

**Nebraska Health Care Transparency Act Report**

December 2014

Submitted by the Nebraska Health Care Database Advisory Committee

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## ***Executive Summary***

At this time, the committee has not received information that would indicate that an all payer claims database can be recommended to address all the needs identified in the legislation. While conceptually these ideas have merit, significant questions remain regarding the potential use of the data, the scope of information to be gathered, and the costs associated with creating and maintaining the database. The committee believes that the idea deserves further consideration and recommends a more formal study be performed by consultants retained by the Department of Insurance.

## ***Nebraska Health Care Transparency Act***

In February 2014, the Legislature passed and Governor Heineman signed into law LB 76, the Health Care Transparency Act, codified at Neb.Rev.Stat §§ 71-9201 to 71-9204. Pursuant to Neb.Rev.Stat § 71-904, directs the Director of Insurance to appoint a Health Care Database Advisory Committee to make recommendations regarding the creation and implementation of the Nebraska Health Care Data Base. The Database will provide a tool for objective analysis of health care costs and quality, promote transparency for health care consumers, and facilitate the reporting of health care and health quality data. The Nebraska Health Care Data Base shall be used to:

- (1) Provide information to consumers and purchasers of health care;
- (2) Determine the capacity and distribution of existing health care resources;
- (3) Identify health care needs and inform health care policy;
- (4) Evaluate the effectiveness of intervention programs on improving patient outcomes;
- (5) Review costs among various treatment settings, providers, and approaches; and
- (6) Improve the quality and affordability of patient health care and health care coverage.

Neb.Rev.Stat §§ 71-9201 to 71-9204 requires the Committee to make recommendations regarding the Nebraska Health Care Database include, specific strategies to measure and collect data related to health care safety and quality, utilization, health outcomes, and cost; focus on data elements that foster quality improvement and peer group comparisons; Facilitate value-based, cost-effective purchasing of health care services by public and private purchasers and consumers; result in usable and comparable information that allows public and private health care purchasers, consumers, and data analysts to identify and compare health plans, health insurers, health care facilities, and health care providers regarding the provision of safe, cost-effective, high-quality health care services; use and build upon existing data collection standards, reporting requirements, and methods to establish and maintain the data base in a cost-effective and efficient manner; Incorporate and utilize claims, eligibility, and other publicly available data to the extent it is the most cost-effective method of collecting data to minimize the cost and administrative burden on data sources; include discussions regarding the standardization of the Nebraska Health Care Data Base with other states and regions and federal efforts concerning all-payer claims data bases; Include discussions regarding the integration of data collection requirements of the health insurance exchange as required by the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010,

Public Law 111-152, and any amendments thereto or regulations or guidance issued under those acts; Include discussions regarding a limit on the number of times the Nebraska Health Care Data Base may require submission of the required data elements; include discussions regarding a limit on the number of times the data base may change the required data elements for submission in a calendar year considering administrative costs, resources, and time required to fulfill the requests; Include discussions regarding compliance with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and other proprietary information related to collection and release of data; discuss issues surrounding the availability of the data for research and other purposes; and Include whether the advisory committee should continue to exist and provide recommendations to the Department of Insurance regarding the Nebraska Health Care Data Base after the report required in subsection (2) of this section is completed. On or before December 15, 2014, the Director of Insurance shall report to the Governor and the Legislature the recommendations of the advisory committee.

### ***Members of the Health Care Data Advisory Committee***

As required by Neb.Rev.Stat. § 71-9203, Director Ramage appointed 10 members to the Committee. Director Ramage appointed, Dr. Li-Wu Chen to represent academia, Russell R. Gronewold to represent the hospitals, Dr. Russell J. Ebke to represent physicians, Jeanette M. Wojtalewicz to represent the health care providers, Bart F. Karlson to represent large employers and Sherry E. Wupper as the Consumer Advocate. In addition, Director Ramage appointed three representatives for Health Insurers; Carol Trocinski (UnitedHealthcare), David M. Stitzel (Aetna) Lee J. Handke (Blue Cross Blue Shield of Nebraska). Director Ramage also appointed Deborah Bass as a representative that works for an organization that facilitates health information and Dr. Anne Lucile O'Keefe to represent public health departments. The Committee also includes the Director of Insurance, the Director of Medicaid and Long-Term Care and the Director of Public Health or their designees as ex officio members of the committee.

### ***Health Care Database Advisory Committee Meetings***

The Committee met May 6, 2014, June 5 2014, September 4, 2014, October 14, 2014 and December 5, 2014. The meeting minutes and other meeting materials can be found at <http://www.doi.ne.gov/hcdac>. The following is a summary of those meetings:

#### ***May 6***

Director of Insurance, Bruce Ramage, convened the first meeting of the committee on May 6, 2014. The members of the committee were briefed on the requirements of the Open Meetings Act and the Public Records Statutes. The Committee elected Bart F. Karlson as the Chairperson and Anne Lucile O'Keefe as Vice Chairperson. The Committee adopted Roberts Rules of Order as the basis of future proceedings, and adopted a policy for notice of meetings to be provided via email to members and posting on the state website. There was general discussion on the committee goals and invited the public to comment.

#### ***June 5***

Chairperson Bart Karlson convened the meeting on June 5, 2014. The previous meeting minutes were approved. There was general discussion about the goals of the committee. The Committee had a video conference with Leo Lichtig of Aon Hewitt who gave a presentation on all payer claim databases which

may be found at <http://www.doi.nebraska.gov/hcdac/AonHewitt.pdf>. There was public comment from the Nebraska Hospital Association and the Lincoln- Lancaster County Health Department.

#### ***September 4***

Vice Chairperson Anne Lucile O' Keefe convened the meeting. A quorum was not present and minutes could not be approved. David Newman from the Health Care Cost Institute presented. After his presentation, David Newman answered questions from the committee members and participating members of the public. More details are available in the meeting minutes. General discussion was continued on the role of the committee as defined by the legislation

#### ***October 14***

Chairperson Bart Karlson convened the meeting. Minutes from 6/5/14 and 9/4/14 were approved and discussion on the preliminary report was started. In addition there was a video conference with the APCD in Colorado and a representative from Treo Solutions spoke to the committee on Colorado's approach on creating an APCD. The Colorado presentation is on the website, [http://www.doi.nebraska.gov/hcdac/NE%20APCD%2010-14-14%20V2%20%20\(2\).pdf](http://www.doi.nebraska.gov/hcdac/NE%20APCD%2010-14-14%20V2%20%20(2).pdf). There was public comment from the Nebraska Hospital Association stating that Colorado isn't the only option and that states such as Wisconsin also have an APCD.

#### ***December 5***

Vice Chairperson Anne Lucile O' Keefe convened the meeting. A quorum was present and minutes from the previous meeting were approved. The committee reviewed and approved the final report. The report will be submitted to the Director of Insurance, pursuant to the statute.

#### ***Committee Challenges***

There are numerous challenges that the Committee has found with the Healthcare Transparency Act. The scope of the Act is all encompassing and it must be narrowed. In addition, after meeting with subject matter experts in the field of healthcare data, the committee believes that it does not have the resources appropriated to conduct a thorough feasibility study on all the components the legislation addresses in order to provide a recommendation at this time.

The Committee also had the following concerns related to the creation of the Nebraska Health Care Data Base:

- Availability of self-funded data
- Funding mechanisms for the Nebraska Health Care Data Base
- Entity and Data Governance
- Privacy and Security
- Sustainability model

- Cost benefit analysis
- Implementation management
- Overlap with current pricing tools in the public and private sector

### ***Committee Recommendations***

1. At this time, the committee has not received information that would indicate that an all payer claims database can be recommended to address all the needs identified in the legislation. While conceptually these ideas have merit, significant questions remain regarding the potential use of the data, the scope of information to be gathered, and the costs associated with creating and maintaining the database. The committee believes that the idea deserves further consideration and recommends a more formal study be performed by consultants retained by the commission. The study should include a request for information from potential vendors.
2. The Committee recommends the scope of the Health Care Transparency Act should be limited to the feasibility of the creation of the Nebraska Health Care Data Base and the alternatives to the creation of the Nebraska Health Care Data Base.
3. The Committee recommends that funding be appropriated to the Department of Insurance. The purpose of the funding is to develop, in consultation with the Committee, a request for information (RFI) to be issued to seek additional information on the cost, technology, challenges and benefits associated with creation of the Nebraska Health Care Data Base or other alternatives to an all payer claims database to meet the objectives of the legislation. Consideration should be given to obtaining professional services for drafting and review of RFI responses and evaluating alternatives. The committee will report back to the Director of Insurance. The Director will report the results of the RFI to the Legislature and Governor and recommend appropriate next steps.

## **Appendix A**

This appendix is intended to be responding to Neb.Rev.Stat §§ 71-9201 to 71-9204 requirement that the Committee make specific recommendations regarding the specific subsections listed below.

(1) The Health Care Data Base Advisory Committee shall make recommendations to the Director of Insurance regarding the Nebraska Health Care Data Base that:

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

***Please see recommendation 3 of the committee report.***

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

***The committee has determined that it is not appropriate to make this recommendation until further study is completed or the RFI analysis has been completed.***

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

***Any solution should be consumer friendly and promote decisions of cost and quality. The analysis of the RFI will be valuable in determining this recommendation.***

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

***The analysis of the RFI will be valuable in determining this recommendation.***

(e) Use and build upon existing data collection standards, reporting requirements, and methods to establish and maintain the data base in a cost-effective and efficient manner;

***The analysis of the RFI will be valuable in determining this recommendation. For example, it is not known at this time if collection standards exist at the present time.***

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

***After the results of the evaluation are reviewed by the committee, the committee should recommend the most cost-effective method of collecting data to minimize the cost and administrative burden on data sources.***

(g) Include discussions regarding the standardization of the Nebraska Health Care Data Base with other states and regions and federal efforts concerning all-payer claims data bases;

***Through the RFI process the committee will evaluate if there are opportunities to standardize the Nebraska APCD with other states.***

(h) Include discussions regarding the integration of data collection requirements of the health insurance exchange as required by the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments thereto or regulations or guidance issued under those acts;

***Through the RFI process the committee will evaluate the integration of data collection requirements of the health insurance exchange as required by the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments thereto or regulations or guidance issued under those acts***

(i) Include discussions regarding a limit on the number of times the Nebraska Health Care Data Base may require submission of the required data elements;

***After completion of the RFI and potential RFP processes, committee to recommend the number of times the Nebraska Health Care Data Base may require submission of the required data elements.***

(j) Include discussions regarding a limit on the number of times the data base may change the required data elements for submission in a calendar year considering administrative costs, resources, and time required to fulfill the requests;

***After completion of the RFI and potential RFP processes, committee to recommend the number of times required data elements the Nebraska Health Care Data Base may change the required data elements for submission in a calendar year.***

(k) Include discussions regarding compliance with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and other proprietary information related to collection and release of data;

***After completion of the RFI and potential RFP processes, committee to recommend that the potential APCD be compliant with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, to safeguard patient confidentiality and other proprietary information related to collection and release of data.***

(l) Discuss issues surrounding the availability of the data for research and other purposes; and

***It is the recommendation that any potential APCD be designed for meaningful research and public health practice. Users of such data should include, but not be limited to, state & local public health and academic institutions/agencies.***

(m) Include whether the advisory committee should continue to exist and provide recommendations to the Department of Insurance regarding the Nebraska Health Care Data Base after the report required in subsection (2) of this section is completed.

***The committee recommends that the committee continue to exist throughout the RFI and evaluation process.***

**Appendix B**

**LB 76**

**LEGISLATIVE BILL 76**

**Approved by the Governor February 13, 2014**

**Introduced by Nordquist, 7; Campbell, 25.**

**FOR AN ACT relating to health care; to adopt the Health Care Transparency Act;**

**to create an advisory committee; and to declare an emergency.**

**Be it enacted by the people of the State of Nebraska,**

**Section 1. Sections 1 to 4 of this act shall be known and may be**

**cited as the Health Care Transparency Act.**

**Sec. 2. The Director of Insurance shall appoint the Health Care**

**Data Base Advisory Committee to make recommendations regarding the creation**

**and implementation of the Nebraska Health Care Data Base which shall provide**

**a tool for objective analysis of health care costs and quality, promote**

**transparency for health care consumers, and facilitate the reporting of health**

**care and health quality data. The Nebraska Health Care Data Base shall be used**

**to:**

**(1) Provide information to consumers and purchasers of health care;**

**(2) Determine the capacity and distribution of existing health care**

**resources;**

**(3) Identify health care needs and inform health care policy;**

**(4) Evaluate the effectiveness of intervention programs on improving**

**patient outcomes;**

**(5) Review costs among various treatment settings, providers, and**

**approaches; and**

***(6) Improve the quality and affordability of patient health care and health care coverage.***

***Sec. 3. (1) The Health Care Data Base Advisory Committee shall be appointed within forty-five business days after the effective date of this act.***

***(2) The advisory committee members appointed by the Director of Insurance shall include, but not be limited to:***

***(a) A member of academia with experience in health care data and cost efficiency research;***

***(b) At least one representative of hospitals;***

***(c) At least one representative of physicians;***

***(d) At least one other representative of health care providers;***

***(e) A representative of small employers that purchase group health insurance for employees, which representative is not an insurer or insurance producer;***

***(f) A representative of large employers that purchase health insurance for employees, which representative is not an insurer or insurance producer;***

***(g) At least one health care consumer advocate, knowledgeable about private market insurance, public health insurance programs, enrollment and access, or related areas and has background or experience in consumer health care advocacy;***

***(h) At least one representative of health insurers;***

***(i) A representative of organizations that facilitate health information exchange to improve health care for all Nebraskans; and***

*(j) At least one representative of local public health departments.*

*(3) The following shall serve as ex officio members of the advisory committee:*

*(a) The Director of Insurance or his or her designee;*

*(b) The Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care of the Department of Health and Human Services or his or her designee; and*

*(c) The Director of Public Health of the Division of Public Health of the Department of Health and Human Services or his or her designee.*

*(4) The members of the advisory committee appointed pursuant to subsection (2) of this section shall serve without compensation and shall not be reimbursed for expenses incurred in the performance of their duties on the committee.*

*Sec. 4. (1) The Health Care Data Base Advisory Committee shall make recommendations to the Director of Insurance regarding the Nebraska Health Care Data Base that:*

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

*(b) Focus on data elements that foster quality improvement and peer group comparisons; (c) Facilitate value-based, cost-effective purchasing of health care services by public and private purchasers and consumers;*

*(d) Result in usable and comparable information that allows public and private health care purchasers, consumers, and data analysts to identify and compare health plans, health insurers, health care facilities, and health care providers regarding the provision of safe, cost-effective, high-quality*

*health care services;*

*(e) Use and build upon existing data collection standards, reporting requirements, and methods to establish and maintain the data base in a cost-effective and efficient manner;*

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

*(g) Include discussions regarding the standardization of the Nebraska Health Care Data Base with other states and regions and federal efforts concerning all-payer claims data bases;*

*(h) Include discussions regarding the integration of data collection requirements of the health insurance exchange as required by the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments thereto or regulations or guidance issued under those acts;*

*(i) Include discussions regarding a limit on the number of times the Nebraska Health Care Data Base may require submission of the required data elements;*

*(j) Include discussions regarding a limit on the number of times the data base may change the required data elements for submission in a calendar year considering administrative costs, resources, and time required to fulfill the requests;*

*(k) Include discussions regarding compliance with the federal Health*

*Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and other proprietary information related to collection and release of data;*

*(l) Discuss issues surrounding the availability of the data for research and other purposes; and*

*(m) Include whether the advisory committee should continue to exist and provide recommendations to the Department of Insurance regarding the Nebraska Health Care Data Base after the report required in subsection (2) of this section is completed.*

*(2) On or before December 15, 2014, the Director of Insurance shall report to the Governor and the Legislature the recommendations of the advisory committee.*

*Sec. 5. Since an emergency exists, this act takes effect when passed and approved according to law.*