

CHAPTER 26
SHARED USE OF FACILITIES BY PUBLIC AGENCIES
S.F. 119

AN ACT relating to the shared use of facilities by public agencies.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Chapter 28E, Code 1983, is amended by adding the following new section:
NEW SECTION. 28E.18 SHARED USE OF FACILITIES. Before proceeding to construct or purchase a facility as otherwise provided by law, a public agency shall inquire of other public agencies having facilities within the same general geographic area concerning the availability of all or part of those facilities for rent or sharing by agreement with the inquiring public agency. If there are no suitable facilities available for rent or sharing, the governing body of the public agency shall record its findings in its meeting minutes.

Approved April 25, 1983

CHAPTER 27
HEALTH DATA COMMISSION AND HEALTH COSTS
H.F. 196

AN ACT relating to health care by providing for the creation of a health data commission, its purposes, membership, powers, duties, and other related areas, by permitting a hospital service corporation to contract with an ambulatory surgical facility for surgical services, by permitting contracts between hospitals and radiologists and pathologists, by amending the membership of the board of directors of nonprofit hospital service corporations, nonprofit medical service corporations, and nonprofit pharmaceutical or optometric service corporations, and by providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. INTENT AND PURPOSE.** As a result of rising health care costs and the concern expressed by health care providers, health care users, third-party payers, and the general public, there is an urgent need to abate these rising costs so as to place the cost of health care within reach of all Iowans without affecting the quality. It is the intent and purpose of sections 1 through 6 of this Act to maintain an acceptable quality of health care services in Iowa and yet at the same time improve the cost efficiency and effectiveness of health care services. To foster the cooperation of the separate industry forces, there is a need to compile and disseminate accurate and current data, including but not limited to price and utilization data, to meet the needs of the people of Iowa and improve the appropriate usage of

health care services. It is the intent of the general assembly to require the information necessary for a review and comparison of cost, utilization, and quality of health services. The information is to be compiled by a statewide clearinghouse and made available to interested persons to improve the decision-making processes regarding the purchase price and use of appropriate health care services. Patient confidentiality shall be protected.

Sec. 2. NEW SECTION. HEALTH DATA COMMISSION ESTABLISHED—PURPOSE. A state health data commission is established to act as a statewide health data clearinghouse for the acquisition, compilation, correlation, and dissemination of data from health care providers, the state Medicaid program, third-party payers, and other appropriate sources in furtherance of the purpose and intent of the legislature as expressed in section 1 of this Act.

The commission consists of the commissioners of health, insurance, and social services, one state senator and one state representative who shall not be of the same party, shall be non-voting members, and shall be appointed each year by the president of the senate and speaker of the house, respectively, and the chairperson of the board of directors of the corporation or the head of the association or other entity providing staff for the commission as provided by section 3 of this Act who shall be a nonvoting member. The commissioner members shall annually select the chairperson of the commission from among the three voting commissioner members. A majority of the six members including at least two voting members constitute a quorum.

The commission shall meet at least once during each calendar quarter. Meeting dates shall be set by members of the commission or by call of the chairperson upon five days notice to the members. Action of the commission shall not be taken except upon the affirmative vote of a majority of the voting members of the commission. The three voting commissioner members of the commission shall not receive a salary or per diem for being on the commission but shall receive reimbursement for necessary travel and expenses while engaged in commission business. Funds for reimbursement shall come from the moneys appropriated to the department of which the member is the head. The two legislative members of the commission are entitled to per diem and necessary travel and actual expenses as provided in subsection 6 of section 2.10. The commission staff and chairperson of the corporation, association, or entity under agreement with the commission pursuant to section 3, subsection 1 of this Act shall not receive any salary, wages, or per diem for serving the commission and shall not receive reimbursement for commission travel and related expenses or for other commission expenses.

Sec. 3. NEW SECTION. POWERS AND DUTIES.

1. The health data commission shall enter into an agreement with the health policy corporation of Iowa or any other corporation, association, or entity it deems appropriate to provide staff for the commission, to provide staff for the compilation, correlation, and development of the data collected by the commission, to conduct or contract for studies on health-related questions which will further the purpose and intent expressed in section 1 of this Act. The agreement may provide for the corporation, association, or entity to prepare and distribute or make available data to health care providers, health care subscribers, third-party payers, and the general public.

2. a. The commission may require that the state departments of health, insurance, and social services obtain for and make available to the commission data needed to carry out its purpose including but not limited to the data specified in this section. This data may be acquired from health care providers, third-party payers, the state Medicaid program, and other appropriate sources.

b. The data collected by and furnished to the commission pursuant to this section shall not

be public records under chapter 68A. The compilations prepared for release or dissemination from the data collected shall be public records under chapter 68A, which are not subject to section 68A.7, subsection 2, to the extent provided in section 4 of this Act. The confidentiality of patients is to be protected and the laws of this state in regard to patient confidentiality apply, except to the extent provided in section 4 of this Act.

3. The commission shall require that:

a. The commissioner of insurance and the commissioner of health encourage and assist third-party payers and hospitals to voluntarily implement the use of a uniform hospital billing form, and require that all third-party payers and all hospitals use, by July 1, 1984, the uniform hospital billing form designated or established by the commission. Uniform definitions for the billing form shall be established by the commission.

b. The commissioner of insurance require that all third-party payers, including but not limited to licensed insurers, medical and hospital service corporations, health maintenance organizations, and self-funded employee health plans, provide hospital inpatient and outpatient claims data and corresponding physician claims data to the commission pursuant to section 10 of this Act. This data shall include the patient's age, sex, zip code, third-party coverage, date of admission, procedure and discharge date, principal and other diagnoses, principal and other procedures, total charges and components of those charges, attending physician identification number and hospital identification number. Prior to July 1, 1984, the commissioner of insurance may limit the data collection to major third-party payers and a sample of those third-party payers with low market penetration; to more frequent diagnoses and procedures; and to hospital inpatient claims.

c. The corporation, association, or other entity providing research for the commission shall compile and disseminate comparative information on average charges, total and ancillary charge components, and length of stay on diagnosis-specific and procedure-specific cases on a hospital basis from the data defined in paragraph b. The data as collected by the commission shall not be public records under chapter 68A. The compilations prepared for release or dissemination from the data collected shall be public records under chapter 68A, which are not subject to section 68A.7, subsection 2, to the extent provided in section 4 of this Act. Prior to the release or dissemination of the compilations, the commission or the corporation, association, or other entity under agreement with the commission pursuant to section 3, subsection 1 of this Act, shall permit providers an opportunity to verify the accuracy of any information pertaining to the provider. The providers may submit to the commission any corrections of errors in the compilations of the data with any supporting evidence and comments the provider may submit. The commission shall correct data found to be in error.

d. If the data required by the commission or the members of the commission is available on computer or electronic tape, that a copy of this tape shall be provided when requested.

e. The commissioner of health and the commissioner of insurance establish a system which creates the use of a common identification number between the uniform hospital billing form and the hospital discharge abstract.

f. The commissioner of health establish a system of uniform physician identification numbers for use on the hospital discharge abstract forms.

g. The commissioner of social services make available to the commission data and information on the Medicaid program similar to that required of other third-party payers.

4. The commission may require that:

a. The commissioner of health require that the uniform discharge abstract form designated or established by the commission be used by all hospitals by July 1, 1984.

b. The commissioner of insurance require corporations regulated by the commissioner who provide health care insurance or service plans to provide health care policyholder or subscriber data by geographic area or other demographics.

c. The commissioner of health require hospitals to submit annually to the commissioner and to post notification in a public area that there is available for public examination in each facility the established charges for services, where applicable including but not limited to, routine daily room service, special care daily room service, delivery room service, operating room service, emergency room service and anesthesiology services, and as enumerated by the commission, for each of the twenty-five most common laboratory services, radiology services, and pharmacy prescriptions. In addition to the posting of the notification, the hospital shall post in each facility next to the notification, the established charges for routine daily room service, special care daily room service, delivery room service, operating room service, and emergency room service.

d. Additional or alternative information related to the intent and purpose of sections 1 through 6 of this Act as outlined in section 1 of this Act be submitted to the commission.

Sec. 4. NEW SECTION. CONFIDENTIAL INFORMATION AND RECORDS. Notwithstanding section 68A.7, subsection 2, section 135B.12, section 217.30, or any other statute, it is lawful to provide the information requested pursuant to section 3 of this Act as follows:

1. From hospitals, third-party payers, and other persons to the commissioners or departments of health, insurance, or social services.

2. From the commissioners of health, insurance, and social services to the health data commission.

3. From the health data commission to the corporation, association, or other entity providing research for the commission.

4. From the health data commission or its designee to interested persons.

Information provided pursuant to section 3 of this Act shall not identify a patient by name, address, or patient identification number unless authorized by the patient. Violation of this paragraph is a serious misdemeanor.

The commission shall determine the form in which information will be made available and to whom, when, and under what circumstances the information shall be made available.

A person shall not be civilly liable as a result of the person's acts, omissions, or decisions as a member of the commission or as an employee or agent in connection with the person's duties for the commission.

Sec. 5. NEW SECTION. RELEASE OF INFORMATION. Notwithstanding chapter 68A, the data furnished to the commission pursuant to section 3 of this Act shall not constitute a public record. A cause of action in the nature of defamation, invasion of privacy, or negligence shall not arise against a person for disclosing information in accordance with section 3 of this Act. However, this section shall not provide immunity for disclosing or furnishing false information with malice or willful intent to injure a person.

Sec. 6. NEW SECTION. REPORTS AND TERMINATION OF COMMISSION. The commission shall submit a report on the actions taken by the commission to the legislature not later than January 15, 1984 and January 15, 1985. The commission shall be terminated July 1, 1985. If the legislature does not extend the date for termination, a final report shall be submitted to the legislature by July 1, 1985.

Sec. 7. Section 135.11, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. Establish, publish, and enforce rules not inconsistent with the law as necessary to obtain from persons licensed or regulated by the department the data required pursuant to section 3 of this Act by the state health data commission.

Sec. 8. Section 135B.26, Code 1983, is amended to read as follows:

135B.26 COMPENSATION. The contract between the hospital and doctor in charge of the laboratory or X-ray facilities may contain any provision for compensation of each upon which

they mutually agree, ~~provided, however, that no.~~ The contract shall be entered into which in any way creates may create the relationship of employer and employee between the hospital and the doctor, and a radiologist or pathologist. A percentage arrangement or a relationship of employer and employee between the hospital and the radiologist or pathologist is not and shall not be construed to be unprofessional conduct on the part of the doctor or in violation of the statutes of this state upon the part of the hospital.

Sec. 9. Section 135B.28, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon the effective date of regulations which may be adopted by the United States department of health and human services prohibiting combined billing by hospitals and hospital-based physicians under Title XVIII of the federal Social Security Act, the charges for all pathology and radiology services in a hospital, may upon the mutual agreement of the hospital, physician and third-party payer, be billed separately, the hospital component of the charges being included in the hospital bill and the doctor component being billed by the doctor.

Sec. 10. Section 505.8, unnumbered paragraph 2, Code 1983, is amended to read as follows:

He The commissioner shall, subject to the provisions of chapter 17A, establish, publish and enforce rules not inconsistent with the law for the enforcement of the provisions of this title and for the enforcement of the laws, the administration and supervision of which are imposed on the department and as necessary to obtain from persons authorized to do business in the state or regulated by the department that data required pursuant to section 3 of this Act by the state health data commission.

Sec. 11. Section 514.1, Code 1983, is amended to read as follows:

514.1 INSURANCE LAWS EXCLUDED GENERALLY. Any corporation hereafter organized under the provisions of chapter 504 or chapter 504A for the purpose of establishing, maintaining, and operating a nonprofit hospital service plan, whereby hospital service may be provided by the said corporation or by a hospital with which it has a contract for such service, to such of the public who become subscribers to said this plan under a contract which entitles each subscriber to hospital service, or any such corporation organized for the purpose of establishing, maintaining, and operating a plan whereby medical and surgical service may be provided at the expense of said this corporation, by duly licensed physicians and surgeons, dentists, podiatrists, osteopathic physicians, or osteopathic physicians and surgeons, to subscribers under contract, entitling each subscriber to medical and surgical service, as provided in said the contract or any such corporation organized for the purpose of establishing, maintaining, and operating a nonprofit pharmaceutical service plan or optometric service plan, whereby pharmaceutical or optometric service may be provided by the said this corporation or by a licensed pharmacy with which it has a contract for such service, to such of the public who become subscribers to said this plan under a contract which entitles each subscriber to pharmaceutical or optometric service, shall be governed by the provisions of this chapter and shall be exempt from all other provisions of the insurance laws of this state, unless specifically designated herein, not only in governmental relations with the state but for every other purpose, and no additions hereafter enacted shall not apply to such these corporations unless they be expressly designated therein. For the purposes of this chapter, the term "subscriber" shall include means an individual who enters into a contract for hospital services, medical or surgical services, dental services, or pharmaceutical or optometric services with a corporation subject to this chapter and includes any person eligible for medical assistance or additional medical assistance as defined under chapter 249A as hereafter amended, with

respect to whom the department of social services has entered into a contract with any firm operating under said chapter 514. For purposes of this chapter, "provider" is as defined in section 514B.1.

Sec. 12. Section 514.4, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

514.4 DIRECTORS. At least two-thirds of the directors of a hospital service corporation, medical service corporation, dental service corporation, or pharmaceutical or optometric service corporation subject to this chapter shall be at all times subscribers and not more than one-third of the directors shall be providers as provided in this section. The board of directors of each corporation shall consist of at least nine members.

A subscriber director is a director of the board of a corporation who is a subscriber and who is not a provider of health care pursuant to section 514B.1, subsection 5, a person who has material financial or fiduciary interest in the delivery of health care services or a related industry, an employee of an institution which provides health care services, or a spouse or a member of the immediate family of such a person. A subscriber director of a hospital or medical service corporation shall be a subscriber of the services of that corporation.

A provider director of a corporation subject to this chapter shall be at all times a person who has a material financial interest in or is a fiduciary to or an employee of or is a spouse or member of the immediate family of a provider having a contract with such corporation to render to its subscribers the services of such corporation or who is a hospital trustee.

A director may serve on a board of only one corporation at a time subject to this chapter.

The commissioner of insurance shall adopt rules pursuant to chapter 17A to implement the process of the election of subscriber directors of the board of directors of a corporation to ensure the representation of a broad spectrum of subscriber interest on each board. The rules shall provide for an independent subscriber nominating committee to serve until the composition of the board of directors meets the percentage requirements of this section. Once the composition requirements of this section are met, the nominations for subscriber directors shall be made by the subscriber directors of the board. A member of the board of directors of a corporation subject to this chapter shall not serve on the independent subscriber nominating committee. The nominating committee shall consist of subscribers as defined in this section and procedures to permit nomination by a petition of at least fifty subscribers or providers.

Population factors, representation of different geographic regions, and the demography of the service area of the corporation subject to this chapter shall be considered when making nominations for the board of directors of a corporation subject to this chapter.

A corporation shall not reimburse or compensate a provider director or a subscriber director more than forty dollars per diem plus necessary and actual expenses for attendance at a meeting of the board of directors.

A corporation serving states in addition to Iowa shall be required to implement this section only for directors who are residents of Iowa and elected as board members from Iowa.

Sec. 13. Section 514.5, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Any A hospital service corporation organized under the provisions of said chapter 504 or 504A may enter into contracts for the rendering of hospital service to any of its subscribers with hospitals maintained and operated by the state or any of its political subdivisions, or by any corporation, association, or individual. Such hospital service corporation may also contract with an ambulatory surgical facility to provide surgical services to the corporation's subscribers. Hospital service is meant to include bed and board, general nursing care, use of the operating room, use of the delivery room, ordinary medications and dressings and other customary routine care. Ambulatory surgical facility means a facility constructed and

operated for the specific purpose of providing surgery to patients admitted to and discharged from the facility within the same day.

Sec. 14. NEW SECTION. 514.19 COMBINED SERVICE CORPORATIONS. A corporation subject to this chapter may combine with any other corporation subject to this chapter as permitted under chapter 504A and upon the approval by the commissioner of insurance. Each corporation shall comply with chapter 504A, the corporation's articles of incorporation, and the corporation's bylaws. The combined service corporation shall continue the service benefits previously provided by each corporation and may, subject to the approval of the commissioner of insurance, offer other service benefits not previously provided by the corporations before combining, which are permitted under chapter 514.

Sec. 15. Section 12 of this Act takes effect August 1, 1983 and applies to corporations in existence on the effective date of this Act and to corporations formed on or after the effective date of this Act. However, a corporation in existence on the effective date of this Act shall fill any vacancy or any expired term of a director position with a subscriber director and shall have at least a majority of subscribers on the board of directors of the corporation by August 1, 1984 and at least two-thirds of the board shall be subscribers by August 1, 1985. Provider directors serving on the effective date of this Act may complete their terms of office so long as at least a majority of the board is subscribers by August 1, 1984 and at least two-thirds of the board are subscribers by August 1, 1985. Such director shall not serve a term of more than three years or shall serve the remainder of the term being served, whichever is shorter. Only subscriber directors elected pursuant to the rules adopted by the commissioner of insurance pursuant to section 12 of this Act shall be considered in meeting the percentage requirements of the board composition required in this section.

Approved April 26, 1983

CHAPTER 28

HEALTH MAINTENANCE ORGANIZATION ADVERTISING

H.F. 577

AN ACT permitting health maintenance organizations to advertise the names of health professionals providing health care services at the health maintenance organization.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 514B.32, subsection 2, Code 1983, is amended to read as follows:

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority or its representatives ~~shall does not be construed to~~ violate any provision of law prohibiting solicitation or advertising by health professionals. Upon a prospective enrollee's request, a list of locations of services and a list of providers who have current agreements with the health maintenance organization shall be made available. ~~No health maintenance organization shall, in any advertising, identify by name any physician or surgeon, osteopathic physician or surgeon, dentist, optometrist, podiatrist, chiropractor, or professional corporation as defined by chapter 496C, with whom the health maintenance organization has an agreement to provide health care services.~~

Approved April 26, 1983