

BILL ANALYSIS

C.S.H.B. 2641
By: Zerwas
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that Texas health care providers have invested millions of dollars implementing electronic health record systems in an effort to improve the quality of care delivered to patients and to help reduce the overall costs of health care. A fundamental capability of those systems is to exchange patient and test data using national standards for interoperability developed through the American National Standards Institute. However, it is reported that providers who send information to the state's health and human services agencies are at times unable to use their electronic systems to make timely, efficient, and accurate exchanges. The parties assert that as these agencies develop new reporting systems, every effort should be made to build those systems to be compatible with provider systems. The parties contend that certain laws governing the reporting of public health data to the Department of State Health Services also need to be amended to recognize the emergence of health information exchanges as a way for required public health reporting to be performed on behalf of a provider.

C.S.H.B. 2641 seeks to reduce the total costs of public programs, improve the timeliness and accuracy of agency data exchange, and reduce administrative burdens imposed on providers by ensuring the interoperability of certain systems of Texas health and human services agencies.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2641 amends the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC) to ensure that all information systems available for use by HHSC or a health and human services agency in sending protected health information to a health care provider or receiving protected health information from a health care provider, and for which planning or procurement begins on or after September 1, 2015, are capable of sending or receiving that information in accordance with the applicable data exchange standards developed by the appropriate standards development organization accredited by the American National Standards Institute; that if national data exchange standards do not exist for such a system, to ensure that HHSC makes every effort to ensure the system is interoperable with the national standards for electronic health record systems; and to ensure that HHSC and each health and human services agency establish an interoperability standards plan for all information systems that exchange protected health information with health care providers. The bill requires

the executive commissioner, not later than December 1 of each even-numbered year, to report to the governor and the Legislative Budget Board on the measurable progress of HHSC and the health and human services agencies in ensuring that the information systems are interoperable with one another and meet the appropriate standards. The bill requires the report to include an assessment of the progress made in achieving HHSC goals related to the exchange of health information, including facilitating care coordination among the agencies, ensuring quality improvement, and realizing cost savings. The bill authorizes the executive commissioner to develop by rule a system to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information if feasible and cost-effective. The bill authorizes HHSC to implement that system.

C.S.H.B. 2641 amends the Health and Safety Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to expand the allowable forms and methods of reporting communicable diseases to include reporting through a health information exchange if requested and authorized by the person required to report. The bill authorizes data from certain medical records to be furnished, at the request and with the authorization of the applicable health care facility, clinical laboratory, or health care practitioner, to the Department of State Health Services through a health information exchange. The bill authorizes data elements regarding immunizations and data elements regarding an immunization and medication administered for disasters and emergencies, at the request and with the authorization of the health care provider, to be provided or submitted, as applicable, through a health information exchange.

C.S.H.B. 2641 authorizes a health information exchange to access and transmit health-related information for purposes of reporting a communicable disease, furnishing data from medical records regarding certain cancer cases, and reporting the administration of certain immunizations, antivirals, or other medications for inclusion in a statewide immunization registry if the access or transmittal of that information by the health information exchange is made for the purpose of assisting in the reporting of health-related information to the appropriate agency; is requested and authorized by the appropriate health care provider, practitioner, physician, facility, clinical laboratory, or other person who is required to report health-related information; and is made in accordance with the requirements of state and federal law. The bill defines "health information exchange" as an organization that assists in the transmission or receipt of health-related information among organizations transmitting or receiving the information according to nationally recognized standards and under an express written agreement with the organizations; that as a primary business function, compiles or organizes health-related information designed to be securely transmitted by the organization among physicians, other health care providers, or entities within a region, state, community, or hospital system; or that assists in the transmission or receipt of electronic health-related information among physicians, other health care providers, or entities within certain systems and organizations. The bill authorizes a health information exchange to only use and disclose the information that it accesses or transmits in compliance with all applicable state and federal law and prohibits a health information exchange from exchanging, selling, trading, or otherwise making any prohibited use or disclosure of the information. The bill requires a health information exchange that collects, transmits, disseminates, accesses, or reports health-related information to comply with all applicable state and federal law, including secure electronic data submission requirements.

C.S.H.B. 2641 makes it a Class A misdemeanor for a person who collects, transmits, disseminates, accesses, or reports information on behalf of or as a health information exchange to intentionally allow health-related information in the possession of a health information exchange to be used or disclosed in a manner that violates the bill's provisions relating to health information exchanges.

C.S.H.B. 2641 repeals Section 531.02176, Government Code, relating to the expiration of Medicaid reimbursements for the provision of home telemonitoring services.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2641 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill and does not indicate differences relating to changes made by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, which became effective April 2, 2015.

INTRODUCED

SECTION 1. Section 531.0162, Government Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The executive commissioner shall ensure that:

(1) all information systems available for use by the commission or a health and human services agency in sending protected health information to a health care provider or receiving protected health information from a health care provider, and for which planning or procurement begins on or after September 1, 2015, are capable of sending or receiving that information in accordance with the applicable data exchange standards developed by the appropriate standards development organization accredited by the American National Standards Institute;

(2) if national data exchange standards do not exist for a system described by Subdivision (1), the commission makes every effort to ensure the system is interoperable with the national standards for electronic health record systems; and

(3) the commission and each health and human services agency establish an interoperability standards plan for all information systems that exchange protected health information with health care providers.

(f) Not later than December 1 of each even-numbered year, the executive commissioner shall report to the governor and the Legislative Budget Board on the commission's and the health and human services agencies' progress in ensuring that the information systems described in Subsection (e) are interoperable with one another and meet the appropriate standards

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 531.0162, Government Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) The executive commissioner shall ensure that:

(1) all information systems available for use by the commission or a health and human services agency in sending protected health information to a health care provider or receiving protected health information from a health care provider, and for which planning or procurement begins on or after September 1, 2015, are capable of sending or receiving that information in accordance with the applicable data exchange standards developed by the appropriate standards development organization accredited by the American National Standards Institute;

(2) if national data exchange standards do not exist for a system described by Subdivision (1), the commission makes every effort to ensure the system is interoperable with the national standards for electronic health record systems; and

(3) the commission and each health and human services agency establish an interoperability standards plan for all information systems that exchange protected health information with health care providers.

(f) Not later than December 1 of each even-numbered year, the executive commissioner shall report to the governor and the Legislative Budget Board on the commission's and the health and human services agencies' measurable progress in ensuring that the information systems described in Subsection (e) are interoperable with one another and meet the appropriate

specified by that subsection.

SECTION 2. Section 81.044(a), Health and Safety Code, is amended.

SECTION 3. Section 82.008(a), Health and Safety Code, is amended.

SECTION 4. Section 161.007(d), Health and Safety Code, is amended to read as follows:

(d) A health care provider who administers an immunization to an individual younger than 18 years of age shall provide data elements regarding an immunization to the department. A health care provider who administers an immunization to an individual 18 years of age or older may submit data elements regarding an immunization to the department. At the request and with the authorization of the health care provider, the data elements may be provided through a health information exchange as defined by Section 182.151. The data elements shall be submitted in a format prescribed by the department. The department shall verify consent before including the information in the immunization registry. The department may not retain individually identifiable information about an individual for whom consent cannot be verified.

SECTION 5. Section 161.00705(a), Health and Safety Code, is amended.

SECTION 6. Section 161.00706(b), Health and Safety Code, is amended.

SECTION 7. Chapter 182, Health and Safety Code, is amended by adding

standards specified by that subsection. The report must include an assessment of the progress made in achieving commission goals related to the exchange of health information, including facilitating care coordination among the agencies, ensuring quality improvement, and realizing cost savings.

(g) The executive commissioner by rule may develop and the commission may implement a system to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information if feasible and cost-effective.

SECTION 2. Substantially the same as introduced version.

SECTION 3. Substantially the same as introduced version.

SECTION 4. Section 161.007(d), Health and Safety Code, is amended to read as follows:

(d) A health care provider who administers an immunization to an individual younger than 18 years of age shall provide data elements regarding an immunization to the department. A health care provider who administers an immunization to an individual 18 years of age or older may submit data elements regarding an immunization to the department. At the request and with the authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151. The data elements shall be submitted in a format prescribed by the department. The department shall verify consent before including the information in the immunization registry. The department may not retain individually identifiable information about an individual for whom consent cannot be verified.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 7. Chapter 182, Health and Safety Code, is amended by adding

Subchapter D to read as follows:

SUBCHAPTER D. HEALTH INFORMATION EXCHANGES

Sec. 182.151. DEFINITION. In this subchapter, "health information exchange" means an organization that:

(1) assists in the transmission or receipt of health-related information among organizations transmitting or receiving the information according to nationally recognized standards and under an express written agreement with the organizations;

(2) as a primary business function, compiles or organizes health-related information designed to be securely transmitted by the organization among physicians, other health care providers, or entities within a region, state, community, or hospital system; or

(3) assists in the transmission or receipt of electronic health-related information among physicians, other health care providers, or entities within:

(A) a hospital system;

(B) a physician organization;

(C) a health care collaborative, as defined by Section 848.001, Insurance Code;

(D) a Pioneer Model accountable care organization established under the initiative by the Centers for Medicare and Medicaid Services Innovation Center; or

(E) an accountable care organization participating in the Medicare Shared Savings Program under 42 U.S.C. Section 1395jjj.

Sec. 182.152. AUTHORITY OF HEALTH INFORMATION EXCHANGE. (a)

Notwithstanding Sections 81.046, 82.009, and 161.0073, a health information exchange may access and transmit health-related information under Sections 81.044(a), 82.008(a), 161.007(d), 161.00705(a), and 161.00706(b) if the access or transmittal is:

(1) made for the purpose of assisting in the reporting of health-related information to the appropriate agency;

(2) requested and authorized by the appropriate health care provider, practitioner, physician, facility, clinical laboratory, or other person who is required to report health-related information; and

(3) made in accordance with the

Subchapter D to read as follows:

SUBCHAPTER D. HEALTH INFORMATION EXCHANGES

Sec. 182.151. DEFINITION. In this subchapter, "health information exchange" means an organization that:

(1) assists in the transmission or receipt of health-related information among organizations transmitting or receiving the information according to nationally recognized standards and under an express written agreement with the organizations;

(2) as a primary business function, compiles or organizes health-related information designed to be securely transmitted by the organization among physicians, other health care providers, or entities within a region, state, community, or hospital system; or

(3) assists in the transmission or receipt of electronic health-related information among physicians, other health care providers, or entities within:

(A) a hospital system;

(B) a physician organization;

(C) a health care collaborative, as defined by Section 848.001, Insurance Code;

(D) an accountable care organization participating in the Pioneer Model under the initiative by the Innovation Center of the Centers for Medicare and Medicaid Services; or

(E) an accountable care organization participating in the Medicare Shared Savings Program under 42 U.S.C. Section 1395jjj.

Sec. 182.152. AUTHORITY OF HEALTH INFORMATION EXCHANGE. (a)

Notwithstanding Sections 81.046, 82.009, 161.0073, and 161.008, a health information exchange may access and transmit health-related information under Sections 81.044(a), 82.008(a), 161.007(d), 161.00705(a), 161.00706(b), and 161.008 if the access or transmittal is:

(1) made for the purpose of assisting in the reporting of health-related information to the appropriate agency;

(2) requested and authorized by the appropriate health care provider, practitioner, physician, facility, clinical laboratory, or other person who is required to report health-related information; and

(3) made in accordance with the

requirements of this subchapter and all other state and federal law.

(b) A health information exchange may only use and disclose the information that it accesses or transmits under Subsection (a) in compliance with this subchapter and all applicable state and federal law, and may not exchange, sell, trade, or otherwise make any prohibited use or disclosure of the information.

Sec. 182.153. COMPLIANCE WITH LAW; SECURITY. A health information exchange that collects, transmits, disseminates, accesses, or reports health-related information under this subchapter shall comply with all applicable state and federal law, including secure electronic data submission requirements.

No equivalent provision.

SECTION 8. This Act takes effect September 1, 2015.

requirements of this subchapter and all other state and federal law.

(b) A health information exchange may only use and disclose the information that it accesses or transmits under Subsection (a) in compliance with this subchapter and all applicable state and federal law, and may not exchange, sell, trade, or otherwise make any prohibited use or disclosure of the information.

Sec. 182.153. COMPLIANCE WITH LAW; SECURITY. A health information exchange that collects, transmits, disseminates, accesses, or reports health-related information under this subchapter shall comply with all applicable state and federal law, including secure electronic data submission requirements.

Sec. 182.154. CRIMINAL PENALTY. (a) A person who collects, transmits, disseminates, accesses, or reports information under this subchapter on behalf of or as a health information exchange commits an offense if the person, with the intent to violate this subchapter, allows health-related information in the possession of a health information exchange to be used or disclosed in a manner that violates this subchapter.

(b) An offense under this section is a Class A misdemeanor.

SECTION 8. Section 531.02176, Government Code, is repealed.

SECTION 9. Same as introduced version.