

**RIGHT TO KNOW ADVISORY COMMITTEE
PUBLIC RECORDS EXCEPTIONS SUBCOMMITTEE**

DRAFT AGENDA
September 25, 2013
1:00 p.m.
Room 438, State House, Augusta

Convene

1. Welcome and Introductions
Suzanne Goucher, Chair
2. Exceptions Tabled at September 11th Meeting
 - Title 22, section 8754, related to reporting of sentinel events *{chart: 3}*
 - Title 22, sections 1696-D and 1696-F, related to the Community Right-to-Know Act *{chart 1, 2}*
 - Title 28, section 755, related to liquor licensees' business and financial records *{chart: 6}*
 - Title 34-A, section 5210, subsection 4, related to the State Parole Board report to the Governor *{chart 16}*
3. Review of Existing Exceptions in Titles 26 to 39-A *{chart 19 to 27, 30 to 39}*
4. Future Process for Review
 - Re-establish same process and timetable for review?
 - How to address "new" exceptions enacted since initial RTK AC review?
5. Other?

Adjourn

Public Records Exceptions Subcommittee

**Existing Public Records Exceptions, Title 22 and Titles 26 – 39-A
Statutes remaining after 2012 review
Revised 9/11/2013 4:04 PM**

	TITLE	SECTION	SUB-SECTION	DESCRIPTION	DEPARTMENT/ AGENCY	COMMENTS	2012 SUBCOMMITTEE ACTIONS	2013 SUBCOMMITTEE RECOMMENDATIONS
1	22	1696-D		Title 22, section 1696-D, relating to the identity of chemical substances in use or present at a specific location if the substance is a trade secret	• DHHS	<ul style="list-style-type: none"> • No record of any experience • No changes 	11/8: AMEND; see LD 420	9/11: Tabled; ask DHHS for input
2	22	1696-F		Title 22, section 1696-F, relating to the identity of a specific toxic or hazardous substance if the substance is a trade secret	• DHHS	<ul style="list-style-type: none"> • No record of any experience • No changes 	11/8: AMEND; see LD 420	9/11: Tabled; ask DHHS for input
3	22	8754		Title 22, section 8754, relating to medical sentinel events and reporting	<ul style="list-style-type: none"> • DHHS • Maine Hospital Assn • Maine Medical Assn • Maine Medical Mutual Ins. Co. • Maine Osteopathic Assn 	<ul style="list-style-type: none"> • No requests known • DHHS: Amend: “incidents reports and similar documents”; no change to scope of confidentiality • Stakeholders: No change to confidentiality 	8/2: Amend to repeal; to be drafted 9/17: Tabled---ask DHHS and others for input 10/5: Tabled 11/15: Tabled 1/11/13: Tabled---more research and discussion	9/11: Tabled; more research and discussion
4	26	3		Title 26, section 3, relating to information, reports and records of the Director of Labor Standards within the Department of Labor	<ul style="list-style-type: none"> • DECD • SPO/OPM • DOL 	<ul style="list-style-type: none"> • DECD • SPO/OPM? • DOL: no more than one or 2/year; NO CHANGE 	9/13: Tabled-- discuss potential amendments with DOL 11/8: AMEND; see LD 420	9/11: Amend as proposed in LD 420

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5	26	934	Title 26, section 934, relating to report of the State Board of Arbitration and Conciliation in labor dispute	State Board of Arbitration and Conciliation	<ul style="list-style-type: none"> No requests NO CHANGE 	9/13: Tabled—ask Board for input 11/8: Amend	9/11: Amend as proposed in LD 420
6	28-A	755	Title 28-A, section 755, relating to liquor licensees' business and financial records	DAFS: BABLO	<ul style="list-style-type: none"> Not being collected now Unresolved by Legislature in 125th Support change but recommend NO CHANGE for now 	9/13: Tabled until 2013; Dept. legislation expected in 126th Legislature, First Session	9/11: Tabled; ask BABLO to update questionnaire
7	29-A	152	Title 29-A, section 152, subsection 3, relating to the Secretary of State's data processing information files concerning motor vehicles	SOS	<ul style="list-style-type: none"> Estimate: 12-20 times per year) NO CHANGE – comply with Federal Driver Privacy Protection Act 	8/8: Amend	9/11: Amend as proposed in LD 420
8	29-A	257	Title 29-A, section 257, relating to the Secretary of State's motor vehicle information technology system	SOS	<ul style="list-style-type: none"> No request NO CHANGE 	8/8: Tabled—flag inconsistency with other provisions; ask OIT for input 9/13: Tabled 11/8: Repeal	9/11: Repeal as proposed in LD 420
9	29-A	517	Title 29-A, section 517, subsection 4, relating to motor vehicle records concerning unmarked law enforcement vehicles	SOS	<ul style="list-style-type: none"> Estimate: 1-2 every couple of years NO CHANGE 	8/8: Amend—strike 2 nd ¶ because same language in #12	9/11: Amend as proposed in LD 420
10	30-A	503	Title 30-A, section 503, subsection 1-A, relating to county personnel records concerning the use of force	Counties – Joe Brown and Tim Leet?	<ul style="list-style-type: none"> Kennebec County: No requests NO CHANGES 	11/8: Tabled; ask AG for input	9/11: No change

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11	30-A	2702	1-A	Title 30-A, section 2702, subsection 1-A, relating to municipal personnel records concerning the use of force	• <i>Municipalities</i>	See # 20	2012 SUBCOMMITTEE ACTIONS 11/8: Tabled; ask AG for input 9/11: No change
12	32	2599	Title 32, section 2599, relating to medical staff reviews and hospital reviews – osteopathic physicians	• Osteopathic Licensing Board	• Accusations of unprofessional conduct or incompetence if found to be without merit are damaging • Investigative records include individual patient info • NO CHANGE	11/8: Tabled; ask for input from Board and providers 11/15: Tabled	9/11: No change
13	32	3296	Title 32, section 3296, relating to Board of Licensure in Medicine medical review committees	• Medical Licensing Board	• No experience; applies to records of hearings held by professional trade associations • NO POSITION: Why part of Real Estate Brokerage Act?	11/8: Tabled; ask Maine Association for input; is this necessary?	9/11: No change
14	32	13006	Title 32, section 13006, relating to real estate grievance and professional standards committees hearings	• Real Estate Commission			

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15	32	16607	2	Title 32, section 16607, subsection 2, relating to records obtained or filed under the Maine Securities Act	<ul style="list-style-type: none"> DPFR: Securities Regulation 	<ul style="list-style-type: none"> Seven requests: 5 requests partially denied to protect investigative records; 2 denied because only investigative records requested NO CHANGE 	11/8: Tabled; ask Office of Securities for input	9/11: No change
16	34-A	5210	4	Title 34-A, section 5210, subsection 4, relating to the State Parole Board report to the Governor	<ul style="list-style-type: none"> Dept. of Corrections 	<ul style="list-style-type: none"> Requested 2-3 times per year AMEND: clarify that applies regardless of entity advising Governor Occasional requests NO CHANGE 	8/8: Tabled—ask Governor's Office for input 9/13: Tabled 11/8: Tabled	9/11: Tabled; DOC info on parolees
17	35-A	1311-B	1, 2, 4	Title 35-A, section 1311-B, subsections 1, 2 and 4, relating to public utility technical operations information	<ul style="list-style-type: none"> PUC 	<ul style="list-style-type: none"> No requests NO CHANGE 	11/8: Tabled; ask PUC for input	9/11: No change
18	35-A	1316-A		Title 35-A, section 1316-A, relating to Public Utilities Commission communications concerning utility violations	<ul style="list-style-type: none"> PUC 	<ul style="list-style-type: none"> No requests NO CHANGE 	11/8: Tabled; ask PUC for input	9/11: No change
19	35-A	8703	5	Title 35-A, section 8703, subsection 5, relating to telecommunications relay service communications	<ul style="list-style-type: none"> PUC 	<ul style="list-style-type: none"> Does not come through PUC Could be worded more clearly No requests NO CHANGE 	11/8: Tabled; ask PUC for input	
20	35-A	9207	1	Title 35-A, section 9207, subsection 1, relating to information about communications service providers	<ul style="list-style-type: none"> PUC Connecticut Authority 	<ul style="list-style-type: none"> No requests NO CHANGE 	11/8: Tabled; ask PUC for input	

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21	36	575-A	2	Title 36, section 575-A, subsection 2, relating to forest management and harvest plan provided to Bureau of Forestry and information collected for compliance assessment for Tree Growth Tax Law	<ul style="list-style-type: none"> Dept. of Conservation Maine Revenue Services 	DOC: <ul style="list-style-type: none"> New, closely parallels §579 Never received a request under §579 NO CHANGES 	(added by PL 2011, c. 619) 11/8: Tabled; ask for input from Bureau of Forestry and MRS	
22	36	579		Title 36, section 579, relating to the Maine Tree Growth Tax Law concerning forest management plans	<ul style="list-style-type: none"> Municipal assessors Maine Revenue Services 	MRS: <ul style="list-style-type: none"> No position MUNICIPALITIES 14 municipalities responded Few requests 7 recommend NO CHANGE 2 recommend AMEND to allow Board of Assessors access 5 recommend that AMEND to make plans public 	11/8: Tabled; ask for input from Bureau of Forestry and MRS and municipal assessors	

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23	36	1106-A	3	Title 36, section 1106-A, subsection 3, paragraph D, relating to forest management and harvest plan made available for Farm and Open Space Tax Law	<ul style="list-style-type: none"> • <i>Municipal</i> assessors • Dept. of Conservation • Maine Revenue Services 	<p>MUNICIPALITIES</p> <ul style="list-style-type: none"> • 12 municipalities responded • No requests (new law) • 6 recommend NO CHANGE • 2 recommend AMEND to allow Board of Assessors access • 4 recommend AMEND to allow public access <p>DOC:</p> <ul style="list-style-type: none"> • New, closely parallels §579 • Never received a request under §579 • No provision to review plans under this section • NO POSITION <p>MRS:</p> <ul style="list-style-type: none"> • NO POSITION 	<p>(added by PL 2011, c. 618, §7)</p> <p>11/8: Tabled; ask for input from DOC, MRS and municipal assessors</p>	
24	37-B	708	3	Title 37-B, section 708, subsection 3, relating to documents collected or produced by the Homeland Security Advisory Council	<ul style="list-style-type: none"> • DVEM: MEMA 	<ul style="list-style-type: none"> • No requests • NO CHANGE 	<p>11/8: Tabled; ask for more information</p>	

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25	37-B	797	7	Title 37-B, section 797, subsection 7, relating to Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency reports of hazardous substance transportation routes	• DVEM: MEMA	<ul style="list-style-type: none"> • 1 – 2 request per year for general info • NO CHANGE 	11/8: Tabled; ask for more information	
26	38	414	6	Title 38, section 414, subsection 6, relating to records and reports obtained by the Board of Environmental Protection in water pollution control license application procedures	<ul style="list-style-type: none"> • DEP • BEP 	<ul style="list-style-type: none"> • DEP: 1-2 requests per year • NO CHANGE • BEP: No need to access info in proceedings • NO POSITION; Clarify by including cross-reference to definition of trade secret? 	11/8: Tabled; ask DEP and BEP for more information	
27	38	470-D		Title 38, section 470-D, relating to individual water withdrawal reports	• DEP	<ul style="list-style-type: none"> • No requests • Information reported in aggregate • NO CHANGE 	11/8: Tabled; ask DEP for more information	
28	38	585-B	6	Title 38, section 585-B, subsection 6, relating to mercury reduction plans for air emission source emitting mercury	• DEP	<ul style="list-style-type: none"> • No requests by facilities to keep information confidential • REPEAL 	11/8: Amend; see LD 420	9/11: Amend as proposed in LD 420

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29	38	585-C	2	Title 38, section 585-C, subsection 2, relating to the hazardous air pollutant emissions inventory	• DEP	• No requests by facilities to keep information confidential for at least 10 years • REPEAL	11/8: Amend 9/11: Amend as proposed in LD 420
30	38	1310-B	2	Title 38, section 1310-B, subsection 2, relating to hazardous waste information, information on mercury-added products and electronic devices and mercury reduction plans	• DEP	• Few requests for each type of info; • Concerns that electronic filing often means DEP has multiple copies of confidential information; lack of locked storage space for confidential records • NO CHANGE	11/8: Tabled; ask DEP for more information
31	38	1610	6-A	Title 38, section 1610, subsection 6-A, paragraph F, relating to annual sales data on the number and type of computer monitors and televisions sold by the manufacturer in this State over the previous 5 years	• DEP	• No requests • Manufacturers do mark portions of annual filing as confidential and info is segregated from public files • NO CHANGE	11/8: Tabled; ask DEP for more information

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32	38	1661-A	4	Title 38, section 1661-A, subsection 4, relating to information submitted to the Department of Environmental Protection concerning mercury-added products	• DEP	<ul style="list-style-type: none"> • 2 requests made for confidential info • DEP followed process in § 1310-B, sub-§ 2 and requested info was able to be provided or summarized info provided • NO CHANGE 	11/8: Tabled; ask DEP for more information	
33	38	2307-A	1, 5	Title 38, section 2307-A, subsections 1 and 5, relating to information submitted to the Department of Environmental Protection concerning toxics use and hazardous waste reduction (REPEALED 7/1/12)	• DEP	<ul style="list-style-type: none"> • Only 1 request • Replaced by new statute; rules pending to implement confidentiality provision (38 MRSA § 2324, sub-§3) • CONTINUE; NO CHANGE 	11/8: Tabled; ask DEP for more information	
34	39-A	153	5	Title 39-A, section 153, subsection 5, relating to the Workers' Compensation Board abuse investigation unit	<ul style="list-style-type: none"> • Workers' Compensation Board 	<ul style="list-style-type: none"> • Average of 6 times per year • NO CHANGE 	11/8: Amend; but HOLD for review in 2013	
35	39-A	153	9	Title 39-A, section 153, subsection 9, relating to the Workers' Compensation Board audit working papers	<ul style="list-style-type: none"> • Workers' Compensation Board 	<ul style="list-style-type: none"> • No requests • NO CHANGE 	11/8: Tabled; ask WCB for more information	
36	39-A	355-B	11	Title 39-A, section 355-B, subsection 11, relating to records and proceedings of the Workers' Compensation Supplemental Benefits Oversight Committee concerning individual claims	<ul style="list-style-type: none"> • Workers' Compensation Board 	<ul style="list-style-type: none"> • No requests • NO CHANGE 	11/8: Tabled; ask WCB for more information	

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37	39-A	403	3	Title 39-A, section 403, subsection 3, relating to workers' compensation self-insurers proof of solvency and financial ability to pay	• BOI	• No requests • NO CHANGE	11/8: Tabled; ask BOI for more information	
38	39-A	403	15	Title 39-A, section 403, subsection 15, relating to records of workers' compensation self-insurers	• BOI	• Requests are rare • NO CHANGE	11/8: Tabled; ask BOI for more information	
39	39-A	409		Title 39-A, section 409, relating to workers' compensation information filed by insurers concerning the assessment for expenses of administering self-insurers' workers' compensation program	• BOI	• No requests • AMEND; clarify that already included within § 403, sub-§ 15 exception	11/8: Tabled; ask BOI for more information	

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To: Public Record Exception Subcommittee

From: Stephen Wagner

Date: September 25, 2013

Re: Sample confidentiality language of state sentinel/adverse event reporting statutes

SUMMARY:

This memo contains a selection of excerpted statutory provisions regarding the confidentiality of sentinel or adverse event reporting nationwide. The excerpted statutes are divided into 3 broad categories: 1) statutes that provide for the confidentiality of sentinel or adverse event reports; 2) statutes that provide for broad public availability of sentinel or adverse event reports; 3) and statutes that provide for some variation between making the information confidential and making it publicly available. While there is ambiguity in a number of statutes, which may reasonably lead to differing interpretations, the chart at the end of this memo attempts to visually represent the rough distribution of confidentiality provisions of the states with adverse event reporting, as well as states with some sort of medical event reporting regime. Given that broader inclusion, there are a total of 31 states included.

Overall, of the 31 states with some sort of reporting requirement that includes adverse or sentinel events, 17 provide for full confidentiality, 2 provide for full disclosure except for the identity of the patients, 7 provide for some variation between the two preceding categories, and the remaining 5 are not categorized because they are unclear or do not contain confidentiality provisions within the reporting statute itself.

While all the statutes take different approaches to the language and organization of the statute(s), generally there are 13 types of provisions that may be found in any state sentinel, adverse event, or other medical event reporting regime. They include: 1) a fully inclusive confidentiality provision; 2) a transfer is not a waiver of confidentiality provision; 3) department responsibility to reasonably ensure confidentiality provision; 4) penalty provisions; 5) no legal compulsion provisions; 6) admissibility of reports as evidence provisions; 7) mode/extent of report dissemination provisions; 8) specific provision on the applicability of state Freedom of Access or Right to Know laws; 9) patient identity provisions; 10) hospital facility identity provision; 11) staff identity provisions; 12) research exceptions and subsequent treatment provisions; 13) other provisions.

If the committee so desires, additional research may include comparing the purposes found in the statutes and legislative history with the confidentiality provisions. This could highlight if these statutes are meant, at least primarily, for improving hospital safety in a

non-punitive manner, or providing for hospital accountability to the general public. Also, further research may explore subsequent case law and commentary on the reporting schemes, the most recent proposed amendments to the laws, and any meaningful correlation between level of confidentiality and “success” (rates of reporting, rates of adverse events) of the reporting regime.

EXCERPTED STATUTES

1) Provides for the confidentiality of sentinel or adverse event reports made by health care facilities;

ILLINOIS: 410 ILCS § 522/10-25 (2005)

Confidentiality. Other than the annual report required under paragraph (4) of Section 10-35 of this Law, adverse health care event reports, findings of root cause analyses, and corrective action plans filed by a health care facility under this Law and records created or obtained by the Department in reviewing or investigating these reports, findings, and plans shall not be available to the public and shall not be discoverable or admissible in any civil, criminal, or administrative proceeding against a health care facility or health care professional. No report or Department disclosure under this Law may contain information identifying a patient, employee, or licensed professional. Notwithstanding any other provision of law, under no circumstances shall the Department disclose information obtained from a health care facility that is confidential under Part 21 of Article VIII of the Code of Civil Procedure. Nothing in this Law shall preclude or alter the reporting responsibilities of hospitals or ambulatory surgical treatment centers under existing federal or State law.

MAINE: 22 M.R.S. § 8754(3) (2001).

3. Confidentiality. Notifications and reports filed pursuant to this chapter and all information collected or developed as a result of the filing and proceedings pertaining to the filing, regardless of format, are confidential and privileged information.

A. Privileged and confidential information under this subsection is not:

- (1) Subject to public access under Title 1, chapter 13, except for data developed from the reports that do not identify or permit identification of the health care facility;
- (2) Subject to discovery, subpoena or other means of legal compulsion for its release to any person or entity; or
- (3) Admissible as evidence in any civil, criminal, judicial or administrative proceeding. [2001, c. 678, §1 (NEW); 2001, c. 678, §3 (AFF).]

B. The transfer of any information to which this chapter applies by a health care facility to the division or to a national organization that accredits health care facilities may not be treated as a waiver of any privilege or protection established under this chapter or other laws of this State. [2001, c. 678, §1 (NEW); 2001, c. 678, §3 (AFF).]

C. The division shall take appropriate measures to protect the security of any information to which this chapter applies. [2001, c. 678, §1 (NEW); 2001, c. 678, §3(AFF).]

D. This section may not be construed to limit other privileges that are available under federal law or other laws of this State that provide for greater peer review or confidentiality

protections than the peer review and confidentiality protections provided for in this subsection. [2001, c. 678, §1 (NEW); 2001, c. 678, §3 (AFF).]

E. For the purposes of this subsection, "privileged and confidential information" does not include:

- (1) Any final administrative action;
- (2) Information independently received pursuant to a 3rd-party complaint investigation conducted pursuant to department rules; or
- (3) Information designated as confidential under rules and laws of this State. [2001, c. 678, §1 (NEW); 2001, c. 678, §3 (AFF).]

This subsection does not affect the obligations of the department relating to federal law.

MASSACHUSETTS: M.G.L.A. 12C § 15 (2012)

§ 15. Betsy Lehman center for patient safety and medical error reduction; board; education and research program

(e) The Lehman center shall (1) identify and disseminate information about evidence-based best practices to reduce medical errors and enhance patient safety; (2) develop a process for determining which evidence-based best practices should be considered for adoption; (3) serve as a central clearinghouse for the collection and analysis of existing information on the causes of medical errors and strategies for prevention; and (4) increase awareness of error prevention strategies through public and professional education. The information collected by the Lehman center or reported to the Lehman center shall not be a public record as defined in section 7 of chapter 4, shall be confidential and shall not be subject to subpoena or discovery or introduced into evidence in any judicial or administrative proceeding, except as otherwise specifically provided by law.

(f) The Lehman center shall report annually to the general court regarding the progress made in improving patient safety and medical error reduction. The Lehman center shall seek federal and foundation support to supplement state resources to carry out the Lehman center's patient safety and medical error reduction goals.

NEW HAMPSHIRE: N.H. Rev. Stat. § 151-G:5 (repealed effective July 1, 2015).

All information of any type submitted to or collected by the commission, including, but not limited to, written, oral, and electronic information; records and proceedings of the commission, including, but not limited to, oral testimony and discussions, notes, minutes, summaries, analyses, and reports; and information disseminated by the commission or its members to acute care hospitals and ambulatory surgical centers, shall be confidential and privileged and shall be protected from direct or indirect means of discovery, subpoena, or admission into evidence in any judicial, administrative, or other type of proceeding. The provision of information to the commission and the dissemination of information by the commission shall not be deemed to void, waive, or impair in any manner the confidentiality protection of this section or which the information may have under any other law or regulation. However, information, documents, or records otherwise available from original sources shall not be construed as immune from discovery or use in any civil or administrative action merely because they were presented to the commission.

Furthermore, any person who supplies information to or testifies before the commission shall not be immune from discovery in such civil or administrative action because the information or testimony was presented to the commission, but such witness shall not be

asked about and shall not provide information about his or her testimony before this commission or opinions formed by him or her as a result of commission participation.

PENNSYLVANIA: 40 P.S. 1303.304

(h) Right-to-know requests.--Any documents, materials or information made confidential by subsection (a) shall not be subject to requests under the act of June 21, 1957 (P.L. 390, No. 212), referred to as the Right-to-Know Law.

2) Provides for the public availability of sentinel and adverse event reports made by health care facilities, excluding only patient identity.

FLORIDA: Fla, Const, art. X, § 25.

Patients' right to know about adverse medical incidents.—

(a) In addition to any other similar rights provided herein or by general law, patients have a right to have access to any records made or received in the course of business by a health care facility or provider relating to any adverse medical incident.

(b) In providing such access, the identity of patients involved in the incidents shall not be disclosed, and any privacy restrictions imposed by federal law shall be maintained.

In *West Florida Regional Medical Center, Inc v. See*, 79 So.3d 1 (Fla. 2012) found impermissible statutory language restricting this constitutional amendment. Therefore, as the law currently stands, Florida only restricts information containing patient identification information. Thus, Florida is the least restrictive state in regards to confidential information contained in reports of sentinel or adverse events in the country.

SOUTH CAROLINA SC ST § 44-7-2450

(A) It is the intent of the General Assembly that a patient's right of privilege or confidentiality must not be violated in any manner. Patient social security numbers and any other information that could be used to identify an individual patient must not be released notwithstanding any other provision of law to the contrary.

(B) Nothing in this section affects the duty of a facility or activity licensed by the Department of Health and Environmental Control to report accidents or incidents pursuant to the department's regulations. However, anything reported pursuant to the department's regulations must not be considered to waive any privilege or confidentiality provided in subsection (A).

3) Provides for some variation between making the information confidential and publicly available.

A. Language that provides for public access broadly, except for narrow limitations on patient and health worker confidentiality

CALIFORNIA: CAL. HEALTH & SAFETY § 1279.3 (WEST 2007)

(a) “[T]he department shall provide information...[of] substantiated adverse events... on the department's Internet Web site and in written form in a manner that is readily accessible to consumers in all parts of California, and that protects patient confidentiality.”

But see

(b) . . . Entities deemed appropriate by the department shall enter into a memorandum of understanding with the department that requires the inclusion of all data and all hospital information provided by the department. These entities may include universities, consumer organizations, or health care quality organizations.

(C) . . . The names of the health care professionals and health care workers shall not be included in the information released . . . to the public.

CONNECTICUT: CONN. GEN. STATUES. ANN. § 19a-127n (2010) (emphasis added)

(d) . . . Such reports shall be prepared in a format that uses relevant *contextual information*. For purposes of this subsection “contextual information” includes, but is not limited to, (A) the relationship between the number of adverse events and a hospital's total number of patient days or an outpatient surgical facility's total number of surgical encounters expressed as a fraction in which the numerator is the aggregate number of adverse events reported by each hospital or outpatient surgical facility by category as specified in this subsection and the denominator is the total of the hospital's patient days or the outpatient surgical facility's total number of surgical encounters, and (B) information concerning the patient population served by the hospital or outpatient surgical facility, including such hospital's or outpatient surgical facility's payor or case mix. In addition, a hospital or outpatient surgical facility may provide informational comments relating to any adverse event reported to the commissioner pursuant to this section. On and after July 1, 2011, any report submitted by the commissioner pursuant to this subsection shall include any informational comments received concerning an adverse event that is included in the report.

MINNESOTA M.S.A. § 145.64

(B) “. . . [A review organization] may release non-patient-identified aggregate trend data on medical error and iatrogenic injury. . . .”

The report shall be filed in a format specified by the commissioner and shall identify the facility but shall not include any identifying information for any of the health care professionals, facility employees, or patients involved. The commissioner may consult with experts and organizations familiar with patient safety when developing the format for reporting and in further defining events in order to be consistent with industry standards.

Nevada: N.R.S. 439.840 (West 2011)

(b) Ensure that such reports, and any additional documents created from such reports, are protected adequately from fire, theft, loss, destruction and other hazards and from unauthorized access;

(c) Annually prepare a report of sentinel events reported pursuant to NRS 439.835 by a medical facility, including, without limitation, the type of event, the number of events, the rate of occurrence of events, and the medical facility which reported the event, and provide the report for inclusion on the Internet website maintained pursuant to NRS 439A.270; and

(d) Annually prepare a summary of the reports received pursuant to NRS 439.835 and provide a summary for inclusion on the Internet website maintained pursuant to NRS 439A.270. The Health Division shall maintain the confidentiality of the patient, the provider of health care or other member of the staff of the medical facility identified in the reports submitted pursuant to NRS 439.835 when preparing the annual summary pursuant to this paragraph.

2. Except as otherwise provided in this section and NRS 239.0115, reports received pursuant to NRS 439.835 and subsection 1 of NRS 439.843 and any additional information requested by the Health Division pursuant to NRS 439.841 are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

3. The report prepared pursuant to paragraph (c) of subsection 1 must provide to the public information concerning each medical facility which provided medical services and care in the immediately preceding calendar year and must:

(a) Be presented in a manner that allows a person to view and compare the information for the medical facilities;

(b) Be readily accessible and understandable by a member of the general public;

(c) Use standard statistical methodology, including without limitation, risk-adjusted methodology when applicable, and include the description of the methodology and data limitations contained in the report;

(d) Not identify a patient, provider of health care or other member of the staff of the medical facility; and

(e) Not be reported for a medical facility if reporting the data would risk identifying a patient.

WASHINGTON: RCWA 43.70.056

(c) . . . [Reviewing body shall] publish a report on the department's web site that compares the health care-associated infection rates at individual hospitals in the state using the data reported in the previous calendar year pursuant to subsection

(2) of this section. . . . The report is subject to the following:

- (i) The report must disclose data in a format that does not release health information about any individual patient; and
- (ii) The report must not include data if the department determines that a data set is too small or possesses other characteristics that make it otherwise unrepresentative of a hospital's particular ability to achieve a specific outcome;

B. Language that provides for narrow exceptions in certain public interest circumstances to reports, findings, etc. that are otherwise confidential.

D.C.: D.C. CODE § 7-161 (2009)

(e)

(1) Except as otherwise provided by this section, the files, records, findings, opinions, recommendations, evaluations, and reports of the system administrator, information provided to or obtained by the system administrator, the identity of persons providing information to the system administrator, and reports or information provided pursuant to this section shall be confidential, shall not be subject to disclosure pursuant to any other provision of law, and shall not be discoverable or admissible into evidence in any civil, criminal, or legislative proceeding. The information shall not be disclosed by any person under any circumstances. This subsection shall not preclude use of reports or information provided under this section by a board regulating a health profession or the Mayor in proceedings by the board or the Mayor.

(2) No person who provided information to the system administrator shall be compelled to testify in any civil, criminal, or legislative proceeding with respect to any confidential matter contained in the information provided to the system administrator.

(3) Notwithstanding subsections (a) or (b) of this section, a court may order a system administrator to provide information in a criminal proceeding in which an individual is accused of a felony if the court determines that disclosure is essential to protect the public interest and that the information being sought can be obtained from no other source. In determining whether disclosure is essential to protect the public interest, the court shall consider the seriousness of the offense with which the individual is charged, the need for disclosure of the party seeking it, and the probative value of the information. If the court orders disclosure, the identity of any patient shall not be disclosed without the consent of the patient or his or her legal representative.

C. Language that specifically specifies that only certain hospital provider information is not subject to disclosure

WASHINGTON: RCWA 42.56.360

- (1) The following health care information is exempt from disclosure under this chapter:
- (a) Information obtained by the pharmacy quality assurance commission as provided in RCW 69.45.090;
 - (b) Information obtained by the pharmacy quality assurance commission or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;
 - (c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;
 - (d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;
 - (ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;
 - (iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;
 - (e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;
 - (f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);
 - (g) Information obtained by the department of health under chapter 70.225 RCW;
 - (h) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;
 - (i) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b); and
 - (j) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records

remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as “exempt” so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

STATE*	CONFIDENTIAL	PUBLIC	VARIABLE	UNKNOWN/ UNCLEAR
(M)= mandatory reporting (V)=voluntary reporting (?)Unclear/other	Language providing for the confidentiality of sentinel reports made by health care facilities	Language providing for the public availability of sentinel report data, except for patient identity.	Language providing for some variation between making the information confidential and publically available	
California (M)			X	
Colorado (?)				X
Connecticut (M)			X	
District of Colombia* (M)			X	
Florida (M)		X		
Georgia (?)				X
Illinois (M)	X			
Indiana (V)				X
Kansas (M)				X
Louisiana (?)			X	
Maine (M)	X			
Maryland (M)	X			
Massachusetts (M)	X			
Michigan (?)	X			
Minnesota (M)			X	
Nevada (M)			X	
New Hampshire (M)	X			
New Jersey (?)	X			
New York (M)	X			
Ohio (M)	X			
Oregon (V)	X			
Pennsylvania (M)	X			
Rhode Island (M)	X			
South Carolina (M)		X		
South Dakota (M)				X
Tennessee (M)	X			
Texas (M)	X			
Utah (M)	X			
Vermont (M)	X			
Washington (M)			X	
Wyoming (W)	X			

Program

For rules records pre-EMR system
Submitted previously by Maine Hospital
ASSN.

Quality Measure	CMS: IIPS for FY 2013	CMS: IIPS for FY 2014	CMS: IIPS for FY 2015	CMS: IIPS for FY 2016	CMS: Ombudsman CY 2013-2015	CMS: VBP FY 2013	CMS: VBP FY 2014	CMS: VBP FY 2015	CMS: HAC	CMS: HITRAC meaningful use clinical quality measures	CMS: Readmission Reduction Program	CMS: Inpatient Psychiatric FY 2014	CMS: MHIHQ CR 2708	Measures
Utilization of inpatient care (total inpatient, medicine, surgery and maternity) (Rand)														
Leapfrog Survey														X
Medication Spotlight Survey														X
Acute Myocardial Infarction (AMI)														
Appropriateness of Care Measure (ACM) Composite														
AMI-1: Aspirin at arrival	X	Suspend 12/31/11	X	X										X
AMI-2: Aspirin prescribed at discharge (NOF #142)	X	X		X										X
AMI-3: Angiotensin Converting Enzyme Inhibitor (ACE-I) or Angiotensin II Receptor Blocker (ARB) for left ventricular systolic dysfunction	X	Suspend 12/31/11												X
AMI-4: Adult smoking cessation advice/counseling	X	Retire 12/31/11												X
AMI-5: Beta blocker prescribed at discharge	X	Suspend 12/31/11												X
AMI-7a: Fibrinolytic (thrombolytic) agent received within 30 minutes of arrival (NOF #164)	X	X		X										X
AMI-8a: Tining of receipt of primary PCI (NOF #163)	X	X		X		X								X
AMI-10: Statin prescribed at discharge (NOF #639)	X	X		X		X								X
Heart Failure (HF)														
Appropriateness of Care Measure (ACM) Composite														X
HF-1: Discharge instructions	X	X		X		X								X
HF-2: Evaluation of left ventricular systolic function	X	X		X		X								X
HF-3: Angiotensin Converting Enzyme Inhibitor (ACE-I) or Angiotensin II Receptor Blocker (ARB) for left ventricular systolic dysfunction	X	X		X		X								X
HF-4: Adult smoking cessation advice/counseling	X	Retire 12/31/11												X
Stroke Measure Set														
STK-1: VTE prophylaxis (NOF #434)			X	X										
STK-2: Antithrombotic therapy for ischemic stroke at discharge (NOF #435)			X	X										
STK-3: Anticoagulation therapy for afib/flutter (NOF #436)			X	X										
STK-4: Thrombolytic therapy for acute ischemic stroke (NOF #437)			X	X										
STK-5: Antithrombotic therapy by the end of hospital day 2 (NOF #438)			X	X										
STK-6: Discharged on statin (NOF #439)			X	X										
STK-8: Stroke education (NOF #440)			X	X										
STK-10: Assessed for rehabilitation services (NOF #441)			X	X										
VTE Measure Set														
VTE-1: VTE prophylaxis (NOF #371)			X	X										
VTE-2: ICU VTE prophylaxis (NOF #372)			X	X										
VTE-3: VTE patients with anticoagulation overlap therapy (NOF #373)			X	X										
VTE-4: Patients receiving unfractionated Heparin with doses/rates monitored by protocol (NOF #374)			X	X										
VTE-5: VTE discharge instructions (NOF #375)			X	X										
VTE-6: Incidence of potentially preventable VTE (NOF #376)			X	X										
Pneumonia (PN)														

9/25/13



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Program

Quality Measure	CMS: IPPS for FY 2013	CMS: IPPS for FY 2014	CMS: IPPS for FY 2015	CMS: IPPS for FY 2016	CMS: Outpatient CY 2011-2015	CMS: VBP FY 2013	CMS: VBP FY 2014	CMS: VBP FY 2015	CMS: IAC	CMS: HIT/ECM meaningful use clinical quality measures?	CMS: ACO	CMS: Readmission Reduction Program	CMS: Hospital Inpatient Readmission FY 2014	CMS: Medical Record	Measures: MQR/ MIPRO MIMIC	Measures: MQR/ MIPRO MIMIC
Appropriateness of Care Measure (ACM) Composite																
PN-2: Pneumococcal vaccination status	X	Retire 1/23/11														X
PN-3a: Blood culture performed before first antibiotic received in hospital	X	X	X	X												
PN-4: Adult smoking cessation advice/counseling	X	Retire 1/23/11														
PN-5a: Timing of receipt of initial antibiotic following hospital arrival	X	Retire 1/23/11														
PN-6: Appropriate initial antibiotic selection (NOF #47)	X	X	X	X												
PN-7: Influenza vaccination status	X	Retire 1/23/11														
Surgical Care, including the Surgical Care Improvement Project (SCIP)																
Appropriateness of Care Measure (ACM) Composite																
SCIP INF-1: Propylactic antibiotic received within 1 hour prior to surgical incision (NOF #527)	X	X	X	X												
SCIP INF-2: Propylactic antibiotic selection for surgical patients (NOF #528)	X	X	X	X												
SCIP INF-3: Propylactic antibiotics discontinued within 24 hours after surgery end time (48 hours for cardiac surgery)	X	X	X	X												
SCIP INF-4: Cardiac surgery patients with controlled 6AM postoperative serum glucose	X	X	X	X												
SCIP INF-6: Surgery patients with appropriate hair removal	X	Suspend 1/23/11														
SCIP INF-9: Postoperative urinary catheter removal on post-operative day 1 or 2 with day of surgery being day zero (NOF #453)	X	X	X	X												
SCIP INF-10: Surgery patients with perioperative temperature management	X	X	X	X												
SCIP Cardiovascular-2: Surgery patients on a beta blocker prior to arrival who received a beta blocker during the perioperative period	X	X	X	X												
SCIP VTE-1: Surgery patients with venous thromboembolism (VTE) prophylaxis ordered	X	X														
SCIP VTE-2: Surgery patients who received appropriate VTE prophylaxis within 24 hours prepost surgery	X	X	X	X												
Safe Surgery Checklist use for inpatient surgery																
Risk-standardized complication rate after elective primary total hip or total knee arthroplasty (NOF # 1550)																
Mortality Measures (Medicare Patients)																
AMI 30-day mortality rate	X	X	X	X												
Heart failure 30-day mortality rate	X	X	X	X												
Pneumonia 30-day mortality rate	X	X	X	X												
Patients' Experience of Care																
HCAHPS (Beginning FY 2015, CMS adds: were you admitted to the hospital through the ED & how would you rate your overall mental/emotional health)	X	X	X	X												
CTM-3: Care transition measure (NOF #226)																
Transition record with specified elements received by discharged inpatients (NOF #647; AMA-PCPI)																
Readmission Measure (Medicare Patients)																
AMI 30-Day Risk Standardized Readmission	X	X	X	X												
Heart failure 30-Day Risk Standardized Readmission	X	X	X	X												

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Program

	Quality Measure										AHRQ Indicators and Composite Measures									
	CMS: IRRS for FY 2013	CMS: IRRS for FY 2014	CMS: IRRS for FY 2015	CMS: IRRS for FY 2016	CMS: Comparison CY 2011-2015	CMS: YBP FY 2013	CMS: YBP FY 2014	CMS: YBP FY 2015	CMS: HAC	CMS: HIT/ECM meaningful use clinical quality measures	CMS: Resubmission ACO Program	CMS: Inpatient Psychiatric FY 2014	CMS: Resubmission ACO Program	Medicare HEDIS AHIP0 CR 2013	Medicare Name					
Pneumonia 30-Day Risk Standardized Readmission	X	X	X	X																
Risk-standardized all-cause 30 day readmission (NOF #0329)			X	X																
30 day readmission for total hip and knee arthroplasty (NOF #1551)			X	X											X ¹					
Health care-Associated Infections Measures																				
POI 1: AGSC admissions (diabetes, short term) (NOF #272)														X						
POI 2: AGSC admissions (perforated appendix) (NOF #273)																				
POI 3: AGSC admissions (diabetes long term complications) (NOF #274)																				
POI 5: AGSC admissions (COPD) (NOF #275)														X						
POI 7: AGSC admissions (hypertension) (NOF #276)														X						
POI 8: AGSC admissions (heart failure) (NOF #277)														X						
POI 10: AGSC admissions (dehydration) (NOF #280)																				
POI 11: AGSC admissions (bacterial pneumonia) (NOF #279)																				
POI 12: AGSC admissions (urinary infections) (NOF #281)																				
POI 13: AGSC admissions (angina without procedure) (NOF #282)																				
POI 14: AGSC admissions (diabetes, uncontrolled) (NOF #638)																				
POI 15: AGSC admissions (adult asthma) (NOF #283)																				
POI 16: AGSC admissions (lower extremity amputation diabetes) (NOF #285)														X						
PSI 4: Death among surgical inpatients with serious, treatable complications	X	X	X	X																
PSI 6: Iatrogenic pneumothorax, adult	X	X	X	X																
PSI 11: Post operative respiratory failure	X	X	X	X																
PSI 12: Post operative PE or DVT	X	X	X	X																
PSI 14: Post operative wound dehiscence	X	X	X	X																
PSI 15: Accidental puncture or laceration	X	X	X	X																
PSI 90: Complication/patient safety for selected indicators (composite)	X	X	X	X				X												
QI 11: Abdominal aortic aneurysm mortality rate	X	X	X	X																
QI 19: Hip fracture mortality rate	X	X	X	X																
QI 91: Mortality for selected medical conditions (composite)	X	X	X	X																
Structural Measures																				
Participation in a systematic database for cardiac surgery	X	X	X	X																
Participation in a systematic clinical database registry for stroke care	X	X	X	X																
Participation in a systematic clinical database registry for nursing sensitive care	X	X	X	X																
Participation in a systematic clinical database registry for general surgery	X	X	X	X																
Health care-Associated Infections Measures																				
Central line associated bloodstream infection (critical care units)	X	X	X	X				X						X						
SSI (NHSN) (NOF #299) (Cardiac, hip/ knee arthroplasty, colon, hysterectomy & vascular) (IPPS FY 2014; colon & abdominal hyster only)	X	X	X	X										X						
Central line insertion practices percentage (NOF #298)														X						
Percent compliance with the mechanical ventilation bundle of care														X						
Catheter-associated urinary tract infection (CAUTI) (critical care units)	X	X	X	X										X						
MRSA bacteremia (NHSN)																				
Nosocomial MRSA infection rate (CMS is NHSN MRSA bacteremia measure)														X						

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Clostridium difficile (C. Diff) SIR (NHSN)			X	X													X
Health care personnel influenza vaccination (NHSN)			X	X													
Nursing Sensitive Care Measures																	
Percentage of inpatients with hospital-acquired pressure ulcer ≥ Stage 1																	X
Number of inpatient falls per inpatient days																	X
Number of inpatient falls with injury per inpatient days																	X
Percentage of inpatients who have a vest or limb restraint																	X
Percentage of RN care hours to total nursing care hours																	X
Percentage of LVN/LPN care hours to total nursing care hours																	X
Percentage of UAP care hours to total nursing care hours																	X
Percentage of contract hours (RN, LPN/LVN, UAP) per patient day																	X
Number of RN care hours per patient day																	X
Number of total nursing care hours (RN, LPN/LVN, UAP) per patient day																	X
Number of voluntary uncontrolled separations for RNs and APNs																	X
Number of voluntary uncontrolled separations for LPN/LVN and nurse aides																	X
AHRO Hospital Survey on Patient Safety Culture for nursing staff annually																	X
Hospital Acquired Condition Measures																	
Foreign object retained after surgery			X	X					X								
Air embolism			X	X					X								
Blood incompatibility			X	X					X								
Pressure ulcer Stages III & IV			X	X					X								
Falls and trauma (includes: fracture, dislocation, intracranial injury, crushing injury, burn, electric shock)			X	X					X								
Vascular catheter-associated infection			X	X					X								
Catheter-associated urinary tract infection (CAUTI)			X	X					X								
Manifestations of poor glycemic control			X	X					X								
Surgical site infection after certain cardiac, orthopedic and bariatric surgeries			X	X					X								
DVT/PE after hip or total knee replacement									X								
Surgical site infection after cardiac implantable electronic device (FY 2013)									X								
Iatrogenic pneumothorax with venous catheterization (FY 2013)									X								
Emergency Department Throughput																	
ED-1: Median time from emergency department arrival to departure from the emergency room for patients admitted to the hospital (NOE #495)		X	X	X						X							
ED-2: Median time from admit decision to time of departure from the ED for ED patients admitted to the inpatient status (NOE #497)		X	X	X						X							
ED-3: Median time from ED arrival to ED departure for discharged ED patients (NOE #496)										X							
Global Immunization Measures																	
Global flu immunization		X	X	X													
Global pneumonia immunization		X	X	X													
Cost Efficiency																	
Medicare spending per beneficiary		X	X	X					X								
HealthPartners Total Cost of Care and Total Resource Use Measure Set																	X



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NPSG.03.05.01: Take extra care with patients on anticoagulant therapy															
NPSG.07.01.01: Use the hand hygiene guidelines from the CDC or the WHO and set/revise goals for improving hand cleaning															
NPSG.07.03.01: Use evidence-based guidelines to prevent hospital-acquired MDRO infections															
NPSG.07.04.01: Use evidence-based guidelines to prevent CLABSI															
NPSG.07.05.01: Use evidence-based guidelines for preventing surgical site infections															
NPSG.08.01.01: Accurately and completely reconcile medications across the continuum of care (standard is not in effect at this time)															
NPSG.08.02.01: Give a list of the patient's medicines to their next caregiver/regular doctor before discharge (standard is not in effect at this time)															
NPSG.08.03.01: Provide a list and explanation of the patient's medicines to the patient/family before discharge (standard is not in effect now)															
NPSG.08.04.01: For patients who get medicine in small amounts or for a short time, perform modified medication reconciliation (standard is not in effect now)															
NPSG.15.01.01: Identify patients at risk for suicide															
UP.01.01.01: Conduct a pre-procedure verification process															
UP.01.02.01: Mark the correct surgical site on the patient's body															
UP.01.03.01: Perform a time-out before the procedure															
(2012) NPSG.07.07.01: Implement evidence-based practices to prevent indwelling catheter-associated urinary tract infections (CAUTI)															
Hospital Outpatient Measures (Joint Commission/CMS)															
OP-1: Median time to fibrinolysis					X										
OP-2: Fibrinolytic therapy received within 30 minutes of ED arrival					X										
OP-3: Median time to transfer to another facility for acute coronary intervention					X										
OP-4: Aspirin at arrival					X										
OP-5: Median time to ECG					X										
OP-6: Prophylactic antibiotic initiated within one hour prior to surgical incision					X										
OP-7: Prophylactic antibiotic selection for surgical patients					X										
OP-8: MRI lumbar spine for low back pain					X										
OP-9: Mammography follow-up rates					X										
OP-10: Abdomen CT use of contrast material					X										
OP-11: Thorax CT use of contrast material					X										
OP-12: Ability for providers with HIT to receive lab data electronically directly into their qualified/certified EHR system as discrete searchable data (CY 2012)					X										
OP-13: Cardiac imaging for preoperative risk assessment for non-cardiac low-risk surgery (CY 2012)					X										
OP-14: Simultaneous use of brain CT and sinus CT (CY 2012)					X										
OP-15: Use of brain CT in the ED for atraumatic headache															
OP-16: ED-Troponin results for AMI or chest pain patients received within 60 minutes of arrival (CY 2013)															
OP-17: Tracking clinical results between visits (CY 2013)															
OP-18: Median time from ED arrival to ED departure for discharged patients (CY 2013)					X										

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OP-19: Transition record with specified elements received by discharged patients (CY 2013)					Suspended March 2012											
OP-20: Poor to diagnostic evaluation by qualified medical professional (CY 2013)					X											
OP-21: ED--median time to pain management for long bone fracture (CY 2013)					X											
OP-22: ED--patient left before being seen (CY 2013)					X											
OP-23: ED--head CT scan results for acute ischemic stroke (or hemorrhagic stroke who received head CT scan) within 45 minutes of arrival (CY 2013)					X											
OP-24: ED--Cardiac rehabilitation referral from an outpatient setting (CY 2014)					Deferred											
OP-25: Safe Surgery Checklist use (CY 2014)					X											
OP-26: Outpatient surgery volume (cardiovascular, eye, GI, GU, musculoskeletal, skin, nervous system, respiratory) (CY 2014)					X											
Outpatient Measures																
CAHPS: Timely care (NOF #5)																
CAHPS: Doctor communication (NOF #5)																
CAHPS: Access to specialist (NOF #9)																
CAHPS: Rating of doctor (NOF #5)																
CAHPS: Health promotion and education (NOF #5)																
CAHPS: Shared decision making (NOF #5)																
CAHPS 30 question core survey of adult health plan members (NOF #6)																
NCQA 20 question supplement to CAHPS survey (NOF #7)																
Utilization of ambulatory care--outpatient visits and ED (NCQA)																
Medication reconciliation after inpatient discharge (NOF #97)																
Annual monitoring for patients on persistent medications (NOF #21)																
Proportion of days covered: 5 rates by therapeutic categories (NOF #541)																
Percent of PCPs qualifying for an EHR incentive payment program																
Influenza immunization annually for adult patients (NOF #41; PQRS #110)																
Influenza immunization annually for adult patients (NOF #39; NCOA)																
Pneumococcal vaccine (NOF #43)																
Mammography screening (NOF #31; PQRS #112)																
Cervical cancer screening (NOF #32; NCOA)																
Colorectal screening (NOF #34; PQRS #113)																
Adult weight screening and follow-up (NOF #421; PQRS #128)																
Adult BMI assessment (HEDIS, NCOA)																
Blood pressure measurement within 2 years for adults 18+ (CMS)																
Chlamydia screening in women age 21-24 (HEDIS, NCOA)																
Tobacco use assessment/intervention (NOF #28)																
Medical assistance with tobacco cessation (NOF #27; NCOA)																
Depression screening and follow-up (NOF #418; PQRS #134)																
Antidepressant medication management (NOF #105)																
Bipolar I Disorder 2: Annual assessment of BMI, glycemic control and lipids (Rand)																
Bipolar I Disorder C: Proportion of patients treated with mood stabilizer medications (Rand)																

Maine Hospital Association

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Program

Quality Measure	CMS: IFRS for FY 2013	CMS: IFRS for FY 2014	CMS: IFRS for FY 2015	CMS: IFRS for FY 2016	CMS: Ombudsman CY 2011-FY 2015	CMS: VIP FY 2013	CMS: VIP FY 2014	CMS: VIP FY 2013	CMS: MAC	CMS: HIT/ECM score/quality measure*	CMS: ACO	CMS: Readmission Reduction Program	CMS: Improved Patient Experience FY 2014	CMS: Medicaid	Measures: MCOV, MIMO, MIMC	Measures: MIMC, MIMNC
Schizophrenia 2: Annual assessment of BMI, glycemic control and lipids (Rand)																
Schizophrenia C: Proportion of selected patients with schizophrenia (CMS) polypharmacy utilization (Rand)																
Follow-up after hospitalization for mental illness (NOF #576)																
Mental health service utilization (NCOA)																
Alcohol misuse screening/intervention (VHA)																
Initiation and engagement of alcohol and other drug dependence treatment (NOF #4; NCOA)																
Diabetes: A1c control <8 (NOF #729) all or nothing scoring																
Diabetes: A1c control >9 (NOF #59)																
Diabetes: A1c testing (NOF #57)																
Diabetes: LDL <100 (NOF #729) all or nothing scoring																
Diabetes: Tobacco non-use (NOF #729) all or nothing scoring																
Diabetes: Lipid profile (NOF #63; NCOA)																
Diabetes: Aspirin use (NOF #729) all or nothing scoring																
Diabetes: Blood pressure control (NOF #729) (OP-27) all or nothing scoring																
Heart failure: Beta blockers therapy for LVSD (NOF #83; PQRS #8)																
CAD: Drug therapy to lower LDL (NOF #74; PQRS #197) all or nothing scoring																
CAD: ACE or ARB therapy for diabetic patients (NOF #66; PQRS #118) all or nothing scoring																
IVD: Complete lipid profile and LDL under 100 (NOF #75; NCOA)																
IVD: Use of aspirin or another antithrombotic (NOF #68)																
Persistent beta blocker therapy for AMI patients (NOF #71; NCOA)																
Blood pressure control (NOF #18; NCOA)																
Asthma: Use of appropriate medications (NOF #36)																
HIV/AIDS: Annual medical visit (NOF #403)																
Falls: Screening for fall risk (NOF #101)																
Timely transmission of transition record from facility to next provider (NOF #648; AMA-PCPI)																
Low back pain: Use of imaging studies (NOF #52; NCOA)																
X ¹ : Proposed to be added (cells filled with yellow highlight also mark proposals)																
X ² : 8 HC/HPS domains (quiet/cleanliness combined); recommendation																
X ³ : MOF/MHDO is accepting the applicable CMS metrics for AMI, HF, PN and SCIP and will amend its rule to align with CMS.																
X ⁴ : After FY 2015 payment calculation, data period will be flu season, 10/1-3/31																

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Program

Quality Measure	CMS: IPPS for FY 2013	CMS: IPPS for FY 2014	CMS: IPPS for FY 2015	CMS: IPPS for FY 2016	CMS: Outpatient CY 2011-2015	CMS: VBP FY 2013	CMS: VBP FY 2014	CMS: VBP FY 2015	CMS: HAC	CMS: ATTACH meaningful use clinical quality measures*	CMS: Resubmission Reduction Program	CMS: Hospital Inpatient/Outpatient FY 2014	CMS: MED/ MHO/ MHEC Ch. 379*	Other: MHEC
GLOSSARY:														
ACO: Accountable Care Organization														
ACSC: ambulatory care sensitive conditions														
AHRQ: Agency for Healthcare Research and Quality (U.S. Department of Health and Human Services)														
CAD: coronary artery disease														
CDC: Centers for Disease Control and Prevention														
CLABSI: central line-associated blood stream infection														
CMS: Centers for Medicare & Medicaid Services														
COPD: chronic obstructive pulmonary disease														
HAC: hospital-acquired condition														
IVD: ischemic vascular disease														
MA: Medicare Advantage														
MDRD: multiple-resistant organisms														
MHMC: Maine Health Management Coalition														
MQF/MHDO: Maine Quality Forum/Maine Data Organization (MHDO web site allows users to calculate AHRQ quality measures)														
NCQA: National Committee for Quality Assurance														
NQP: National Quality Forum														
QRS: CMS Physician Quality Reporting System														
UAP: unlicensed assistive personnel														
VBP: Value-Based Purchasing														
WHO: World Health Organization														
August 6, 2012														

* Stage 1 CMS "meaningful use" 14 requirements: CPOE, implement drug interaction/allergy checks, maintain problem list, maintain allergy list, record certain demographic info, chart certain vital signs, record smoking history, report 13 quality measures, implement one clinical decision support rule, provide patients with an e-copy of certain health information & discharge instructions on request, exchange key clinical information among providers, & adequately protect electronic health information. Stage 1 also requires meeting 5 of these 10 objectives: implement drug formulary checks, record advance directives, incorporate lab results into EHR, generate patient lists by condition, use EHR technology to identify patient-specific education resources, medication reconciliation, provide summary care record for each transition of care, submit electronic data to immunization registries, submit reportable electronic data to state public health agency, & submit syndromic surveillance data to public health agencies. (Stage 1 focus is on data capture; Stage 2 focus on information exchange; Stage 3 focus on achieving improved outcomes.) Stage 2 final rule published August 2012; must meet 16 core objectives plus 3 from the 6 menu objectives and report on 16/29 clinical quality measures from at least 3 of the 6 National Quality Strategy policy domains. The 29 measures finalized for FY 2014 are noted above.

Hospitals accredited by the Joint Commission are required to collect data for a minimum of four core measure sets or a combination of applicable core measure sets and non-core measures. The core measure sets are the ones listed above for Acute Myocardial Infarction (AMI), Children's Asthma Care (CAC), Heart Failure (HF), Surgical Care Improvement Project (SCIP), Pneumonia (PN), Hospital Outpatient Measures (HOP), Perinatal Care (PC), Venous Thromboembolism (VTE), Hospital-based Inpatient Psychiatric Services (IHIPS), Stroke (STR), Tobacco Use (TOB), and Substance Abuse (SUB). Accredited hospitals are also surveyed for their compliance with the National Patient Safety Goals, which are updated annually. (Free-standing hospitals must participate in HEDIS)

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STATUTE: _____ Title 22 §1696-D and §1696-F _____

1 and 2

AGENCY: DHHS

CONTACT PERSON: Nancy Beardsley, Director, Division of Environmental Health, Maine CDC

CONTACT PERSON'S EMAIL ADDRESS: nancy.beardsley@maine.gov

QUESTIONS

1. Please describe your agency's experience in administering or applying this public records exception. Please include a description of the records subject to the exception, an estimate of the frequency of its application, and an estimate of how frequently the exception is cited in denying a request for production of records (whether the denial occurs in response to an FOA request or in administrative or other litigation).

I have not located any evidence indicating that the Agency has any specific experience in administering or applying these public records exceptions. I have not located any evidence that this exception has ever been administered or applied, and therefore cannot describe the records that were subject to the exception.

2. Please state whether your agency supports or opposes continuation of this exception, and explain the reasons for that position.

It appears that since no one at the Agency can recall the exceptions being administered or applied, we see no harm in supporting the continuation of the exceptions. Our reasoning is that the exceptions do not seem to have caused any harm. It seems unreasonable to oppose their continuation without knowing the reasons why they were placed there and the hardships that their removal may create.

3. Please identify any problems that have occurred in the application of this exception. Is it clear that the records described are intended to be confidential under the FOA statutes? Is the language of the exception sufficiently clear in describing the records that are covered?

I have not located any evidence that shows that the exceptions have been administered or applied by this Agency. Yes, it is clear that the records described are intended to be confidential under the FOA statutes. Yes, the language of the exception appears to be sufficiently clear in describing the records that are covered.

4. Does your agency recommend changes to this exception?

No.

5. Please identify stakeholders whose input should be considered in the evaluation of this exception, with contact information if that is available.

I suggest performing a review of the legislative record that pertains to the creation of this 1985 law.

6. Please provide any further information that you believe is relevant to the Advisory Committee's review.

I have no further information to provide. I'm sorry that I couldn't be more helpful.

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McCarthyReid, Colleen

From: Smith, Jennifer M <Jennifer.M.Smith@maine.gov>
Sent: Wednesday, September 18, 2013 8:42 AM
To: McCarthyReid, Colleen; Poulin, Tim
Cc: Reinsch, Margaret; Fox, Danielle
Subject: RE: Right to Know Advisory Committee's Review of Confidentiality Exception in Title 28-A, Section 755

Good morning Colleen. There is no change from what we submitted the last time on this exception. Please let me know if you need anything else!

Jennifer M. Smith
Director of Legislative Affairs & Communications
Department of Administrative and Financial Services
(207) 624-7397

From: McCarthyReid, Colleen [<mailto:Colleen.McCarthyReid@legislature.maine.gov>]
Sent: Friday, September 13, 2013 8:26 AM
To: Smith, Jennifer M; Poulin, Tim
Cc: Reinsch, Margaret; Fox, Danielle
Subject: Right to Know Advisory Committee's Review of Confidentiality Exception in Title 28-A, Section 755

Hi Jennifer and Tim,

The Right to Know Advisory Committee's Public Exception Subcommittee is reviewing the confidentiality exception contained in Title 28-A, section 755. You may recall this provision was up for review last Fall, but the Subcommittee tabled its consideration due to expected liquor legislation in the First Regular Session. As the legislation enacted this past session did not specifically address section 755, the Subcommittee has put the provision back on its agenda.

Last year, you completed a survey for the Subcommittee to use in its review of the exception. We've attached it for your reference. In the survey, BABLO recommended that the RTKAC consider possible statutory changes to address ambiguity in the language of section 755. Would you be willing to update the survey and provide BABLO's current position on section 755 as well as any recommendations for changes in statutory language?

The next Subcommittee meeting is scheduled for September 25, 2013 at 10 am. We would appreciate your response before the meeting so we can share with the Subcommittee members. Please let us know if you have any questions or need additional information.

Thanks, Colleen and Peggy

Colleen McCarthy Reid, Esq.
Margaret J. Reinsch, Esq.
Office of Policy and Legal Analysis
13 State House Station
Augusta, Maine 04333-0013
(207) 287-1670
Colleen.mccarthyreid@legislature.maine.gov

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McCarthyReid, Colleen

From: Breton, Jody L. <Jody.L.Breton@maine.gov>
Sent: Friday, September 13, 2013 1:56 PM
To: McCarthyReid, Colleen
Cc: Reinsch, Margaret; Fish, Scott
Subject: RE: Question from Right to Know Advisory Committee

Hi Colleen,

We have 5 still incarcerated. We will try to get you the number who are in the community.

Jody

From: McCarthyReid, Colleen [<mailto:Colleen.McCarthyReid@legislature.maine.gov>]
Sent: Friday, September 13, 2013 10:46 AM
To: Breton, Jody L.
Cc: Reinsch, Margaret
Subject: Question from Right to Know Advisory Committee

Hi Jody,

The Right to Know Advisory Committee's Public Records Exception Subcommittee is reviewing the exception in Title 34-A, section 5210, subsection 4 related to the State Parole Board report to the Governor. A question came up during the Subcommittee meeting on September 12. As the FOAA contact for DOC, we hope you are the right person to help us get the answer. How many people (incarcerated or in the community) are currently subject to the old parole system?

The next meeting is September 25th. If possible, could you get back to us before then?
Thank you.

Colleen and Peggy

Colleen McCarthy Reid, Esq.
Margaret J. Reinsch, Esq.
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FOA Reviews ~ Judiciary Committee ~ 126th Legislature, First Regular Session
Final

LD	COMMITTEE	SUBJECT	MEMO DATE	REVIEW DATE	REPORT DATE	RESULT	STATUTE	RESULT
160	EDU	Archaeological sites	3/13/13	3/27/13	3/28/13	Recommended change	27 §377	PL 2013, c. 89
345	JUD	Concealed handgun permits	-	4/3/13	-	Majority: no change	25 §2006	PL 2013, c. 54
532	EDU	Public library patrons records	3/25/13	4/4/13	4/4/13	No changes	27 §121	PL 2013, c. 82
549	JUD	Limitation on release of first offense Class E theft criminal record	-	4/25/13	-	No changes	15 c. 310 (§2257)	Carryover (AFA Table)
619	JUD	Release of email addresses by Bureau of Motor Vehicles	-	5/29/13	-	No changes	29-A §251, sub-§4	PL 2013, c. 283
648	IFS	External review proceedings records	5/8/13	5/15/13	5/16/13	No changes	24-A §4312, sub-§7-A	PL 2013, c. 274
973	JUD	Veterans property tax applications	-	5/13/13	-	No changes	36 §653, sub-§1, ¶G	PL 2013, c. 222
982	JUD	Gambling offset for child support – shared information	-	5/1/13	-	No changes	8 §300-B, sub-§10	PL 2013, c. 255
1016	IFW	Hide dealer licenses records of buyers and sellers	5/16/13	5/23/13	5/23/13	Recommended change	12 §12954, sub-§4-A, ¶A	PL 2013, c. 333

FOA Reviews ~ Judiciary Committee ~ 126th Legislature, First Regular Session
Final

LD	COMMITTEE	SUBJECT	MEMO DATE	REVIEW DATE	REPORT DATE	RESULT	STATUTE	RESULT
1019	EDU	<ul style="list-style-type: none"> Draft research and materials of Maine State Museum Personal history research and materials 	5/3/13	5/9/13	5/14/13	No changes	<ul style="list-style-type: none"> 27 §86-B, sub-§1 27 §86-B, sub-§2 	PL 2013, c. 205
1308	ENR	Product stewardship program for architectural paint	5/15/13 6/5/13	5/23/13 6/10/13	Interim: 5/31/13 Final: 6/10/13	Interim: questions Final: No changes	38 §2144, sub-§5, ¶F	PL 2013, c. 395
1334	HHS	Records of Child Advocacy Centers	5/13/13	5/23/13 6/4/13	6/5/13	No changes	22 §4019, sub-§9	PL 2013, c. 364
1335	ENR	Product Stewardship programs - model	5/15/13 6/5/13	5/23/13 6/10/13	Interim: 5/31/13 Final: 6/10/13	Interim: questions Final: No changes	38 §1776, sub-§10	PL 2013, c. 315
1373	LCRED	Polygraph examiners records	6/7/13	6/11/13	6/12/13	Recommended changes	32 §7365	PL 2013, c. 316
1437	LCRED	Reporting about physicians to the licensing board	5/22/13	5/23/13	Tabled – no report	Public records exception not included		PL 2013, c. 355
1515	CJPS	Records concerning involuntary medication of person in custody of Dept of Corrections	5/30/13	6/4/13	6/5/13	No changes	34-A §3049, sub-§3, ¶G 34-A §3049, sub-§4	Carry over (AFA Table)

FOA Reviews ~ Judiciary Committee ~ 126th Legislature, First Regular Session
Final

LD	COMMITTEE	SUBJECT	MEMO DATE	REVIEW DATE	REPORT DATE	RESULT	STATUTE	RESULT
1519	IFS	<p>Four provisions:</p> <ul style="list-style-type: none"> • Records confidential from national organizations • Holding company information • Insurer's own risk and solvency assessment • Protected valuation information re insurance co. reservers 	5/21/13	5/23/13	5/28/13	No changes	<ul style="list-style-type: none"> • 24-A §216, sub-§5 • 24-A §222, sub-§13-A, ¶E • 24-A §423-F • 24-A §962 	PL c. 238

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