

## **BILL ANALYSIS**

C.S.H.B. 1907  
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Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

All payor claims databases are large state databases that include medical claims, pharmacy claims, dental claims, and eligibility and provider files collected from private and public payors. Data is reported directly by insurers to states in order to produce health care price, resource use, and quality information for policy makers, purchasers, and consumers. These databases may have the potential to help control health care costs through quality improvement, competition, and transparency in health care markets.

By matching the national trend of other states that have already created these databases, a Texas All Payor Claims Database could create a valuable resource for the general public, consumers, and policy makers to help make informed decisions about the cost and quality of health care, ultimately reducing costs and improving health outcomes. C.S.H.B. 1907 seeks to establish such a database and establishes a stakeholder advisory group to assist in the administration of the database.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change 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 commissioner of insurance in SECTION 1 of this bill and to the Texas Department of Insurance in SECTION 2 of this bill.

### **ANALYSIS**

C.S.H.B. 1907 amends the Insurance Code to require the Texas Department of Insurance (TDI) to collaborate with and leverage the existing resources and infrastructure of the Center for Healthcare Data at The University of Texas Health Science Center at Houston to establish the Texas All Payor Claims Database to collect, process, analyze, and store data relating to medical, dental, pharmaceutical, and other relevant health care claims and encounters, enrollment, and benefit information for the purposes of increasing cost transparency and improving the quality of health care in Texas. The bill requires the center to serve as the administrator of the database, design and build the database infrastructure, and manage data submitted for inclusion in the database. The bill defines "payor" for the purposes of its provisions.

C.S.H.B. 1907, with respect to information included in the database, provides the following:

- in determining the information a payor is required to submit, the center must consider requiring inclusion of information useful to researchers, employers, and policy makers for improving health care quality and outcomes and lowering health care costs and information useful to consumers and employers for price transparency;

- the required data at a minimum must include the following information as it relates to all health care services and supplies paid or otherwise adjudicated by the payor:
  - the name and National Provider Identifier, as described in specified federal regulations, of each health care provider paid by the payor;
  - the claim line detail that documents the health care services or supplies provided by the health care provider; and
  - the amount of charges billed by the health care provider and the allowed amount paid by the payor and the recipient of the health care services or supplies;
- each payor must submit the data at a schedule and frequency determined by TDI;
- TDI or the center may use the data contained in the database for the following purposes:
  - to produce price, resource use, and quality information for consumers;
  - for research and other analysis conducted by TDI or the center; and
  - for research and other analysis conducted by a third party to the extent that such use is consistent with all applicable federal and state law; and
- the center, in consultation with the stakeholder advisory group established under the bill's provisions, must monitor data collection procedures and test the quality of data submitted to the center as required by the bill to ensure that the data is accurate, valid, reliable, and complete.

C.S.H.B. 1907, with respect to public access to the database, provides the following:

- in a manner consistent with all applicable federal and state law, the center must collect, compile, and analyze data submitted to or stored in the database and disseminate information in a format that allows the public to easily access and navigate the information;
- the information must be accessible through an open access portal that may be accessed by the public through a website; and
- the portal must allow the public and qualified research entities to easily search and retrieve the data contained in the database.

C.S.H.B. 1907 establishes that data contained in the database and any reports or information created by the center using that data are confidential, subject to applicable state and federal law pertaining to records privacy and protected health information, including state medical records privacy law, and are not subject to disclosure under state public information law. The bill, with respect to an individual's personal health information, provides the following:

- TDI and the center may not disclose such information in violation of any state or federal law;
- the center must include in the database only the minimum amount of protected health information identifiers necessary to link public and private data sources and the geographic and services data to undertake studies;
- the center must maintain, in a separate database, protected health information identifiers collected under the bill's provisions that are excluded from the minimum amount included in the database; and
- the separate database may not be aggregated with any other information and must use a proxy or encrypted record identifier for analysis.

C.S.H.B. 1907 authorizes any sponsor or administrator of a health benefit plan subject to the federal Employee Retirement Income Security Act of 1974 to elect or decline to participate in or submit data to the center for inclusion in the database as consistent with federal law.

C.S.H.B. 1907 requires the commissioner of insurance, in consultation with the center, to establish a stakeholder advisory group to assist the commissioner and the center in the administration of the bill's provisions. The bill provides for the composition of the advisory group and requires it to be established not later than January 1, 2022.

C.S.H.B. 1907 requires TDI, not later than September 1 of each even-numbered year, to submit to the legislature a written report containing the following:

- an analysis of the data submitted to the center for use in the database;
- information regarding the submission of data and the maintenance, analysis, and use of the data; and
- recommendations to further improve the transparency, cost-effectiveness, and quality of health care in Texas.

The bill requires the commissioner, in consultation with the center, to adopt the following:

- rules specifying the types of data a payor is required to provide to the center to determine health benefits costs and other reporting metrics;
- rules specifying the schedule, frequency, and manner in which a payor must provide data to the center with certain standards; and
- rules establishing oversight and enforcement mechanisms to ensure that the database is operated and maintained in accordance with the bill's provisions.

In adopting rules governing methods for data submission, the commissioner must use methods that are reasonable and cost-effective for payors to the maximum extent practicable.

C.S.H.B. 1907 requires TDI, not later than June 1, 2022, to adopt rules necessary to implement the bill's provisions. The bill requires the commissioner, in consultation with the center, to actively seek financial support from the federal grant program for development of state all payer claims databases established under the federal Consolidated Appropriations Act, 2021, and from any other available source of financial support provided by the federal government for purposes of implementing the bill's provisions.

C.S.H.B. 1907 authorizes the commissioner to delay implementation of any of its provisions for which the commissioner determines a waiver or authorization from a federal agency is necessary for its implementation.

#### **EFFECTIVE DATE**

September 1, 2021.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1907 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute shares the same requirement for the establishment of the database but requires TDI instead of the Department of State Health Services (DSHS) to establish it. Accordingly, the substitute does not include the original's requirement for the adoption of memoranda of understanding, by rule, of each of the following:

- the executive commissioner of HHSC on behalf of DSHS;
- the Texas Higher Education Coordinating Board on behalf of the center; and
- the commissioner of insurance on behalf of TDI.

The substitute provides the express purpose of the bill's provisions and clarifies the definition of "payor."

Whereas the original prescribed the contents of the database as health care claims information, without specificity, the substitute instead specifies that the contents are data relating to the specific claims and encounters, enrollment, and benefit information submitted to the center as prescribed. The substitute also adds the analysis of the data as a requisite function of the database and prescribes acceptable uses of data contained in the database that are not included in the original.

With respect to the center's administration of the database as in the original, the substitute requires the center to also do the following:

- design and build the database infrastructure; and
- consider requiring payors to submit information useful to employers.

The substitute and original both establish the minimum information that must be included in the data. However, the substitute changes the following with respect to that minimum information:

- it adds certain clarifying details to the original's descriptions of the information;
- it adds the amount of charges billed by the health care provider;
- it adds the recipient of the health care services or supplies; and
- it requires submission of the data at a schedule and frequency determined by TDI, rather than annually as required by the original.

The substitute does the following:

- expands the original's data security and confidentiality provisions;
- revises the substantially similar public accessibility requirements contained in the original to require an open access Internet portal; and
- adds a provision not contained in the original requiring that such access allow both the public and qualified research entities to easily search and retrieve the data contained in the database.

The substitute includes the following that were not included in the original:

- an exemption from the submission requirement for any sponsor or administrator of a health benefit plan subject to the federal Employee Retirement Income Security Act of 1974;
- a legislative reporting requirement;
- provisions establishing a stakeholder advisory group;
- sole rulemaking authority for the commissioner of insurance and attendant considerations; and
- a requirement that the commissioner actively seek financial support from a specified federal grant program relevant to all payer claims databases.