TEXAS MEDICAL ASSOCIATION

Physicians Caring for Texans

House Committee on Insurance
Testimony On House Bill 1907 by Rep. Armando Walle
Relating to Establishment of a Statewide All-Payer Claims Database (APCD)
April 6, 2021

On behalf of more than 55,000 Texas physician and medical student members, thank you for the opportunity to submit testimony on House Bill 1907, establishing a statewide all-payer claims database (APCD). While we remain neutral on the bill at this time, the Texas Medical Association (TMA) strongly supports efforts to increase health care cost transparency and believes an APCD may be the right mechanism by which to achieve that goal.

At the same time, like you, we believe there must be appropriate safeguards within the bill to ensure data integrity and security and patient privacy. Other safeguards identified by physicians include: (1) establishing a governing advisory board to ensure strong stakeholder input and buy-in; (2) ensuring there are clear protocols for when and how the data is shared and with whom; and (3) establishing quality measures and cost-containment initiatives informed by fair, evidence-driven policies and real-world experience.

As our organization further evaluates the proposed bill and anticipated revisions to it, TMA looks forward to working with you to strengthen the bill and to add additional safeguards that will address outstanding concerns.

An APCD is a database of medical, pharmacy, and dental claims submitted by public and private state-regulated health care payers,[i] including Medicaid and Medicare, third-party administrators, and pharmacy benefit managers, to a designated entity in compliance with state and federal laws governing patient privacy. Information within the database – scrubbed of any patient identifying information – is then used by health care purchasers, researchers, and delivery systems, such as accountable care organizations (ACOs), to improve health care affordability, efficiency, and cost-transparency.

According to the Commonwealth Fund, 21 states currently operate or plan to implement an APCD.[ii] While each state's APCD varies in its scope,[iii] commonly collected data are:

- Patient demographics;
- Health plan type, such as HMO, PPO, or indemnity;
- Type of contract; and
- Claims data, including diagnosis, services provided, location, and date of service.

In turn, consumers, state agencies, and employers use the data to promote use of high-value, cost-effective services that improve health outcomes, as well as to address health disparities, among other uses. An APCD enable users to:

- Compare prices when purchasing health care, even among consumers. For example, in Colorado, New Hampshire, and Maine, patients can compare prices for common elective procedures such as hip or knee replacements.
- Identify unmet social drivers of health that increase health care costs.
    - In Arkansas, APCD analyses identified high air ambulance usage in certain communities attributable to lack of local health care resources, allowing the state to work with the community to establish new primary care clinics.

    - Identifying areas with low utilization of vital preventive care, such as prenatal services or cancer screenings, by county or ZIP code, allowing payers, physicians, and providers to develop better education and outreach campaigns to those populations.

- Identify opportunities to improve maternal and infant health outcomes, for example, by identifying hospitals with higher rates of preterm babies and potential root causes.
- Target behavioral health resources to communities with high need by analyzing counties and ZIP codes with higher rates of mental health emergency department use or suicides, or higher diagnoses of substance use or mental health disorders.
- Identify opportunities to increase use of lower-cost services, such as outpatient clinics, in lieu of hospital emergency departments.

In Texas, the Center for Health Care Data at The University of Texas School of Public Health in Houston already operates a data warehouse similar to an APCD, though reporting to it is voluntary. As proposed by HB 1907, Texas would build upon the center's architecture, reducing the costs of establishing a separate system. Moreover, because the center has been certified by the Centers for Medicare & Medicaid Services (CMS) as a "qualified entity," it has already undergone strict assessment of its data privacy and security systems, providing Texas a secure entity to collect, store, and process data as well as produce reports consistent with nationally recognized quality standards.

To fund state costs associated with the formation of an APCD, Texas can pursue new federal grant funds. The Consolidated Budget Act (CBA), enacted by Congress in December 2020, provides each state with $2.5 million in grant funding over three years to support the establishment of an APCD.

Moreover, the CBA included a provision to encourage more self-funded health plans to submit data to APCDs (based on a 2016 U.S. Supreme Court ruling, states cannot compel self-funded health insurers to submit data[iv]). The CBA directs the secretary of labor to convene a workgroup to develop standardized data reporting for the databases. The intent is to address concerns by multistate businesses about submitting data to each state using different standards. Establishing common reporting standards and data elements will make it easier for multistate businesses with self-funded health insurance to submit data to APCDs.

Advancing inclusion of more self-funded plan data into APCD data sets will quell concerns over time that such state-level data sets provide an incomplete picture of utilization and cost trends.

TMA policy supports reasonable efforts to improve health care price transparency. Last fall, TMA undertook a review of other state APCDs to determine the benefits and costs of establishing one here. TMA determined a broad consensus exists among physicians on the need for Texas to promote a more competitive health insurance marketplace that is also more transparent for employers and consumers.

Moreover, as more physicians join together to form new delivery systems, such as integrated primary-behavioral health clinics, patient-centered medical homes, or ACOs, access to such data also will help them better adapt to the rapidly changing health care landscape by improving referral patterns, identifying potential gaps in care (e.g., high hospital readmission rates or emergency department use for preventable conditions, such as asthma), and targeting services to underserved communities.

At the same time, our members also felt strongly that any APCD legislation must incorporate safeguards to protect patient privacy, ensure data security and integrity, establish strong stakeholder input and collaboration, and prevent misuse of the data.

Based on the experience of other states with APCD implementation,[v] [vi] **there are important lessons for Texas to consider as it evaluates whether an APCD will achieve the state's goals to improve health care cost transparency, improve health outcomes, and promote accountability**. Most importantly,

according to a recent report from the Commonwealth Fund, State All-Payer Claims Databases. Tools for Improving Health Care Value, Part 1: How States Establish an APCD and Make It Functional (commonwealthfund.org), *an effective all-payer claims database requires buy-in from key stakeholders in a state, a suitable governance structure, sustainable funding, realistic implementation time frames, and adherence to data quality and privacy standards.*

Additionally, states should:

1. Clearly establish the purpose and goals of an APCD.
2. Adopt strong measures to protect patient privacy while also ensuring data systems can provide useful and pragmatic information to address health care costs and outcomes.
3. Establish a mechanism to ensure informal and formal stakeholder engagement.
4. Consult with physician and provider representatives to discuss the measures that can be accurately and reliably calculated from claims data and to ensure they reflect a meaningful aspect of health system performance.

While we believe the anticipated committee substitute will address some of these principles, we recommend additional amendments to the bill to ensure a strong stakeholder engagement process, protect patient privacy and data integrity and security, and ensure a mechanism to solicit physician and provider input prior to enactment of any measures to ensure they reflect actual performance.

In particular, additional safeguards TMA recommends be added to the legislation include:

- Establish a stakeholder advisory committee composed of physicians, health care providers, health care researchers, employers, health plans, consumer advocates, and others. As noted within the Commonwealth Fund's December 2020 report on APCDs, "Initial and ongoing stakeholder engagement is critical to addressing challenges regarding legislation, funding, technology and staffing." Without a stakeholder process and governance, our members have concerns regarding the effective implementation of an APCD.
- Strengthen language pertaining to data security, privacy, and integrity.
- Adopt a provision to ensure individual physician data is not released without an opportunity for data to be reviewed and corrected if individual data is publicly reported; for aggregate physician-level data, ensure it is not publicized without first seeking strong physician stakeholder engagement on the types of data that can and should be reported.
- Clearly define the process by which the APCD will determine what data will be publicly available versus restricted to health care researchers.
- Establish a mechanism allowing the APCD to audit data submissions by health care payers and third-party entities in order to ensure the data within the system is accurate and reliable.
- Require the APCD to establish a process to consult with practicing physicians and providers to determine the measures that can be accurately and reliably calculated from claims data and to ensure they reflect a meaningful aspect of health system performance.

TMA members encourage their patients to participate in making value-based health care decisions. To achieve value-based care, physicians must have access at the point of decision making to the best available data associated with costs. This necessitates delivery of cost data in a reasonable and useable manner by third-party payers and purchasers. The cost of each alternate intervention, in addition to patient insurance coverage and cost-sharing requirements, should be evaluated. TMA believes physicians can enhance value by balancing the potential benefits and costs in their decision making related to maximizing health outcomes and quality of care for patients. Physicians should seek opportunities to improve their information technology infrastructures to include new and innovative technologies, such as personal health records, to facilitate increased access to needed and useable evidence and information at the point of decision making. Physicians should seek opportunities to integrate prevention, including screening, testing, and lifestyle

counseling, into office visits by patients who may be at risk of developing a preventable chronic disease later in life.

For consumers – our patients – it also will enable them to choose care based on price and quality in a competitive, transparent marketplace.

Thank you for the opportunity to provide these comments. We look forward to working with you to achieve our mutually supported goals of ensuring all Texans have access to more accountable, affordable, high-quality, and evidenced-informed health care.

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[i] In 2016, the Supreme Court ruled that states cannot compel self-insured plans to submit data. However, such plans may voluntarily do so: All-Payer Claims Databases After *Gobeille*, *Health Affairs*, March 2017.
[ii] State All-Payer Claims Databases: Tools for Improving Health Care Value, Part 1, Commonwealth Fund.
[iii] Realizing the Potential of All-Payer Claims Databases, Robert Wood Johnson Foundation.
[iv] All-Payer Claims Databases After *Gobeille, Health Affairs*, March 2017.
[v] Ibid.
[vi] State All-Payer Claims Databases: Tools for Improving Health Care Value, Part, Commonwealth Fund.