governor on Healthcare Reform shall:
45 (1) Utilize data in the all-payer claims database to provide health care
46 consumers in the state with information concerning the cost and
47 quality of health care services that allows such consumers to make

48 economically sound and medically appropriate health care decisions;
49 and (2) make data in the all-payer claims database available to any
50 state agency, insurer, employer, health care provider, consumer of
51 health care services, researcher or the Connecticut Health Insurance
52 Exchange for the purpose of allowing such person or entity to review
53 such data as it relates to health care utilization, costs or quality of
54 health care services. Such disclosure shall be made in a manner to
55 protect the confidentiality of health information, as defined in 45 CFR
56 160.103, and other information, as required by state and federal law.

57 (f) The Special Advisor to the Governor on Healthcare Reform may
58 set a fee to be charged to each person or entity requesting access to
59 data stored in the all-payer claims database.

60 (g) The Secretary of the Office of Policy and Management may, in
61 consultation with the Office of Health Reform and Innovation, adopt
62 regulations, in accordance with the provisions of chapter 54 of the
63 general statutes, to implement and administer the all-payer claims
64 database program.

65 (h) Upon the establishment of the specific reporting requirements
66 prescribed in regulations adopted pursuant to this section, any
67 reporting entity that fails to comply with such reporting requirements
68 may be assessed a civil penalty in an amount not to exceed one
69 thousand dollars per day. A civil penalty assessed under this
70 subsection shall not be allowed as a cost for the purpose of rate
71 determination or reimbursement by a third-party payer.

72 Sec. 2. Section 19a-724 of the 2012 supplement to the general statutes
73 is repealed and the following is substituted in lieu thereof (*Effective*
74 *from passage*):

75 (a) (1) As used in this section and section 19a-725, "Affordable Care
76 Act" means the Patient Protection and Affordable Care Act, P.L. 111-
77 148, as amended by the Health Care and Education Reconciliation Act,
78 P.L. 111-152, as both may be amended from time to time, and federal
79 regulations adopted thereunder.

80 (2) As used in this section, sections 1 and 4 of this act and section
81 19a-724a, as amended by this act: (A) "All-payer claims database"
82 means a database that receives and stores data from a reporting entity
83 relating to medical insurance claims, dental insurance claims,
84 pharmacy claims and other insurance claims information from
85 enrollment and eligibility files; and (B) "reporting entity" means (i) an
86 insurer, as described in section 38a-1, licensed to do health insurance
87 business in this state, (ii) a health care center, as defined in section 38a-
88 175, (iii) an insurer or health care center that provides coverage under
89 Part C or Part D of Title XVIII of the Social Security Act, as amended
90 from time to time, to residents of this state, (iv) a third-party
91 administrator, as defined in section 38a-720, (v) a pharmacy benefits
92 manager, as defined in section 38a-479aaa, (vi) a hospital service
93 corporation, as defined in section 38a-199, (vii) a nonprofit medical
94 service corporation, as defined in section 38a-214, (viii) a fraternal
95 benefit society, as described in section 38a-595, that transacts health
96 insurance business in this state, (ix) a dental plan organization, as
97 defined in section 38a-577, (x) a preferred provider network, as defined
98 in section 38a-479aa, or (xi) any other person, as defined in section 38a-
99 1, that administers health care claims and payments pursuant to a
100 contract or agreement or is required by statute to administer such
101 claims and payments. "Reporting entity" does not include an employee
102 welfare benefit plan, as defined in the federal Employee Retirement
103 Income Security Act of 1974, as amended from time to time, that is also
104 a trust established pursuant to collective bargaining subject to the
105 federal Labor Management Relations Act.

106 (b) There is established, in the office of the Lieutenant Governor, the
107 Office of Health Reform and Innovation. The Special Advisor to the
108 Governor on Healthcare Reform shall direct the activities of the Office
109 of Health Reform and Innovation.

110 (c) The Office of Health Reform and Innovation shall:

111 (1) Coordinate and implement the state's responsibilities under state
112 and federal health care reform;

113 (2) Identify (A) federal grants and other nonstate funding sources to
114 assist with implementing the Affordable Care Act, and (B) other
115 measures which further enhance access to health care, reduce costs and
116 improve the quality of health care in the state;

117 (3) Recommend and advance executive action and legislation to
118 effectively and efficiently implement the Affordable Care Act, and
119 state health care reform initiatives;

120 (4) Design processes to maximize stakeholder and public input and
121 ensure transparency in implementing health care reform;

122 (5) Ensure ongoing information sharing and coordination of efforts
123 with the General Assembly and state agencies concerning public health
124 and health care reform;

125 (6) Report on or after January 1, 2012, and annually thereafter, in
126 accordance with section 11-4a, to the joint standing committees of the
127 General Assembly having cognizance of matters relating to
128 appropriations and the budgets of state agencies, human services,
129 insurance and public health on the progress of state agencies
130 concerning implementation of the Affordable Care Act;

131 (7) Ensure coordination of efforts with state agencies concerning
132 prevention and management of chronic illnesses;

133 (8) Ensure that the structures of state government are working in
134 concert to effectively implement federal and state health care reform;

135 (9) Ensure, in consultation with the Connecticut Health Insurance
136 Exchange and the Department of Social Services, the necessary
137 coordination between said exchange and Medicaid enrollment
138 planning; [and]

139 (10) Maximize private philanthropic support to advance health care
140 reform initiatives; and

141 (11) Oversee the planning, implementation and administration of

142 the all-payer claims database program, established pursuant to section
143 1 of this act.

144 (d) The Office of Health Reform and Innovation, in consultation
145 with the SustiNet Health Care Cabinet established pursuant to section
146 19a-725, shall [, on or before August 1, 2011,] convene a consumer
147 advisory board that consists of not less than seven members.

148 (e) The Office of Health Reform and Innovation and the Office of the
149 Healthcare Advocate shall provide staff support to the SustiNet Health
150 Care Cabinet.

151 (f) The Office of Health Reform and Innovation shall maintain a
152 central comprehensive health reform web site.

153 (g) State agencies shall, within available appropriations, use their
154 best efforts to provide assistance to the Office of Health Reform and
155 Innovation.

156 (h) The Office of Health Reform and Innovation, in consultation
157 with the SustiNet Health Care Cabinet, may retain any consultants
158 necessary to carry out the statutory responsibilities of said office.
159 Consultants may be retained by said office for purposes that include,
160 but are not limited to, conducting feasibility and risk assessments
161 required to implement, as may be practicable, private and public
162 mechanisms to provide adequate health insurance products to
163 individuals, small employers, nonstate public employers, municipal-
164 related employers and nonprofit employers, commencing on January
165 1, 2014. Not later than October 1, 2012, the Office of Health Reform and
166 Innovation and the SustiNet Health Care Cabinet shall make
167 recommendations to the Governor based on the results of the analyses
168 undertaken pursuant to this subsection.

169 (i) The Office of Health Reform and Innovation may receive grants
170 from the federal government or any other source to carry out its
171 statutory responsibilities.

172 Sec. 3. Section 19a-724a of the 2012 supplement to the general
173 statutes is repealed and the following is substituted in lieu thereof
174 (*Effective from passage*):

175 [(a) The Office of Health Reform and Innovation established under
176 subsection (b) of section 19a-724] The Special Advisor to the Governor
177 on Healthcare Reform shall convene a working group to be known as
178 the All-Payer Claims Database Advisory Group. Said group shall
179 develop a plan to implement a state-wide multipayer data initiative to
180 enhance the state's use of health care data from multiple sources to
181 increase efficiency, enhance outcomes and improve the understanding
182 of health care expenditures in the public and private sectors. [Such]
183 Said group shall include, but not be limited to, the Secretary of the
184 Office of Policy and Management, the Comptroller, the Commissioners
185 of Public Health, [and] Social Services and Mental Health and
186 Addiction Services, the Insurance Commissioner, the Health Care
187 Advocate, the Chief Information Officer, a representative of the
188 Connecticut State Medical Society, representatives of health insurance
189 companies, health insurance purchasers, hospitals, consumer
190 advocates and health care providers. The Special Advisor to the
191 Governor on Healthcare Reform may appoint additional members to
192 said group.

193 [(b) The Office of Health Reform and Innovation shall submit, in
194 accordance with section 11-4a, a report on such plan to the joint
195 standing committees of the General Assembly having cognizance of
196 matters relating to appropriations, insurance and public health.]

197 Sec. 4. (*Effective from passage*) Not later than December 1, 2012, the
198 All-Payer Claims Database Advisory Group, established pursuant to
199 section 19a-724a of the general statutes, as amended by this act, shall
200 report to the Governor and the joint standing committees of the
201 General Assembly having cognizance of matters relating to public
202 health, insurance and appropriations concerning the all-payer claims
203 database program, established pursuant to section 1 of this act. Such
204 report shall include, but not be limited to: (1) Recommendations

205 concerning the person or entity to implement and administer the all-
206 payer claims database program; (2) a recommended timeline to
207 transfer authority for the implementation or administration of such
208 program to such person or entity; and (3) recommendations
209 concerning the administration of such program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	19a-724
Sec. 3	<i>from passage</i>	19a-724a
Sec. 4	<i>from passage</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill requires the Office of Health Reform and Innovation to obtain federal or private funds to establish an all-payer claims database. The bill prohibits the office from incurring costs associated with the database unless such funding has been secured.

The costs to create an all-payer claims database are estimated to range from \$1 million to \$2 million per year, based on experiences in other states. These costs cover initial database development, as well as ongoing system maintenance, data collection, analysis and report creation.

House "A" strikes the original bill and results in the fiscal impact identified above.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5038 (as amended by House "A")******AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET RECOMMENDATIONS CONCERNING AN ALL-PAYER CLAIMS DATABASE PROGRAM.*****SUMMARY:**

Subject to the Office of Health Reform and Innovation's (OHRI) ability to secure federal funding and funds from private sources, this bill creates an all-payer claims database program for receiving and storing data relating to medical and dental insurance claims, pharmacy claims, and other insurance claims information from enrollment and eligibility files. The bill requires insurers and various other "reporting entities" that administer health care claims and payments to provide information for inclusion in the database.

The bill allows the Office of Policy and Management (OPM) secretary, in consultation with OHRI, to adopt regulations to implement and administer the database program. The bill establishes civil penalties of up to \$1,000 per day for entities that fail to report as required by those regulations.

The bill specifies how OHRI must use the data in the database and makes information in the database broadly available for reviewing health care use, cost, quality, and services data. Data disclosure must protect the confidentiality of individual health information.

The bill requires OHRI to oversee the planning, implementation, and administration of the program. It also allows the special advisor to the governor on health care reform (who directs OHRI's activities) to contract with an outside entity to plan, implement, or administer the

program, but she can only do so in consultation with an existing working group that is required by law to develop a plan for a state-wide multipayer data initiative. The bill names the working group the All-Payer Claims Database Advisory Group, expands its membership, and requires it to report on the database program.

Under the bill, OHRI can accept grants from the federal government or any source to carry out its statutory duties. The bill requires the special advisor to seek such non-state funding to cover the costs of the database program, and prohibits her from incurring costs for the program if she does not secure such funding.

The bill also makes technical changes.

*House Amendment "A":

1. adds the provisions on the program being subject to available federal or private funding and the requirement for the special advisor to seek such funding;
2. grants OPM, rather than the special advisor, authority to promulgate implementing regulations;
3. explicitly requires reporting entities to submit information to the database;
4. specifies that the bill's penalties apply to violations of the regulations;
5. excludes Taft-Hartley plans from the bill's definition of reporting entity;
6. combines certain contracting authority and specifies that all of the contracting authority in the bill applies notwithstanding the general requirement that OHRI consult with the Sustinet Cabinet before hiring consultants;
7. extends the advisory group's reporting deadline in the bill by

- two months;
8. adds a representative of the Connecticut State Medical Society to the advisory group;
 9. makes the entire bill, rather than just the advisory group reporting requirement, effective upon passage; and
 10. makes other minor and clarifying changes.

EFFECTIVE DATE: Upon passage

ALL-PAYER CLAIMS DATABASE PROGRAM

Program Implementation, Administration, and Purpose

PA 11-58 established OHRI within the Office of the Lieutenant Governor. OHRI is currently charged with coordinating and implementing the state's responsibilities under state and federal health care reform, among other things, and is under the direction of the special advisor to the governor on health care reform.

The bill requires OHRI to oversee the planning, implementation, and administration of the all-payer claims database program, including collecting, assessing, and reporting health care information relating to safety, quality, cost-effectiveness, access, and efficiency for all levels of health care.

Under the bill, OHRI must ensure that data from reporting entities is securely collected, compiled, and stored according to state and federal law. OHRI also must conduct audits of submitted data to verify its accuracy.

The bill requires the special advisor to seek funding from the federal government and private sources to cover the costs of planning, implementing, and administering the database program. By June 15 each year, she must submit to the OPM secretary, for his approval, a proposed program budget for the following fiscal year. The bill prohibits the special advisor from incurring costs or contracting for

services associated with the program if she has not secured such federal or private funding.

Reporting Entities

The bill requires reporting entities to report health care information for inclusion in the database, in the form and manner the special advisor and OPM secretary prescribe. Under the bill, reporting entities are:

1. insurers licensed to conduct health insurance business in Connecticut,
2. health care centers (i.e., HMOs),
3. insurers or health care centers that provide state residents with coverage under Medicare parts C or D,
4. third-party administrators,
5. pharmacy benefits managers,
6. hospital service corporations,
7. nonprofit medical service corporations,
8. fraternal benefit societies that transact health insurance business in Connecticut,
9. dental plan organizations,
10. preferred provider networks, and
11. any other individual or legal entity that administers health care claims and payments under a contract or agreement or is required by law to administer such claims and payments.

The bill specifies that reporting entities do not include employee welfare benefit plans, as defined in the federal Employee Retirement Income Security Act of 1974, that are also trusts established pursuant

to collective bargaining subject to the federal Labor Management Relations Act (i.e., the Taft-Hartley Act).

Civil Penalties

The bill subjects reporting entities to civil penalties of up to \$1,000 per day for failing to report in accordance with the specific reporting requirements prescribed in regulations under the bill. The penalty does not apply before the regulations are established. The bill prohibits reporting entities from passing such monetary penalties on to rate-setting entities or third-party payers.

Use and Availability of Data

The bill requires the special advisor to use the database to provide the state's health care consumers with information about the cost and quality of health care services so that they may make economically sound and medically appropriate health care decisions. She also must make data in the database available to any state agency, insurer, employer, health care provider, health care consumer, researcher, or the Connecticut Health Insurance Exchange (a quasi-public agency created to satisfy requirements of the federal Patient Protection and Affordable Care Act) to allow them to review the data relating to health care utilization, cost, or service quality.

Any such disclosure must protect the confidentiality of health information as defined in federal Health and Human Services (HHS) regulations (see BACKGROUND) and other information as required by state and federal law.

Fees for Accessing Data

The bill allows the special advisor to charge a fee to those seeking access to the data in the database.

Contracting Authority

The bill allows the special advisor, in consultation with the All-Payer Claims Database Advisory Group (see below), to contract with another person or entity to plan, implement, or administer the

program.

The bill allows the special advisor to contract for or take other necessary actions to obtain fee-for-service data under the state medical assistance program or Medicare parts A and B. Under the bill, she may also contract for the collection, management, or analysis of data received from reporting entities, but any such contract must expressly prohibit the disclosure of the data for other purposes.

The bill specifies that this contracting authority is an exception to the existing requirement that OHRI consult with the Sustinet Health Care Cabinet before hiring consultants needed to carry out its duties.

ADVISORY GROUP

Current law requires OHRI to convene a working group to develop a plan implementing a state-wide multipayer data initiative to improve the state's use of health care data from multiple sources to increase efficiency, enhance outcomes, and improve the understanding of health care spending in the public and private sectors.

The bill specifies that the special advisor must convene the working group, and renames it the All-Payer Claims Database Advisory Group. It adds to the group's membership the Department of Mental Health and Addiction Services commissioner, the health care advocate, the state chief information officer, and a representative of the Connecticut State Medical Society. The bill also allows the special advisor to appoint additional members. By law, the group also includes the OPM secretary; the comptroller; the commissioners of public health, social services, and insurance; representatives of health insurance companies; health insurance purchasers; hospitals; consumer advocates; and health care providers.

Current law requires OHRI to report on the working group's plan to the Appropriations, Insurance and Real Estate, and Public Health committees, but does not specify a reporting deadline. The bill instead requires the advisory group, by December 1, 2012, to report on the

database program to these same legislative committees and to the governor. The report must include recommendations on (1) the person or entity to implement and administer the database program, (2) a timeline to transfer authority for implementing or administering the program to such person or entity, and (3) program administration.

BACKGROUND

Related Federal Law

HIPAA. The Health Insurance Portability and Accountability Act's (HIPAA) "privacy rule" sets national standards to protect the privacy of health information. "Covered entities" such as health care providers, health plans (e.g., health insurers, HMOs, Medicare, and Medicaid), and health care clearinghouses must follow HIPAA rules. The HIPAA privacy rule protects individually identifiable health information by defining and limiting the circumstances under which covered entities may use or disclose such information.

Definition of Health Information. Under HHS regulations, "health information" means any information, whether oral or recorded in any form or medium, that:

1. is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse and
2. relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual (45 C.F.R. § 160.103).

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 27 Nay 1 (03/29/2012)

Appropriations Committee

Joint Favorable

Yea 34 Nay 13 (04/30/2012)