

- SUBJECT:** Creating an opt-out for providers reporting health information to DSHS
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 10 ayes — Kolkhorst, Alvarado, Coleman, S. Davis, Gonzales, S. King, Laubenberg, Schwertner, Truitt, Zerwas
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- WITNESSES:** For — Bobby Hillert, Texas Ambulatory Surgery Center Society
- Against — (*Registered, but did not testify:* Denise Rose, Texas Hospital Association; Kandice Sanaie, Texas Association of Business)
- On — Sylvia Cook, Department of State Health Services
- BACKGROUND:** Most hospitals, health care facilities, and providers are required to submit data to the Texas Department of State Health Services (DSHS). Required data include health care charges, utilization data, provider quality data, and outcome data to facilitate the promotion and accessibility of cost-effective, good quality health care. Rural providers and tax-exempt hospitals that provide only charity care are exempt from the reporting requirements.
- A 15-member, governor-appointed Health Information Council is responsible for directing data collection, dissemination, and analysis, and working collaboratively with other government and private entities to facilitate data collection and prevent duplicative collection requirements.
- DIGEST:** CSHB 2459 would make health care reporting permissive and require providers that report data to DSHS to notify their patients that the data could be sold or distributed to third parties.
- CSHB 2459 would require DSHS to post on its website a list of entities that purchased or received their data and require the Health and Human Services Commission to adopt rules establishing procedures for providers to elect not to participate.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 2459 would allow providers to opt out of reporting certain health data. Current law requires health care facilities to collect certain information from patients and submit it to DSHS. This patient data is then de-identified and sold to universities, health research firms, and other health care facilities without patient consent. Patients often are unaware that their private health information is being sold to third parties. This problem could be resolved if providers no longer had to report this information.

CSHB 2459 would remove the unfunded mandate that currently is imposed on hospitals and other providers. Providers often are issued hefty fines if the required data are not submitted within the deadline issued by DSHS. This can be a difficult undertaking for small businesses like ambulatory surgical services and can be a major waste of their time and limited resources.

**OPPONENTS
SAY:**

CSHB 2459 would allow providers to opt out of reporting data, representing a huge step backwards for public health and transparency in the health care system. Providers likely would stop submitting data without the requirement. These data are used primarily to further public health research and allocate resources based on need. It would be difficult to understand how particular populations were affected by diabetes or heart disease in Texas if the data were incomplete and unreliable. A number of health disparities affect specific regions and certain populations in Texas. This information is used to identify areas to implement health care interventions to prevent diseases and achieve cost savings in public health care programs.

There have been a number of patient data protection bills passed to engrossment this session that relate to patient privacy. These bills address privacy concerns on the patient side and balance the need for greater transparency with the need for good public health research. CSHB 2459 would remove the requirement altogether and ultimately jeopardize patient care by impacting quality of the dataset on the Texas population.

NOTES:

The committee substitute removed hospitals from required reporting.