



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Health Care Authority

TITLE-SERIES: 65-34

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: UNIFORM BILL DATABASE

CITE STATUTORY AUTHORITY: 16-29b-24

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB2648

Section 64-5-1(h) Passed On 3/6/2023 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 1, 2023

This rule shall terminate and have no further force or effect from the following date:

August 01, 2028

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

April L Robertson -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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TITLE 65
LEGISLATIVE RULE
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
HEALTH CARE AUTHORITY

SERIES 34
UNIFORM BILL DATABASE

§65-34-1. General.

1.1. Scope. -- This rule establishes procedures for the collection, retention, use, and disclosure of data from the uniform bill (UB) database, including provisions and safeguards to protect the privacy, integrity, confidentiality, and availability of any data; procedures for the collection of required data elements, required data format, code tables, edit specifications, thresholds required for a submission to be deemed complete, methods for submitting data, and submission schedules; and fees for data requests payable by users of the data, if any.

1.2. Authority. – W. Va. Code §16-29B-24.

1.3. Filing Date. – March 30, 2023.

1.4. Effective Date. – April 1, 2023.

1.5. Sunset Provision. – This rule shall terminate and have no further force or effect on August 1, 2028.

§65-34-2. Definitions.

2.1. De-identified data means all of the data elements listed in subsection 4.1. of this rule are omitted.

2.2. Health oversight agency means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

2.3. Limited data set means one in which none of the data elements listed in subsection 5.9. of this rule are included.

2.4. Public health surveillance means the ongoing systematic collection, analysis, and interpretation of health-related data essential to planning, implementation, and evaluation of public health practices.

§64-34-3. Data Collection and Retention.

3.1. Pursuant to W. Va. Code §16-29B-30, and notwithstanding any other provision of the code to the contrary, as of July 1, 2017, and any and all functions of the West Virginia Health Care Authority (Authority) were transferred to the Department of Health and Human Resources (Department). This includes the

responsibility for coordinating and overseeing health data collection and leading state agencies' efforts to make the best use of emerging technology to facilitate the expedient and appropriate exchange of health care data.

3.2. In some instances, the Department may hire a data discharge vendor to collect and analyze UB data directly from all non-federal acute care hospitals. The policies, procedures, schedules, specifications, and definitions of the West Virginia Hospital Data Submission System (HDSS) are found at "Appendix A" to this rule.

3.3. The data discharge vendor maintains the master database for the HDSS and provides copies of the data to the Department at least quarterly for storage in a data warehouse under the control of the Department. Since this data may, in some instances, contain identifiers that may, when linked with other sources or standing alone, lead to the identity of an individual, steps are taken to protect this data, to limit use of this data, and to restrict disclosure of this data.

§65-34-4. Data Published on the Internet.

4.1. Generally, data published on the internet will be de-identified in accordance with HIPAA privacy standards and will contain a cell size of at least 30. In order to de-identify data the following variables must be omitted:

4.1.1. Names;

4.1.2. All geographic subdivisions smaller than a state, including street address, city, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if according to the current publicly available data from the Bureau of Census the initial geographic unit formed by combining all zip codes with the same three initial contains more than 20,000 and the initial three digits of a zip code for all such geographic units containing 20,000 or fewer is changed to 000;

4.1.3. All elements of dates (except year) for dates directly related to an individual, including birth date, date of death, and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of 90 or older;

4.1.4. Telephone numbers;

4.1.5. Fax numbers;

4.1.6. Electronic mail addresses;

4.1.7. Social security numbers;

4.1.8. Medical record numbers;

4.1.9. Health plan beneficiary numbers;

4.1.10. Account numbers;

4.1.11. Certificate/license numbers;

- 4.1.12. Vehicle identifiers and serial numbers, including license plate numbers;
- 4.1.13. Device identifiers and serial numbers;
- 4.1.14. Web Universal Resource Locators (URLs);
- 4.1.15. Internet Protocol (IP) address numbers;
- 4.1.16. Biometric identifiers, including finger and voice prints;
- 4.1.17. Full face photographic images and any comparable images; and
- 4.1.18. Any other unique identifying number, characteristic, or code.

§65-34-5. Data Use and Disclosure.

5.1. The Department utilizes hospital discharge data for public health surveillance, to inform health care policy, and to evaluate the effectiveness of programs. The Department also recognizes the legitimate needs of citizens, providers, policy makers, researchers, and others to access discharge data. Every effort is made to satisfy legitimate requests for data while protecting patient data.

5.2. If a party requests more than a de-identified data set or a de-identified data set with a cell size of less than 30, then the party must submit a complete application for its request to be considered.

5.3. Once this application is received, the analyst will determine if the data request has value and utility, whether the data is available from other sources, if the minimum data necessary to accomplish the research project has been requested and whether an IRB with Federal Wide Assurance has approved the request.

5.4. A hospital submitting UB data may obtain the full set of UB data that it has submitted without restriction.

5.5. The Authority may exchange data available in a limited data set with a public health oversight agency.

5.6. If a state agency needs UB data to perform an essential function of that agency, the data may be produced if a data use agreement is obtained and the minimum necessary data is provided.

5.7. If an internal source requests data for use before a state agency, the Legislature, or any other public body, the Director of Data and Analysis must determine if the data requested has a public mission, value and utility and supports the greater good of the community.

5.8. If a government agency requests data for an articulated public health surveillance purpose and the government agency certifies that its request complies with the minimum necessary restrictions, the data can be produced without a data use agreement and as requested by the government agency once the Director of Data and Analysis approves this disclosure.

5.9. If the request is approved and a data use agreement signed, then a limited data set may be provided. In no event may any limited data set include the following:

- 5.9.1. Names;
- 5.9.2. Postal address information, other than town or city, state, and zip codes;
- 5.9.3. Telephone numbers;
- 5.9.4. Fax numbers;
- 5.9.5. Electronic mail addresses;
- 5.9.6. Social security numbers;
- 5.9.7. Medical record numbers;
- 5.9.8. Health plan beneficiary numbers;
- 5.9.9. Account numbers;
- 5.9.10. Certificate/license numbers;
- 5.9.11. VIN and serial numbers, including license plates;
- 5.9.12. Device identifiers and serial numbers;
- 5.9.13. Web universal resource locators (URL);
- 5.9.14. Internet protocols (IP) address numbers;
- 5.9.15. Biometric identifiers, including finger and voice prints; and
- 5.9.16. Full face photographic images and any comparable images.

5.10. All requests for UB data from members of the press must be submitted directly to the DHHR Division of Communications.

5.11. Requests for data from data vendors who are going to resell the data must be referred to the Healthcare Cost and Utilization Project (H-CUP) sponsored by the Agency for Healthcare Research and Quality (AHRQ) of the U.S. Department of Health & Human Services. Data from West Virginia, along with data from several other states, is available for comparison in an interactive query system which is freely available to the public at the following link: <https://datatools.ahrq.gov/hcupnet>. Alternatively, these requests may be directed to the de-identified data on the web or the facility.

5.12. The Department reserves the right not to provide any or all of the data requested in its sole discretion. In addition, the Authority reserves the right not to provide any or all data requested by parties that have previously violated the terms of a data use agreement or otherwise misused any of the Authority's data.

§65-34-6. Fees.

6.1. The following fee structure has been established for certain types of reports and data in order to reasonably reimburse the Department for its costs in making copies of the reports available and in fulfilling custom requests:

6.1.1. Standard reports of financial and utilization statics: Paper copies are 50 cents per page; \$10 per electronic file. Some reports may be retrieved electronically and free of charge from the Health Care Authority online archive at <http://www.hcawv.org/vs5FileNet/>.

6.1.2. Standard reports based upon hospital discharge uniform billing data: \$50 per report. Some data may be retrieved electronically and free of charge using the Health IQ query tool at <https://hca.gov/data/Pages/default.aspx>; and from the AHRQ H-CUP query tool at <https://hcupnet.ahrq.gov/#setup>.

6.1.3. Custom reports based upon financial and utilization data or hospital uniform billing data sets: \$50 per report. Additional fees may apply for excessive programming time.

6.1.4. Annual hospital discharge uniform billing data sets: Annual files are available for purchase from the AHRQ H-CUP central distributor at http://www.hcup-us.ahrq.gov/tech_assist/centdist.jsp.

6.1.5. Shipping: Additional shipping costs will be applied for costs above \$1 or if signature confirmation of delivery is required by policy. No additional shipping cost will be incurred for certified mail delivery. Overnight delivery will be billed at the standard rate or charged to requestor's FedEx account.

6.1.6. Retrieval of paper reports from archival storage: \$15 per box accessed to retrieve a document. This is the actual cost of document retrieval.

§65-34-7. Requesting Data.

7.1. Internal or external users may request a limited data set by submitting a data request form: <https://docs.google.com/forms/d/e/1FAIpQLSeBN9qaAyg5PYBYLGZiuEspIHu50gVp5vsDvPqeSPyBEKn0Eg/viewform> to the DHHR Office of Management Information Services, Data and Analytics.

7.1.1. Forms can be mailed, emailed to Michael.L.Morris@wv.gov or faxed to (304) 558-4775.

7.1.2. Requests may be approved as submitted or additional justification or modification may be required. Requests may also be denied.

7.1.3. External entities may be required to sign a Data Use Agreement at the discretion of the Department.

7.1.4. If a request is approved, an encrypted report will be sent to the requester within 30 days via Secure File Transfer Protocol.

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APPENDIX A