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Model All-Payer Claims Database Legislation

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Developed with the support of westhealth policy center

Model All-Payer Claims Database (APCD) Legislation

May 2015

APCD All-Payer Claims Database COUNCIL

University of New Hampshire

NAHDO National Association of Health Data Organizations

Acknowledgement

This Model All-Payer Claims Database (APCD) Legislation was created by the APCD Council with support from the Gary and Mary West Health Policy Center.

About the West Health Policy Center

The Gary and Mary West Health Policy Center is a nonprofit, nonpartisan resource in Washington, D.C. wholly funded by philanthropists Gary and Mary West. It is part of West Health, which includes the independent, nonprofit Gary and Mary West Health Institute in San Diego. Together, West Health is pioneering new and smarter technologies, policies and practices to make high-quality healthcare more accessible at a lower cost to all Americans. The West Health Policy Center provides education, expertise and policy proposals to make successful aging a reality for all seniors in America. For more information, find us at westhealth.org and follow us @westhealth.

About the APCD Council

The APCD Council is a learning collaborative of government, private, non-profit, and academic organizations focused on improving the development and deployment of state-based all payer claims databases (APCDs). The APCD Council is convened and coordinated by the Institute for Health Policy and Practice (IHPP) at the University of New Hampshire (UNH) and the National Association of Health Data Organizations (NAHDO). The Council's work focuses on shared learning amongst APCD stakeholders, early stage technical assistance to states and catalyzing states to achieve mutual goals.

For more information, find APCD Council at www.apcdcouncil.org and follow us @APCDCOUNCIL.

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Introduction

To meet a variety of needs for healthcare transparency and health system transformation, an ever-growing number of states are implementing All-Payer Claims Databases (APCDs), aggregating claims and administrative data from public and private payers statewide. As states continue to develop APCDs, many have sought model legislation to use in the process of establishing the mandate for data collection and to define the key parameters of the system.

> Statewide APCDs are:
>
> Databases, typically created by a state mandate, that generally include data derived from medical claims, pharmacy claims, eligibility files, provider (physician and facility) files, and dental claims from private and public payers.

This document provides model legislation for APCD program development, based on the review of existing state APCD legislation (15 states at the time of the writing), analysis of other key federal and state regulations and statutes related to data collection and release and state experience with the legislative process. While the model legislation can be used by states to guide APCD development, it is important to note that legislation differs from state to state based on the needs of the state, the laws of the state, the politics at the time of passage, and the policy basis for the data collection itself. The following model legislation is intended to offer guidance, and states will need to modify and supplement the template language in the model legislation to reflect the specific intent and design of the APCD program and to reflect existing state law. The **bolded, language in [ ]** brackets, in particular, will need to be developed by states to reflect decisions about their specific APCD programs. The complete model language to be used to help guide each state in its development process is set forth in Appendix A, and explained in detail below.

Each state should consider the laws of its state and the needs of its own citizens, thereby adapting its legislation accordingly. State legislation is typically developed after a series of stakeholder engagement strategies to identify the key characteristics of the APCD. For more about the process of APCD development, see the *All-Payer Claims Database Development Manual: Establishing a Foundation for Health Care Transparency and Informed Decision Making*.

Legislation Sections

A state developing legislation should consider including the following:

- Purpose: Describe the purpose and intent of the APCD program.
- Governing body and oversight: Establish the supervising executive branch agency or agencies and describe the nature of the oversight of the program and any advisory entity that exists, or will be created, to guide the program over time.

- Scope: Define the information that will be collected, identify permitted uses and general reporting requirements, and describe rule-making authority associated with the development of the program.
- Privacy and confidentiality: Describe how the privacy and integrity of the data will be protected.
- Funding: Describe the intended approach to funding the APCD program, including any fees that may be developed.
- Public reporting requirements: Describe any required reporting requirements for the APCD program.

Many states include a "definitions" section in their statute that defines key terms. Such a definition section is driven by the individual state's choice of terminology. [*See* Appendix B for an example set of definitions from the state of Arkansas]. A simpler statute affords the opportunity for the state to provide definitions in the regulations, rather than the statute, but states should use the approach that best suits their legislative processes. [*See* NH RSA 420-G:11-a for simpler statute]

Legislation Section: Purpose

Within the "Purpose" section, states often define both the overall intent and the purpose of the legislation. The statement of intent explains, in broad terms, what the state intends to do (i.e., develop an APCD program). The purpose statement can further explain the rationale for that intent, and typically reflects the state's goal of developing a comprehensive, multi-payer data system that allows the state and other stakeholders to understand the cost, quality, and utilization of health care by and for their citizens. [*See* Maine Sec. 8701 and Virginia Sec 32.1-276.7:1(A) for simple and broad "purpose" language]. States may choose to add several "purposes", reflecting a range of potential uses and justifications for the APCD program. [*See* Oregon 442.466(1), Rhode Island Sec. 23-17.17-9(a) and Vermont Sec 9410(a)(1) for more detailed articulation of "purpose"]. States with broad purpose statements have found that they have had the flexibility to use the APCD program to address issues that evolve over time.

Intent. It is the intent of the legislature that uniform systems of reporting health care information be established through the development of an all payer claims database program and that all providers and health care payers who are required to submit health information do so in a manner consistent with the program.

Purpose. The APCD program authorized by [this chapter] shall make available timely and transparent information about health care quality, use, availability, and cost to consumers, researchers, communities, businesses, policy makers, providers, and payers so that they can make sound, economical, and medically appropriate decisions about health care coverage, benefits, and services in order to reduce the overall cost of health care to this state.

[OTHER PURPOSES]

- ***Improve the accessibility, adequacy, and affordability of patient health care and health care coverage through the review and dissemination of data.***
- ***Determine state health care needs and inform state health planning.***

- ***Evaluate the effectiveness of certain programs and services on improving patient outcomes.***
- ***Review costs among various treatment settings, providers, and modalities.***
- ***Provide publicly available and credible data regarding provider outcomes as they relate to quality of care.***
- ***Help businesses choose products for employees with information based on cost and quality.***
- ***Support providers in the development of quality improvement initiatives.***
- ***Inform the evaluation of payment reform options and provider integration efforts and their impact on cost and quality.***
- ***Allow for targeted population health initiatives.***
- ***Support research in the area of health cost, quality, and accessibility.***

Legislation Section: Governing Body and Oversight

A key component of the enabling legislation is to identify the entity with governing authority over the APCD program. One of the primary oversight functions of the governing authority is to ensure that the infrastructure to collect, maintain, and disseminate the data is in place. Typically, states authorize one executive branch agency (e.g., the Department of Insurance or Department of Health) to operate the program; however, some states choose to share the responsibilities amongst several agencies. [*See* Virginia 32.1-276.7:1(B); New Hampshire RSA 420-G:11-a for examples where one agency is designated as authority with mandated cooperation amongst agencies]. This is particularly important if the agency with authority for the APCD program does not have regulatory jurisdiction over all the entities submitting data, for example, the health insurance companies. Some states have created a new governing body either as an independent entity or as a governmental entity to operate and maintain the APCD program. [*See* Connecticut generally and Maine Sec. 8703]. While each state differs, the supervising entity should be authorized to enter into such contracts and hire such personnel as is necessary to implement and operate the program. Each state should choose the governing agency best capable of supervising the implementation and operation of the program and enforcing necessary compliance by all participants.

Supervising Agency. The department [of _____] shall develop, implement, and administer an APCD program consistent with this [chapter] and may enter into such agreements with other agencies as are necessary to administer and enforce the requirements of this chapter.

In addition, many states establish an advisory body (also called Steering Committee, Advisory Board, or Oversight Board) to provide input about the APCD operations and create an accountability structure for the program. These boards provide input into the procedures that are necessary for overall compliance, restrictions on data release, sustainability, effective transparency, public reporting, and other key issues. The advisory board can help ensure the APCD program adapts to the health care needs of the state. Advisory boards can pay close attention to who can access the data and for what purpose. Legislation that includes advisory board development typically identifies the number and type of representatives to be included in the board. [*See* Colorado and Tennessee]. Alternatively, some states more specifically define the role of an advisory

board, for example, the Massachusetts Statewide Quality Advisory Committee advises and makes recommendations directly to the APCD center (the "Center of Health Information and Analysis") on quality measures for inclusion in the standard quality measure set. *See* Massachusetts. The make-up and role of any APCD state advisory board will depend on the interests of the state and the needs of the APCD program in each particular state.

The model legislation language offers a sample structure for an advisory entity with general authority to advise the department on APCD program operations and with members who are designated by the supervising department.

Advisory Body. An advisory committee shall be established to advise the department in its operation of the APCD program and ensure the integrity and privacy of the program operations.

The advisory committee shall include at least [9] but no more than [19] members designated by the [commissioner with the approval of _____]. Such members shall have experience individually or collectively in the following areas:

- **[medical]**
- **[hospital]**
- **[pharmacy]**
- **[Federally Qualified Health Center]**
- **[mental health/substance use disorder]**
- **[dental]**
- **[nursing]**
- **[ambulatory surgical care]**
- **[public health]**
- **[small employer]**
- **[large employer]**
- **[insurance carrier – non-profit/for-profit]**
- **[Medicaid managed care organization]**
- **[third party administrator]**
- **[consumer advocate]**
- **[academic]**
- **[data collection and storage]**
- **[legal]**
- **[state government- executive branch]**
- **[state government – legislative branch]**

Legislation Section: Privacy

APCD programs need to be cognizant of federal privacy and security standards, and address any state privacy laws regulating health information in their state. *See generally*, Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. Parts 160, 162 and 164, as amended from time to time ("HIPAA") and 42 CFR Part 2. While APCDs are typically not "covered entities" under HIPPA,

HIPAA regulates but permits the transmission of health care information without patient authorization for certain purposes, including, public health activities, as required by law for certain purposes (*see* 45 CFR 164.512) and for research. All states should ensure the most current federal and state privacy and security laws and regulations impacting the collection, maintenance, and dissemination of data are carefully reviewed.

Many states restrict the collection of APCD to limited data sets, or to de-identified data. Other states develop strict parameters for collection of patient identifiers. [*See generally*, Colorado and Tennessee]. The decision to collect de-identified or directly identifiable fields will depend on the state's intended uses of the data and its political environment. If a state would like to link APCD data to other administrative (e.g., vital records or Health Insurance Exchange) or clinical data (e.g., Health Information Exchange), direct identifiers may be necessary. In either scenario, states should carefully review relevant federal and state privacy laws to ensure compliance.

States should be sure to prohibit the publication to third parties of any individually identifiable health information, which is health information that can be tied to an identifiable individual. A definition of "individually identifiable health information" is contained in the HIPAA privacy rules, 45 CFR 160, although each state may have its own definition. Each state must consider its own research, public health, and privacy needs in developing its system and implement appropriate privacy procedures accordingly. The APCD statute should clarify that the program will develop clear guidelines around privacy and security of health information. Such guidelines can reference compliance with state and federal laws, such as HIPAA privacy, security, and electronic transmission rules, clarify to what extent data submitted electronically by covered entities will be encrypted, clarify under what conditions information can be accessed and confirm that no private and protected health information will be published to third parties. To the extent the state's APCD program allows for individuals to access their own health care information, the statute may clarify that individually identifiable health information belonging to the individual may be disclosed to that individual.

In order to protect the APCD health information, the APCD program should be specifically exempted from any "right to know" laws and also protected from discovery, subpoenas, and other legally mandated disclosures in the manner that best meets the needs of the state. The model legislation includes generalized language that can be adapted by any state to protect the health information collected from disclosures otherwise required by law.

The following language addressing privacy issues serves as a general guide; however, each state must assess privacy practices depending upon the data collected, the reporting required, and the uses contemplated by the APCD program.

Privacy: The department shall develop and implement procedures to safeguard the integrity and confidentiality of any data collected, maintained, and reported by the APCD program as may be required by applicable state and federal laws and regulations governing the privacy and security of private health information.

The health care information collected and maintained by the APCD program shall be considered confidential and shall be exempt from disclosure by law.

Notwithstanding any law to the contrary, the health care information published pursuant to the APCD program shall not include any [individually identifiable health information].

Legislation Section: Scope of Program

States will need to decide which entities are required to submit data to the program and include language reflecting those decisions in their legislation. The model language is drafted to mandate data submissions by entities that meet the general description of all "entities offering health coverage" in the state. However, most states further refine the definition by limiting the entities responsible for submitting to those with either a minimum number of covered lives or a minimum dollar value in premiums or claims costs. [*See* Maryland]. Often the cost of registering and accepting data from health plans that cover few lives is too burdensome and drawing the line can save resources while maintaining the integrity of the statistical claims data. Included within the designation of the entities required to submit can be the enforcement parameters for noncompliance. [*See* Maine for detailed enforcement provisions]. Many states further define the registration and reporting requirements in rules as the needs and capacity of the program change.

In general, APCDs are the most effective and efficient when enabled by statutory authority that delegates details to the rulemaking process because health care is a dynamic and changing marketplace and the technology driving claims submissions, data collection and reporting is constantly evolving. The rules or regulations typically define more specific aspects of the APCD, including:

- Data elements and definitions for collection
- Thresholds for required data submissions
- Submission format and timelines
- Review and validation process
- Penalties for noncompliance
- Data release and use policies
- Interagency agreements required, particularly if the governance is housed in a non-state entity
- Requirements for encryption to protect sensitive fields, if applicable
- Schedule for mandatory data reporting, to provide assurances in rule that data will be used to meet the needs of the system.

Many states identify the types of claims to be included in the system in statute, such as:

- Health insurance claims
- Pharmacy benefit managers' claims
- Dental plans' claims
- Medical claims covered by workers' compensation
- Self-insured employer plans' claims
- Third party administrators' claims

- Claims from Medicaid, Medicare, or any other public health insurance program, including contracted and subcontracted managed care entities
- Long term care insurance claims

[*See* Connecticut, Oregon and Rhode Island]

States often further specify the expectations for submission of data in rules. The data reporting/submission section of legislation can refer to the rule-making process to identify what aspects of the APCD program will be addressed by rules. There may be no need, according to state law, to specify the areas of rulemaking authority. If permissible, a generalized rulemaking authority to effectuate the purpose of the state is recommended. [*See* Vermont and New Hampshire].

Finally, states may identify the potential uses of the data in the legislation itself or in the rules. Some states allow for limited use by approved research institutions, while others allow for broader use by providers, health insurers and, in some cases, the public. States that broaden the access to the data should consider the privacy implications and adopt procedures appropriate for the mandatory or discretionary uses. [*See* Massachusetts General Laws, Chapter 12C, Section 12(a) and (b)].

Data Reporting/Submission: All [entities offering or administering a health benefit reimbursement program] in the state shall register with the department in accordance with rules adopted by the department.

All [entities offering or administering a health benefit reimbursement program in the state] shall submit electronic claims in the format prescribed by rules adopted by the department.

Any [entity offering or administering a health benefit reimbursement program in the state] that fails to comply with the requirements [of this chapter] may be assessed a [civil penalty]. In addition, the department may bring injunctive action [in superior court] to enforce the provisions of this chapter.

Rulemaking. The department is authorized to adopt rules and regulations [pursuant to the state's administrative procedures act] to carry out the purposes of this chapter. Such rules and regulations shall include:

- **Criteria defining entities subject to mandatory submission of claims;**
- **Description of the data sets to be included in the APCD program;**
- **Criteria and procedures for the development of any limited-use data sets for the APCD;**
- **Criteria and procedures for the submission of claims data, eligibility data, provider files and other information necessary to create an APCD;**
- **Policies and procedures necessary to maintain the confidentiality and integrity of data submitted;**
- **Subjects for timely and public reporting by the APCD program of information to meet the intent and purpose of this statute and the public need for information;**
- **Accessibility and use of data by third parties;**

- **Procedures for proposing and funding public reports based on system data review**
- **Penalties for failure to comply with registration and data submission obligations under this chapter; and**
- **Fees to be charged for activities performed by the department hereunder.**

The department shall be authorized to enter into such contracts as are necessary to implement the provisions [of this chapter].

The department shall cooperate with [other agencies] in the development of rules and contracts hereunder.

Legislation Section: Funding

Many states do not reference specific funding sources in the legislation, and instead the funds are accessed through agency budgets and resources. Often, because insurance departments are fee based agencies, the agency is authorized by general or specific statute or regulation to assess fees and expend resources to meet its regulatory obligations, including maintenance and operation of the APCD program. Other states create a designated fund for the receipt of monies from fees, grants, and/or other funding mechanisms to be budgeted for the APCD program. Below is an example of language to create a designated fund if doing so is the funding option that best meets the needs of the state's APCD program.

Funding. There is hereby established a State APCD Trust Fund which shall be accounted for distinctly and separately from all other funds and shall be a [non-]interest bearing. The state APCD Trust Fund shall be administered by [the commissioner of the department of _____] and shall be used solely to support the establishment and maintenance of the APCD program and the purposes of this chapter. All moneys in the State APCD Trust Fund shall be non-lapsing and shall be continually appropriated to the commissioner for the purposes of the State APCD Trust Fund. Monies paid into the State APCD Trust Fund shall include fees and penalties collected hereunder, funds received from the federal government, funds appropriated by the legislature, all other payments, gifts, grants, bequests or income from any source for the purpose of the APCD program.

Legislation Section: Public Reporting Requirements

Some states specify reporting requirements for the system, although many leave the specific and regular reporting requirements to rule and regulations. Reports can include a specific set of analytic reports created through an analysis of the data, an update on progress of data system developments or other activities. Reporting requirements are an important part of creating an accountability structure and publicly available evidence of the value of the APCD program to stakeholders. [*See* Massachusetts for detailed reporting requirements]. While, as noted above, many states do not include detail on the type or frequency of data reports to be made public, below is an adaptable example of statutory reporting language.

<u>Public Data Reporting</u>:

The APCD Advisory Committee shall report to the governor and legislature on or before [_____ of each year] on the status of implementing the APCD program and any recommendations for statutory or regulatory changes that would advance the purposes of this chapter.

The APCD program shall ensure that the public receives timely reports sufficient to inform on health care quality, outcomes, disparities, cost of services, utilization, and pricing in the state and relevant communities consistent with the purposes of this chapter.

Appendix A: Model APCD Legislation

I. Title. Establishing an All Payer Claims Database in the State

II. Intent. It is the intent of the legislature that uniform systems of reporting health care information be established through the development of an all payer claims database program and that all providers and health care payers who are required to submit health information do so in a manner consistent with the program.

III. Purpose. The APCD program authorized by [this chapter] shall make available timely and transparent information about health care quality, use, availability, and cost to consumers, researchers, communities, businesses, policy makers, providers, and payers so that they can make sound, economical, and medically appropriate decisions about health care coverage, benefits, and services in order to reduce the overall cost of health care to this state.

[OTHER PURPOSES]

- *Improve the accessibility, adequacy, and affordability of patient health care and health care coverage through the review and dissemination of data.*
- *Determine state health care needs and inform state health planning.*
- *Evaluate the effectiveness of certain programs and services on improving patient outcomes.*
- *Review costs among various treatment settings, providers, and modalities.*
- *Provide publicly available and credible data regarding provider outcomes as they related to quality of care.*
- *Help businesses choose products for employees with information based on cost and quality.*
- *Support providers in the development of quality improvement initiatives.*
- *Inform the evaluation of payment reform options and provider integration efforts and their impact on cost and quality.*
- *Allow for targeted population health initiatives.*
- *Support research in the area of health cost, quality, and accessibility.*

IV. Supervising Agency. The department [of _____] shall develop, implement, and administer an APCD program consistent with this [chapter] and may enter into such agreements with other agencies as are necessary to administer and enforce the requirements of this chapter.

V. Advisory Body. An advisory committee shall be established to advise the department in its operation of the APCD program and ensure the integrity and privacy of the program operations.

The advisory committee shall include at least [9] but no more than [19] members designated by the [commissioner with the approval of _____]. Such members shall have experience individually or collectively in the following areas:

- *[medical]*
- *[hospital]*

- *[pharmacy]*
- *[Federally Qualified Health Center]*
- *[mental health/substance use disorder]*
- *[dental]*
- *[nursing]*
- *[ambulatory surgical care]*
- *[public health]*
- *[small employer]*
- *[large employer]*
- *[insurance carrier – non-profit/for-profit]*
- *[Medicaid managed care organization]*
- *[third party administrator]*
- *[consumer advocate]*
- *[academic]*
- *[data collection and storage]*
- *[legal]*
- *[state government- executive branch]*
- *[state government – legislative branch]*

VI. Privacy. The department shall develop and implement procedures to safeguard the integrity and confidentiality of any data collected, maintained, and reported by the APCD program as may be required by applicable state and federal laws and regulations governing the privacy and security of private health information.

The health care information collected and maintained by the APCD program shall be considered confidential and shall be exempt from disclosure by law.

Notwithstanding any law to the contrary, the health care information published pursuant to the APCD program shall not include any [individually identifiable health information].

VII. Data Reporting/Submission. All [entities offering or administering a health benefit reimbursement program] in the state shall register with the department in accordance with rules adopted by the department.

All [entities offering or administering a health benefit reimbursement program in the state] shall submit electronic claims to the department in the format prescribed by rules adopted by the department.

Any [entity offering or administering a health benefit reimbursement program in the state] that fails to comply with the requirements [of this chapter] may be assessed a [civil penalty]. In addition, the department may bring injunctive action [in superior court] to enforce the provisions of this chapter.

VIII. Rulemaking. The department is authorized to adopt rules and regulations [pursuant to the state's administrative procedures act] to carry out the purposes of this chapter. Such rules and regulations shall include:

- Criteria defining entities subject to mandatory submission of claims;

- Description of the data sets to be included in the APCD program;
- Criteria and procedures for the development of any limited-use data sets for the APCD program;
- Criteria and procedures for the submission of claims data, eligibility data, provider files and other information necessary to create an APCD;
- Policies and procedures necessary to maintain the confidentiality and integrity of data submitted;
- Subjects for timely and public reporting by the APCD program of information to meet the intent and purpose of this statute and the public need for information
- Accessibility and use of data by third parties;
- Procedures for proposing and funding public reports based on system data review;
- Penalties for failure to comply with registration and data submission obligations under this chapter; and
- Fees to be charged for activities performed by the department hereunder.

The department shall be authorized to enter into such contracts as are necessary to implement the provisions [of this chapter].

The department shall cooperate with [other agencies] in the development of rules and contracts hereunder.

IX. Funding. There is hereby established a State APCD Trust Fund which shall be accounted for distinctly and separately from all other funds and shall be a [non-]interest bearing. The state APCD Trust Fund shall be administered by the [commissioner of the department of _____] and shall be used solely to support the establishment and maintenance of the APCD program and the purposes of this chapter. All moneys in the State APCD Trust Fund shall be non-lapsing and shall be continually appropriated to the commissioner for the purposes of the State APCD Trust Fund. Monies paid into the State APCD Trust Fund shall include fees and penalties collected hereunder, funds received from the federal government, funds appropriated by the legislature, all other payments, gifts, grants, bequests or income from any source for the purpose of the APCD program.

X. Public Data Reporting. The APCD Advisory Committee shall report to the governor and legislature on or before [_____ of each year] on the status of implementing the APCD program and any recommendations for statutory or regulatory changes that would advance the purposes of this chapter.

The APCD program shall ensure that the public receives timely reports sufficient to inform on health care quality, outcomes, disparities, cost of services, utilization, and pricing in the state and relevant communities consistent with the purposes of this chapter.

Appendix B: Example Definitions, Arkansas

23-61-903. Definitions.

As used in this subchapter:

(1) “Arkansas Healthcare Transparency Initiative” means an initiative to create a database, including ongoing all-payer claims database projects funded through the State Insurance Department, that receives and stores data from a submitting entity relating to medical, dental, and pharmaceutical and other insurance claims information, unique identifiers, and geographic and demographic information for covered individuals as permitted in this subchapter, and provider files, for the purposes of this subchapter;

(2) “Arkansas resident” means an individual for whom the submitting entity has identified an Arkansas address as the individual’s primary place of residence;

(3) “Claims data” means information included in an institutional, professional, or pharmacy claim or equivalent information transaction for a covered individual, including the amount paid to a provider of healthcare services plus any amount owed by the covered individual;

(4) “Covered individual” means a natural person who is an Arkansas resident and is eligible to receive medical, dental, or pharmaceutical benefits under any policy, contract, certificate, evidence of coverage, rider, binder, or endorsement that provides for or describes coverage;

(5)(A) "Direct personal identifiers" means information relating to a covered individual that contains primary or obvious identifiers, such as the individual's name, street address, e-mail address, telephone number, and Social Security number.

(B) "Direct personal identifiers" does not include geographic or demographic information that would not allow the identification of a covered individual;

(6) “Enrollment data” means demographic information and other identifying information relating to covered individuals, including direct personal identifiers;

(7) “Protected health information” means health information as protected by the federal Health Insurance Portability and Accountability Act 19 of 1996, Pub. L. No. 104-191, as it existed on January 1, 2015;

(8) “Provider” means an individual or entity licensed by the state to provide healthcare services;

(9)(A) “Submitting entity” means:

(i) An entity that provides health or dental insurance or a health or dental benefit plan in the state, including without limitation an insurance company, medical services plan, hospital plan, hospital medical service corporation, health maintenance organization, or fraternal benefits society,

provided that the entity has covered individuals and the entity had at least two thousand (2,000) covered individuals in the previous calendar year;

(ii) A health benefit plan offered or administered by or on behalf of the state or an agency or instrumentality of the state;

(iii) A health benefit plan offered or administered by or on behalf of the federal government with the agreement of the federal government;

(iv) The Workers' Compensation Commission;

(v) Any other entity providing a plan of health insurance or health benefits subject to state insurance regulation, a third-party administrator, or a pharmacy benefits manager, provided that the entity has covered individuals and the entity had at least two thousand (2,000) covered individuals in the previous calendar year;

(vi) A health benefit plan subject to the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, as permitted by federal law, provided that the health benefit plan does not include an employee welfare benefit plan, as defined by federal law, as amended from time to time, that is also a trust established pursuant to collective bargaining subject to the Labor Management Relations Act of 1947, 29 U.S.C. §§ 401 — 531; and

(vii) An entity that contracts with institutions of the Department of Correction or Department of Community Correction to provide medical, dental, or pharmaceutical care to inmates.

(B) "Submitting entity" does not include an entity that provides health insurance or a health benefit plan that is accident-only, specified disease, hospital indemnity, long-term care, disability income, or other supplemental benefit coverage; and

(10) "Unique identifier" means any identifier that is guaranteed to be unique among all identifiers for covered individuals but does not include direct personal identifiers.

Resource: http://www.arkleg.state.ar.us/assembly/2015/2015R/Acts/Act1233.pdf