Date of Hearing: June 2, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 2830 (Wood) – As Amended May 20, 2020

Policy Committee: Health Vote: 13 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill establishes statutory parameters for the Office of Health Planning and Development (OSHPD)'s operation and governance of a multi-payer health care payments database (HPD), the development of which is already envisioned and funded in existing law. Specifically, this bill:

1) Requires mandatory submitters (including health care service plans, insurers, specified self-insurance plans and labor-management trusts, the Department of Health Care Services, and specified providers and suppliers) and authorizes voluntary submitters to provide health care data to a database maintained by OSHPD.

2) Specifies numerous design parameters regarding the development, operation and governance of the database, including staffing and contracting; data submission; data processes; confidentiality and privacy protections; data use, access and restrictions; and enforcement against health plans and insurers that fail to comply.

3) Specifies the following fiscal and funding provisions:

   a) Requires OSHPD to expend the General Fund (GF) moneys appropriated in the 2018 Budget Act for purposes of this bill and the former Health Care Transparency Database to fund the implementation and operation of the HPD program.

   b) Establishes the Health Care Payments Data Fund (fund) within OSHPD for the purpose of receiving and expending revenues collected pursuant to this bill.

   c) Requires all revenues collected pursuant to this bill to be deposited in the fund. States that any amounts raised by the collection of the revenues that are not required to meet appropriations in the budget act to remain in the fund and to be available to OSHPD in succeeding years upon appropriation by the Legislature.

   d) Requires OSHPD to seek to maximize federal financial participation from the Medicaid program for the system, as specified.

   e) Authorizes OSHPD to impose a data user fee for an eligible user that is in compliance with this bill, including, but not limited to, provisions related to consumer privacy and data security. Requires the revenue from the data user fee to not exceed OSHPD's administrative costs in providing an eligible user's access to the system.

   f) Indicates that state agencies and specified consumer organizations are not subject to the user fee but are required to comply with this bill, including, but not limited to, provisions

related to consumer privacy and data security.

g) States that upon exhaustion of the GF moneys appropriated in the 2018 Budget Act, funding for the actual and necessary expenses of OSHPD in implementing this bill to be provided, subject to appropriation by the Legislature, from transfers of moneys from the Managed Care Fund and the Insurance Fund.

h) Bases the share of funding from the Managed Care Fund on the number of lives in the state covered under plans regulated by the Department of Managed Health Care (DMHC), in proportion to the total number of all covered lives in the state. Contains similar provisions with respect to the Insurance Fund for policies regulated by California Department of Insurance.

i) Allows OSHPD to accept foundation funding from foundations not affiliated or controlled by a health care entity.

FISCAL EFFECT:

1) In its March 2020 report to the Legislature, OSHPD estimated ongoing costs of approximately $15 million per year (Managed Care Fund/Insurance Fund/federal/user fees) to operate the database pursuant to its design recommendations, based on similar experience in other states. Ongoing operations costs are uncertain and would depend partially on factors, some of which are unknown, that include the processes needed to produce reliable data, the number of applications for public and private data use and related processing, and the eventual sophistication of the database.

   By adding a significant number of additional data submitters, including providers and suppliers, this bill adds significant costs and complexity to the design of the database. OSHPD estimates the additional requirements will add $40 million to the implementation cost and $25 million in annual ongoing maintenance and operations costs in addition to the $15 million ongoing cost identified.

   Assuming the database is operational according to the requirements of this bill, OSHPD projects an annual long-run cost of about $41 million for maintenance and operation in fiscal year 2026-27. This assumes, pursuant to the funding structure in the bill, approximately $27 million from the Managed Care Fund, $2 million from the Insurance Fund, user fees of $2 million, and federal Medi-Cal matching funds of $10 million.

2) Ongoing costs in the hundreds of thousands of dollars to OSHPD to analyze data and produce annual reports about various aspects of the health care system, as specified (Managed Care Fund/Insurance Fund/federal/user fees).

3) Costs to the Department of Health Care Services of at least $150,000 (GF/federal) to provide claims and utilization data.

4) Unknown, significant ongoing costs to the Department of Managed Health Care (Managed Care Fund) and to the California Department of Insurance (Insurance Fund) to enforce compliance among licensed healthcare service plans and insurers.

COMMENTS:

1) **Purpose**. This bill furthers the implementation of a statewide health care pricing and payments database being developed by OSPHD by defining key features and providing authorizations and protections necessary to collect and use the data.

2) **Recent Background**. AB 1810, Chapter 34, Statutes of 2018, included a one-time appropriation for OSHPD to develop and administer a statewide Health Care Payments Database, often referred to as an "All Payer Claims Database" or "APCD". By aggregating claims or payments across the state from as many payers as possible, APCDs support analysis of health care data to improve health care delivery and public health. Since some health care payments are not actually "claims," due to the prevalence of different payment models, California's database is intended to collect many different types of payments.

   The 2018 Budget Act provided $60 million General Fund on a one-time basis to OSHPD to establish a database to collect information on public and private health care costs and utilization in the state. A health-related trailer bill, AB 1810, Chapter 34, Statutes of 2018, directed the creation of a stakeholder committee to advise on the establishment and ongoing maintenance of the database, and it outlined the intent of the Legislature that the database be completed by July 2023. The original legislation also envisioned follow-up enabling legislation that would implement key decisions related to database operation and use.

   The review committee met monthly for a year starting March 2019 and OSHPD issued recommendations based on these discussions in a March 2020 report. The report identifies recommendations for the type of data that must be submitted, enforcement mechanisms needed for compliance, governance, rules to protect individual privacy, and more. This bill generally implements these recommendations. The administration also released trailer bill language on this topic as part of the 2020-21 Governor's Budget. AB 2830 incorporates many aspects of the proposed TBL and expands upon the TBL in some areas, including adding conflict-of-interest provisions, defining mandatory submitters of data, and requiring master patient, provider and payer indices.

   Along with the report, OSHPD released its Phase 2 Implementation Plan for the HPD project. The plan includes program activities from March 2020 through December 2023, where OSHPD projects completion of the project.

3) **Proposed Funding Structure.** AB 1810 required OSHPD to develop a non-GF fiscal sustainability plan for ongoing operations. OSHPD's report to the Legislature describes a wide range of costs per covered life associated with ongoing database operations in other states, ranging from $0.17 in Minnesota to over $1.00 per covered life in New York and Rhode Island, excluding an outlier ($4.38 per covered life in Delaware). According to the report, states use a variety of funding sources to support operations, including state general and special funds, Medicaid matching dollars, data user fee revenue from entities requesting data and grant funding. Many use a diversity of these sources and all but one state uses state funds to support the database. Similarly, this bill authorizes funding sources including state special funds, Medicaid matching funds, data user fees, and foundation funding. Core funding is proposed to be from the Managed Care Fund and Insurance Fund, based on the percentage of covered lives regulated by the Department of Managed Care and the

Department of Insurance. Other states charge an assessment on hospitals or other providers, similar to the structure of the Health Data and Planning Fund OSHPD relies on for other data reporting programs.

4) **Related Legislation**. AB 2817 (Wood), pending in the Assembly Health Committee, establishes the Office of Health Care Quality and Affordability to analyze the health care market for cost trends and drivers of spending, develop data-informed policies for lowering health care costs, and creates a strategy to control health care costs.

5) **Prior Legislation**. AB 1558 (Ed Hernández) and SB 1322 (Ed Hernández), of the 2013-14 Legislative Session, and SB 26 (Ed Hernández), of the 2015-16 Legislative Session, were prior attempts to enact a health care payments database and all were held on legislative appropriations committees' suspense files.

6) **Support and Opposition**. This bill is supported by a number of labor and consumer advocacy groups. There is no formal opposition on file, but the California Medical Association (CMA), California Association of Health Plans (CAHP) and the Association of California Life and Health Insurance Companies (ACLHIC) are opposed to the bill unless amended. CMA requests physicians be removed from this bill as mandatory submitters of data and CAHP and ACLHIC object to the financing mechanism and seek removal of this mechanism and exploration of whether existing mechanisms are adequate. The California Hospital Association also expresses concerns about the requirements for hospitals to submit data and other issues.

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