

SUBJECT: Exchange of health data in the state

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Crossover, Naishtat, Blanco, Coleman, Collier, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

WITNESSES: For — Ray Tsai; (*Registered, but did not testify:* Gabriela Saenz, CHRISTUS Health; Jim Hine, Texas Assisted Living Association; Gijs Van Oort, Texas Association for Health Information Organizations; Marina Hench, Texas Association for Home Care and Hospice; Amanda Martin, Texas Association of Business; Jose E. Camacho, Texas Association of Community Health Centers; Jamie Dudensing, Texas Association of Health Plans; Lee Johnson, Texas Council of Community Centers; Nora Belcher, Texas e-Health Alliance; Jennifer Banda, Texas Hospital Association; Troy Alexander, Texas Medical Association; Tom Banning, Texas Academy of Family Physicians; Kandice Sanaie, UnitedHealthcare)

Against — None

On — (*Registered, but did not testify:* Sylvia Kauffman, Health and Human Services Commission; Jim Skelton, Department of State Health Services)

BACKGROUND: The American National Standards Institute is a nonprofit membership organization that serves as an administrator and coordinator of the U.S. private sector voluntary standardization system. It facilitates the development of voluntary consensus standards by accrediting the procedures of standards-developing organizations.

The Department of State Health Services requires health care providers to use several web portals to report certain data to the department rather than a health information exchange. Many Texas providers have recently

implemented electronic health record systems that would allow them to report this information electronically, were DSHS to create a health information exchange for this purpose.

DIGEST:

CSHB 2641 would set regulations for sending or receiving health information, including health information collected by the Department of State Health Services, through a health information exchange.

The bill would define the term “health information exchange” as an organization that would:

- assist in the transmission of health-related information among organizations according to nationally recognized standards and under an express written agreement;
- as a primary business function, compile or organize health-related information designed to be securely transmitted among health care providers; and
- assist in transmitting or receiving electronic health-related information among physicians, other health care providers, or entities within a hospital system, physician organization, health care collaborative, or an accountable care organization participating in the Pioneer Model or the Medicare Shared Savings Program under the federal Centers for Medicare and Medicaid Services.

The bill would 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 for sending or receiving protected health information to or from a health care provider were capable of sending and receiving that information in accordance with the applicable data exchange standards developed by an organization accredited by the American National Standards Institute;
- all information systems for which planning or procurement began on or after September 1, 2015, were capable of sending and

- receiving protected health information in accordance with applicable data exchange standards;
- if national data exchange standards did not exist for sending and receiving health information, HHSC would make every effort to ensure the system was interoperable with national standards for electronic health record systems;
 - HHSC and each health and human services agency would establish an interoperability standards plan for all information systems that exchanged protected health information with health care providers;
 - by December 1 of each even-numbered year, the executive commissioner would 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 were interoperable with one another and met appropriate standards;
 - the report would 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; and
 - the executive commissioner by rule could develop and HHSC could 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.

The bill would require the executive commissioner to prescribe the form and method of reporting through a health information exchange. At the request and with the authorization of the applicable health care facility, clinical laboratory, or health care practitioner, data concerning cancer could be furnished to the Department of State Health Services through a health information exchange. At the request and with the authorization of a health care provider, civilian immunization data, first responder immunization data, and data related to persons immunized in preparation for a potential disaster, public health emergency, terrorist attack, military action, or law enforcement emergency could be submitted through a

health information exchange. The bill would specify when and for which purposes a health information exchange could access and transmit the above types of data.

Under the bill, a health information exchange that collected, transmitted, disseminated, accessed, or reported health-related information would have to comply with all applicable state and federal law, including secure electronic data submission requirements.

The bill would make it a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) offense for a person who participated in these activities 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 violated the provisions of the bill.

The bill would take effect September 1, 2015. The bill would repeal Government Code, sec. 531.02176 that prohibited HHSC from reimbursing providers under the Medicaid program for the provision of home telemonitoring services on or after that date.