

# HOUSE BILL REPORT

## 2SHB 1776

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**As Passed House:**  
March 12, 2019

**Title:** An act relating to making changes to support future operations of the state all payer claims database by transferring the responsibility to the health care authority, partnering with a lead organization with broad data experience, including with self-insured employers, and other changes to improve and ensure successful and sustainable database operations for access to and use of the data to improve health care, providing consumers useful and consistent quality and cost measures, and assess total cost of care in Washington state.

**Brief Description:** Making changes to support future operations of the state all payer claims database by transferring the responsibility to the health care authority, partnering with a lead organization with broad data experience, including with self-insured employers, and other changes to improve and ensure successful and sustainable database operations for access to and use of the data to improve health care, providing consumers useful and consistent quality and cost measures, and assess total cost of care in Washington state.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Cody, Harris, Macri, Caldier, Robinson, Jinkins, Tarleton, Ormsby and Slatter; by request of Office of Financial Management and Health Care Authority).

**Brief History:**

**Committee Activity:**

Innovation, Technology & Economic Development: 2/13/19, 2/15/19 [DPS];  
Appropriations: 2/27/19, 2/28/19 [DP2S(w/o sub ITED)].

**Floor Activity:**

Passed House: 3/12/19, 85-11.

**Brief Summary of Second Substitute Bill**

- Transfers authority of the statewide, all-payer health care claims database (APCD) from the Office of Financial Management (OFM) to the Washington State Health Care Authority (HCA) on January 1, 2020.
- Requires the HCA to convene a state agency coordinating structure, with oversight from the OFM, to assess and improve APCD performance.
- Modifies the procurement process for selecting a lead organization to coordinate and manage the APCD.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Changes certain release of claims data and APCD management requirements.

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## HOUSE COMMITTEE ON INNOVATION, TECHNOLOGY & ECONOMIC DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hudgins, Chair; Kloba, Vice Chair; Smith, Ranking Minority Member; Boehnke, Assistant Ranking Minority Member; Slatter, Tarleton, Van Werven and Wylie.

**Staff:** Kyle Raymond (786-7190).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Innovation, Technology & Economic Development. Signed by 29 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Dye and Kraft.

**Staff:** Catrina Lucero (786-7192).

### **Background:**

In 2014 the Legislature directed the Office of Financial Management (OFM) to establish a statewide all-payer health care claims database (APCD) to support transparent public reporting of health care information.

### **Lead Organization.**

The OFM Director is required to select a lead organization to coordinate and manage the APCD. The lead organization is responsible for internal governance, management, funding, and operations of the database. At the direction of the OFM, the lead organization works with the data vendor to collect claims data, design data collection mechanisms, ensure protection of the data, provide reports from the database, develop protocols and policies, develop a plan for financial sustainability, charge fees for reports and data files, and convene advisory committees.

The OFM must initiate a competitive procurement process to select a lead organization, and the lead organization's proposal must be awarded additional scoring evaluation points for the organization's:

- degree of relevant experience in health care data collection, analysis, analytics, and security;
- long-term self-sustainable financial model;
- experience convening and effectively engaging stakeholders to develop reports;
- experience meeting budget and timelines for report generations; and
- ability to combine cost and quality data.

The lead organization must enter into a contract with a data vendor to perform data collection, processing, aggregation, extracts, and analytics.

In July 2016 the OFM Director selected the Center for Health Systems Effectiveness (CHSE) at Oregon Health and Science University as the lead organization and Onpoint Health as the data vendor to coordinate and manage the APCD.

#### Submissions to the Database.

Data suppliers must submit claims data to the APCD within an established time frame. The state Medicaid program, the Public Employees' Benefits Board program, state health carriers, third-party administrators, and the Department of Labor and Industries must submit their claims data to the database, and the CHSE must submit an annual status report to the OFM regarding their compliance. Claims data consists of all data required to be submitted to the database, which includes billed amounts, allowed amounts, paid amounts, and additional information defined in rule.

#### All-Payer Health Care Claims Database Data Submission.

The CHSE, in conjunction with Onpoint Health, is required to develop a financial sustainability plan for the APCD, and the database must be self-sustaining.

The CHSE is permitted to charge providers or other data suppliers fees directly related to data files.

#### Release of Claims Data.

Data from the APCD is available for retrieval by public and private requesters, and requested data must be made available within a reasonable time after the request.

Requests for claims data must include information about: the requestor's identity; the purpose for the request; the proposed methodology with specific variables intended for use; the requestor intended data handling practices and safety measures; the data privacy and confidentiality protection; and consent to penalties for inappropriate disclosures or uses of direct patient identifiers and proprietary financial information. The requestors must also include a description of the method by which the data will be stored, destroyed, or returned to the CHSE at the conclusion of the data agreement.

The CHSE may deny a request for data if the request does not include the required information or meet established criteria. In conjunction with the OFM and the data vendor, the CHSE must develop a process to govern levels of access to, as well as and use of, data. Data that includes proprietary financial information, direct patient identifiers, or indirect patient identifiers may only be released to researchers to the extent necessary to achieve the goals of the APCD. The OFM is required to adopt procedures for data release, penalties

associated with inappropriate disclosures, and uses of patient identifiers and proprietary financial information.

Confidentiality.

The CHSE and the data vendor must maintain confidentiality of claims or other data it collects, and confidentiality extends to any entity that receives data. Data recipients may only release data approved as part of the data request, which must not include proprietary financial information, direct patient identifiers, or indirect patient identifiers. Recipients of data must agree to the conditions in a data use or confidentiality agreement.

Periodic Reporting Requirements.

Under the supervision of the OFM, the CHSE is required to prepare data reports using the APCD and the Statewide Health Performance and Quality Measure to promote awareness and transparency in the health care market. The CHSE must submit a list of reports it anticipates producing during the following year to the OFM, who must submit the report to the Legislature with public comment.

The OFM is required to submit a report to the Legislature every six months detailing all grants it receives or extends. The OFM must also report the cost, performance, and effectiveness of the APCD and the performance of the CHSE to the Legislature biennially. The report must use independent economic expertise to evaluate the lead organization's performance and whether the APCD has advanced its stated goals. The report must also make recommendations on: (1) how the database could be improved; (2) whether the contract with the lead organization should be modified, renewed, or terminated; and (3) the impact the database has had on competition.

**Summary of Second Substitute Bill:**

Statewide Health Care Database Transfer.

The Office of Financial Management (OFM) must transfer authority and oversight of the statewide, all-payer health care claims database (APCD) to the Washington State Health Care Authority (HCA) on January 1, 2020. The OFM and the HCA are required to develop a transition plan by July 1, 2019, that sustains operations.

The OFM must deliver all materials necessary for the HCA to transfer the database, including reports, documents, records, and other written materials. All OFM funds, credits, or specific appropriations that are solely for the purpose of coordinating or managing the APCD must be assigned to the HCA.

The HCA will continue to act on all OFM rules, pending business, and existing contracts and obligations. The transfer of the powers, duties, and functions to the HCA does not affect the validity of any OFM act performed.

The OFM Director must make final determination on any questions that arise related to the APCD transfer, and the OFM Director must also certify any budgeted fund allotments required as a result of the transfer to the agencies affected, the state auditor, and the state treasurer.

The HCA maintains the OFM requirement to biennially report the cost, performance, and effectiveness of the APCD and the lead organization's performance under its contract with the HCA. The HCA grant reporting requirement to the Legislature is extended from six months to one year.

#### Lead Organization Procurement.

The HCA's procurement process for selecting a lead organization to coordinate and manage the database is modified to:

- remove the requirement that the HCA select from the best potential bidders;
- authorize the lead organization to contract with multiple data vendors; and
- require the HCA to give strong consideration to, rather than award extra evaluation points for, the lead organization's procurement criteria.

The HCA must also give preference to groups of health providers, carriers, and self-insured purchasers in the state when evaluating how potential lead organizations engage stakeholders and combine cost and quality data.

The HCA is prohibited from selecting a health plan, hospital, health care provider, third-party administrator, or any third party with a controlling interest in any of the aforementioned entities as the lead organization for the APCD.

#### All-Payer Health Care Claims Database Data Submission.

The School Employees Benefit Board is added to the list of entities that must provide data to the APCD.

#### All-Payer Health Care Claims Database Funding.

The financial sustainability plan, developed by the lead organization and data vendor, must be reasonable and customary as compared to other states' databases, and the requirement that the plan be self-sustaining is removed.

#### Release of Claims Data.

Claims or data recipients are required to destroy the data they obtain at the conclusion of the data agreement. The release of claims requirement for requestors to identify the method by which data will be sorted and returned is removed.

Claims or other data that do not contain direct patient identifiers, but that may contain proprietary information, indirect patient identifiers, and unique identifiers may be released to the Washington Health Benefit Exchange upon receipt of a signed data use agreement with the HCA and the lead organization, as directed by HCA rules.

The HCA must adopt rules to establish a minimum threshold below which the data supplier is not required to submit data.

#### State Agency Coordinating Structure.

The HCA must convene a state agency coordinating structure to assess and improve APCD performance by state agencies. The structure must consist of state agencies with related data needs, as well as the Washington Health Benefit Exchange, to ensure effectiveness of the database and the agencies' program. The coordinating structure must collaborate with the

lead organization and other partners both publicly and privately, and the structure must consult with the HCA in developing APCD policies and rules, including ensuring agency access to the database.

The OFM must participate as a key part of the coordinating structure and evaluate progress towards meeting the APCD's goals. The OFM may recommend strategies for maintaining and promoting the progress of the database as needed and report its findings to the Legislature annually. The OFM must have all necessary access to APCD processes, procedures, methodologies, and outcomes to perform these functions. The annual review shall, at a minimum, assess the:

- list of approved agency case projects and related data requirements;
- successful and unsuccessful data requests and outcomes related to health researchers;
- online data portal access and effectiveness related to research requests and data provider review and reconsideration;
- adequacy of data security and the consistency of security policy with the Office of the Chief Information Officer;
- timeliness, adequacy, and responsiveness of the database requests; and
- potential improvements in data sharing, data processing, and communication.

The OFM and the HCA must jointly develop an effectiveness review process for the HCA Statewide Common Measure Set, and the OFM may make recommendations for improvements, as needed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony** (Innovation, Technology & Economic Development):

(In support) The Washington all-payer claim database (APCD) is a tool that makes health care price and quality data transparent. The database is vital towards building affordable, high quality, and high value health care products. States that have data available on covered lives have been able to quickly and successfully save on health care costs because data exposes different market segment's payment and quality differentiation.

The APCD is currently housed at the Office of Financial Management (OFM), and the Washington State Health Care Authority (HCA) has the clinical expertise to work in partnership to take this tool to the next level. The HCA is perfectly suited to oversee the process of working with claims data because the HCA has the right team, including doctors and nurses that work with budget and fiscal experts. The HCA would oversee the lead organization and approve the subcontractors. The bill requires secure data submission capabilities that meet privacy best practices and also comply with Health Insurance Portability and Accountability Act and state health privacy standards. There is also a potential opportunity for the HCA to receive a Medicaid match for work related to Medicaid claims, which has brought significant federal funds to other states. Working with federal

partners would create further privacy and security oversight. Other states that have received the Medicaid match have contained costs. The APCD is a powerful cost containing tool.

This bill represents another step in the Governor's commitment to expand access to health care price and quality data. The OFM would be responsible for evaluating progress on the APCD's goals, including data access and timeliness. Data enclaves will help increase data access without reducing security through reducing the distribution of data sets. With this, an individual with a defined user agreement can answer a query without extracting the data. The sale of third party data would not be allowed under a data use agreement.

The Washington Health Benefit Exchange Board is concerned about affordability of health care in the individual market, and something needs to be done about the underlying healthcare costs. Customers have been facing rate increases, which has made it difficult to afford healthcare. The APCD has been vital to understanding health care cost trends, responding to cost trends, and tracking the effectiveness of efforts taken.

The Washington Health Alliance supports a single database, which would eliminate the expense and administrative burden of redundant and irreconcilable databases. Currently, health plans must submit data to multiple datasets and providers must validate content in two separate databases. In addition, running databases is very expensive, with the state spending over \$6.5 million in federal funds to create the APCD. The APCD develops powerful reports that improve health care quality and make healthcare more affordable in our state.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations):**

(In support) The state used federal grants to build and operate the All-Payer Health Care Claims Database (APCD). These expire on or before June 30, 2019. To date, the APCD has received no funding from the State General Fund. Transferring the APCD to the Health Care Authority (HCA) will allow for more data and clinical oversight and will build on the current work to help understand cost drivers and spending trends. No other state has made APCDs entirely self-sustaining. The HCA costs are informed by prior Office of Financial Management costs. The fiscal note includes costs to provide certain state agencies with access to the data.

(Opposed) None.

**Persons Testifying (Innovation, Technology & Economic Development):** Sue Birch, Washington State Health Care Authority; Marc Baldwin, Office of Financial Management; Pam MacEwan, Washington Health Benefit Exchange; Fred Jarrett, Washington Health Alliance; and Jim Harrison, Onpoint Health Data.

**Persons Testifying (Appropriations):** Marc Baldwin, Office of Financial Management; and July Zerzan, Health Care Authority.

**Persons Signed In To Testify But Not Testifying (Innovation, Technology & Economic Development):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations): None.**