SYNOPSIS: Under existing law, the Alabama Department of Public Health, which licenses and regulates certain health care facilities, accumulates and disseminates statistical health information on births, deaths, and cancer cases in Alabama. Existing law does not require the department to collect comprehensive statewide hospital discharge data.

This bill would require the department to periodically collect, compile, and analyze certain patient discharge data from certain hospitals.

This bill would require the department to adopt rules for the protection, collection, and dissemination of hospital discharge data, require the department to release certain discharge data to the Alabama Hospital Association, and make certain data available to the public in compliance with federal and state health privacy laws.
This bill would authorize the department to levy civil penalties for failure of a hospital to timely report discharge data to the department.

This bill would establish the Hospital Discharge Data Advisory Council to advise the department on rulemaking and would provide for its membership.

This bill would also provide for confidentiality and privilege protection for patient information provided under this act.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Department of Public Health; to require the department to collect from hospitals certain patient discharge data and to compile, analyze, and make available the data to the Alabama Hospital Association and make certain data available to the public; to establish the Hospital Discharge Data Advisory Council to advise the department on rulemaking and provide for its membership; to require the department to adopt rules; to provide for civil penalties for violations; and to provide for confidentiality and privilege protections.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. For purposes of this act, the following terms have the following meanings:

(1) COUNCIL. The Hospital Discharge Data Advisory Council established under Section 7.

(2) DEPARTMENT. The Alabama Department of Public Health.

(3) DISCHARGE DATA. Data regarding a patient's discharge as an inpatient or outpatient from a hospital, as required on the UB-04 claim form, or any successor form, and on other forms that include services provided for covered inpatient and outpatient discharges.

(4) HOSPITAL. General acute care, critical access and specialized hospitals, as well as any freestanding emergency department that is separately licensed by the department as a provider-based division of a hospital, as defined by rules of the department and licensed pursuant to Article 2 of Chapter 21 of Title 22, Code of Alabama 1975, and that are located in this state.

Section 2. (a) The department, upon consultation and approval of the council, shall establish and maintain processes and systems necessary for the protection, collection, and dissemination of discharge data. The department's discharge data collection systems and processes required by this act shall become operational on or before January 1, 2022.

(b) Commencing April 1, 2022, and quarterly thereafter, all hospitals shall submit to the department
discharge data containing discharge data pursuant to rules
adopted by the department.

(c) The initial report and each report thereafter
shall only be required to include inpatient and outpatient
discharge data for those individuals provided services during
the three months immediately preceding the date of the
discharge data. Any discharges prior to the date immediately
preceding the three months prior to the initial report shall
not be reported under this act.

(d) The department may contract for any services
needed to carry out the provisions of this act.

Section 3. The department, after consultation and
with the approval of the council, shall adopt all rules
necessary to implement this act.

Section 4. (a) All hospitals shall report inpatient
and outpatient discharge data pursuant to rules adopted by the
department, including rules defining inpatient and outpatient
discharges.

(b) After receiving the discharge data, the
department shall promptly make the discharge data available to
the Alabama Hospital Association, which shall use the data
strictly for its own internal purposes and for internal
purposes of its membership. The department shall not otherwise
distribute the discharge data other than what is determined to
be permissible pursuant to the rules adopted to administer
this act.
(c) No discharge data or other information shall be made available to the public by the association or the department that reasonably could be expected to reveal the identity of any patient. The discharge data reported under this act is confidential and shall not be available to the public until the department processes and verifies that the discharge data otherwise satisfies the requirements for public disclosure under this act and applicable federal law.

(d) The department shall adopt rules regarding the processed and verified data that is made available to the public and for the release of limited data sets, which are compliant with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, its amendments and implementing regulations.

Section 5. Individually identifiable patient information on discharge data submitted under this act shall not be public information. Reports and studies prepared and released by the department based upon discharge data shall not include information obtained from the discharge data in a form which could be used to identify any patient.

Section 6. The department may conduct studies and publish information based upon the discharge data obtained pursuant to this act, provided the studies and published information do not include information in a form which could be used to identify any patient or violate HIPAA.

Section 7. (a) The Hospital Discharge Data Advisory Council is established to assist in developing rules and
standards necessary to implement this act, to review and serve as consultants to the department on matters related to any reports, studies, or publications authorized under this act, and to serve as consultants to the department on matters relating to the protection, collection, and dissemination of discharge data.

(b) The council shall consist of the following members:

(1) Seven hospital representatives appointed by the Alabama Hospital Association, including at least one representative of each of the following: A rural hospital, an urban hospital, a governmental hospital, a not-for-profit hospital, a pediatric hospital, and a for-profit hospital.

(2) Two physicians appointed by the Medical Association of the State of Alabama.

(3) One member appointed by Blue Cross Blue Shield of Alabama.

(4) One consumer appointed by the Governor.

(5) The Commissioner of the Alabama Medicaid Agency, or his or her designee.

(6) The Executive Director of the State Health Planning and Development Agency, or his or her designee.

(c) The council members shall be appointed within 60 days of the effective date of this act, and shall meet within 30 days after the appointment of the council membership in order to establish procedures and other policies necessary to carry on the business of the council. A quorum for purposes of
conducting council business shall be seven of the appointed
members of the council. All meetings of the council shall be
announced in advance and conducted pursuant to the Open
Meetings Act, Chapter 25A, Title 36, Code of Alabama 1975. All
meetings shall require personal attendance of the members of
the council for purposes of determining whether a quorum is
present and conducting business.

(d) All appointing authorities shall coordinate
their appointments so that diversity of gender, race, and
geographical areas is reflective of the makeup of the state.

(e) The terms of the appointed members of the
council shall be staggered as follows: The State Health
Officer shall divide the members into two equal groups. The
members of the first group shall be appointed for an initial
term of two years. The members of the second group shall be
appointed for an initial term of four years. Thereafter, the
term of office of each member shall be for four years. A
member may serve two consecutive terms. A member shall serve
until a successor is appointed. If a vacancy occurs, the
original appointing authority shall fill the vacancy for the
remainder of the unexpired term.

(f) Members shall not receive a salary or per diem
allowance for serving as members of the council.

(g) The council may appoint a technical advisory
committee if desired. The technical advisory committee members
may or may not be members of the council.
(h) The State Health Officer, or his or her
designee, shall serve as chair of the council and as an ex
officio member, without vote, except if there is a tie vote of
the voting members of the council.

Section 8. (a) A hospital shall pay to the
department a civil penalty of five cents ($0.05) per patient
discharge record for each day the discharge data required to
be reported under this act is delinquent.

(b) A discharge data report is delinquent if the
department does not receive the report within 60 calendar days
after the end of the quarter for which the discharge data is
required to be reported.

(c) If the department receives a discharge data
report in incomplete form, the department shall notify the
hospital making the report and provide 15 additional calendar
days to correct the error and submit complete discharge data
as required under this act and the rules adopted by the
department to implement this act. If the hospital fails to
correct the error and submit complete discharge data within
the 15 additional calendar days, the incomplete discharge data
report shall be considered delinquent at the end of that
15-day period.

(d) The hospital has a right to an informal
conference with the department if the hospital requests a
conference within 30 calendar days of receipt of the civil
penalty assessment. After the informal conference or, if no
conference is requested, after the time for requesting the
informal conference has expired, the department may proceed to
collect any applicable civil penalty assessment.

(e) In its request for an informal conference, the
hospital may request the department to waive the civil penalty
assessment. The State Health Officer may waive the penalty in
cases of an act of God or other acts beyond the control of the
hospital or, at the discretion of the State Health Officer, or
other reasons reasonably related to compliance with this act.
Waiver of the penalty is in the sole discretion of the State
Health Officer.

(f) The imposition of a civil penalty under this
section may be appealed pursuant to the Alabama Administrative
Procedure Act. All civil penalties collected pursuant to this
section shall be remitted to the department and shall be
deposited in the General Fund, and shall not be earmarked for
the department. A hospital may not renew its license to
operate if the hospital has any unpaid civil penalties that
were levied more than 30 days before the hospital license
expiration date, except for any civil penalties that are
subject to appeal and except for penalties for which
arrangements for payment have been made which are satisfactory
to the department.

Section 9. (a) No person or entity may be held
liable in any civil action with respect to a report or
disclosure of discharge data made under this act, except under
the following circumstances:
(1) The person or entity has knowledge of the falsity of the discharge data reported or disclosed.

(2) The discharge data is publicly disclosed in violation of this act or federal law regarding confidentiality of individually identifiable health information.

(3) The disclosure is made wantonly, arbitrarily, capriciously, or through an abuse of discretion.

(b) Nothing in this section is intended to create a new private cause of action in any court of this state.

Section 10. Individual patient data submitted by a hospital pursuant to this act shall remain at all times confidential and privileged from discovery. This act shall not be construed to prohibit discovery of patient specific information from original sources where the information is otherwise non privileged and discoverable under applicable law. This act does not expand or repeal any protections from discovery, privilege, or confidentiality that exist by law, rule, regulation, or decision by a court of final jurisdiction, except for the protections afforded by this act.

Section 11. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.