

- SUBJECT:** Texas Health Care Information Collection patient notification
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 7 ayes — Crossover, Naishtat, Coleman, S. Davis, Guerra, R. Miller, Sheffield
- 0 nays
- 4 absent — Blanco, Collier, Zedler, Zerwas
- WITNESSES:** For — Stephen Blake, Texas ASC Society; (*Registered, but did not testify*: Carrie Kroll, Texas Hospital Association; Dan Finch and John Carlo, Texas Medical Association; Daniel Leeman; H. Miller Richert; N. Keith Robinson)
- Against — None
- On — Nagla Elerian, Texas Department of State Health Services
- BACKGROUND:** The Texas Health Care Information Collection (THCIC), formerly known as the Texas Health Care Information Council, was created in 1995 by the 74th Legislature. The THCIC operates within the Department of State Health Services (DSHS) and collects data on health care activity in hospitals and health maintenance organizations operating in Texas.
- Health and Safety Code, ch. 108 requires data received by the DSHS as part of the THCIC to be used for the benefit of the public. The collected data includes health care charges, utilization data, provider quality data, and outcome data to facilitate the promotion and accessibility of cost-effective, good quality health care. Health and Safety Code, ch. 108 requires the THCIC to promptly provide data to those requesting it.
- Ch. 108 prohibits data from being released that could reasonably be expected to reveal the identity of a patient or physician. Data collected and used by DSHS as part of the THCIC is subject to confidentiality

provisions in statute and certain criminal penalties unless specifically exempted in statute.

DIGEST:

CSHB 764 would require a health care provider, including a physician or health care facility, to provide written notice to a patient whose data was collected by the Texas Health Care Information Collection (THCIC). The Department of State Health Services (DSHS) would include the notice as part of an existing department form and would make the form available on the department's website.

The notice provided to a patient would include:

- the name of the agency or entity receiving the data; and
- the name of an individual within the agency or entity whom the patient may contact regarding the collection of data.

The bill would specify that DSHS and the Health and Human Services Commission (HHSC) would have to use data received by the THCIC only for the benefit of the public. The HHSC executive commissioner would have to use procedures that met available best practices and national standards for public research and consumer use of government-collected health care data before releasing public use data to the public. The bill would require DSHS or the THCIC to maintain a database that did not include identifying information for use as authorized by state law governing the THCIC.

The bill also would require DSHS to prepare for the commissioner of state health services an annual report describing the security measures taken to protect data collected by the THCIC and any breaches, attempted cyber-attacks, and security issues related to the data that were encountered during the calendar year. The bill would require DSHS to notify the Department of Public Safety and the Federal Bureau of Investigation if a cyber-attack occurred targeting data collected by the THCIC. The annual report would not be subject to the Public Information Act in Government Code, ch. 552, but the report could be released on request to a member of the Legislature.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 764 would increase transparency regarding the use of Texans' health care data by requiring patients to be notified when their data was collected by the Texas Health Care Information Collection (THCIC) or the Department of State Health Services (DSHS). The state has collected these data from patients for 20 years and sells it to other entities for use in health care research, but patients currently are not required to be notified when their data is included in the state's database.

The bill would correct this gap in transparency by requiring patients to receive notice through an existing DSHS form, which was the least burdensome way for health care facilities and physicians to provide it. Patients need to know how their data is being used, and this bill would ensure patients were notified at the point when their data was created, when they saw their health care provider. The bill would not stop the collection of de-identified data for health research but would ensure that patients knew which agency or entity had received their data and whom to contact regarding the collection of those data.

The bill also would increase the security of data held by the THCIC against cyber-attacks by requiring DSHS to notify the Department of Public Safety and the Federal Bureau of Investigation if a cyber-attack occurred targeting data at the THCIC and by requiring an annual report to the commissioner of state health services regarding the security of data held by the THCIC.

**OPPONENTS
SAY:**

CSHB 764 might create a burden for physicians and health care facilities by requiring them to provide another form to patients. State law already prohibits DSHS from releasing data or allowing a person or entity from gaining access to data in the THCIC that reasonably could be expected to reveal the identity of a patient or physician.