

- SUBJECT:** Creating the Texas Health Services Authority
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 8 ayes — Delisi, Jackson, Cohen, Coleman, Gonzales, S. King, Olivo, Truitt
0 nays
1 absent — Laubenberg
- WITNESSES:** For — (*Registered, but did not testify:* Linda Adkins, The Memorial Hermann Healthcare System; Tom Banning, Texas Academy of Family Physicians; Jennifer Cutrer, Parkland Health and Hospital System; Mazie M. Jamison, Children’s Medical Center Dallas; Michele O’Brien, CHRISTUS Santa Rosa Healthcare; Starr West, Texas Hospital Association; Chris Yanas, University Health System)

Against — None
- DIGEST:** CSHB 1066 would add Health and Safety Code, ch. 182 to establish the Texas Health Services Authority, a public nonprofit corporation that would facilitate the electronic exchange of health information. This corporation would have all of the powers and duties of a nonprofit corporation, but could not be placed in receivership and would not be required to make reports to the secretary of state. The corporation would be subject to the Sunset Act and would expire September 1, 2011 unless it was continued by the 82nd Legislature. If the governor believed the corporation had fulfilled its purposes, he or she could dissolve it.
- Board of directors.** The governor, with the advice and consent of the Senate, would appoint 11 directors to govern the corporation. The members would serve two-year terms. The members would serve without compensation, but could be reimbursed for actual expenses. The governor would designate one member of the board as the presiding officer. Board members would be required to disclose any conflicts of interest and abstain from deliberations or voting on the matter of the conflict. Board members would also be prohibited from serving on the board of any other governmental body in the state. The board would at least twice a year.

The governor also would have the authority to appoint two nonvoting members to the board who would represent the Department of State Health Services and a certifying agency. Voting board members would include individuals who represented consumers, clinical laboratories, health benefit plans, hospitals, regional health information exchange initiatives, pharmacies, physicians, rural health providers, and others who possess necessary expertise in other areas. A board member could not be held civilly liable for any action performed in good faith for the fulfillment of board member's corporate duties. Additionally, liabilities of the corporation would not be debts or obligations of the state.

Powers and duties of the corporation. The corporation would promote standards for electronic interaction and establish statewide health information exchange capabilities for electronic laboratory results, diagnostic studies, and medication history delivery. The board would implement policies to facilitate the performance of board functions, allow public interaction with the corporation via the Internet, and allow members of the public to speak before the board on any issue under the authority of the corporation.

The corporation could seek funding to implement, promote, facilitate and create incentives for the voluntary exchange of secure electronic health information. The corporation also could establish statewide health information exchange capabilities for streamlining health care administrative functions including:

- communicating point of care services, such as laboratory results, diagnostic imaging, and prescription histories;
- communicating patient information and emergency room-required information that conform to state and federal privacy laws;
- real time communication of enrollee status regarding health plan coverage, premiums, co-pays, and deductibles; and
- information on the current number and status of health plan contracted providers.

The corporation would have to support health care quality improvement initiatives by contracting with a certifying entity to provide services for:

- collection and analysis of clinical data for physicians;
- reporting and analysis of physician's clinical data and comparisons to peer groups and national quality measurements;

- creation of a tool to measure physician performance against state and national standards;
- providing access to health information to policymakers and local health information exchanges;
- supporting public health programs by analyzing and reporting health information to help assess the health status of populations; and
- supporting disaster preparedness and response efforts.

The corporation also would support regional health information exchange initiatives by:

- identifying standards for health information exchange;
- administering programs to provide incentives to create regional health information networks; and
- providing technical expertise.

Safeguarding privacy. The corporation would have the duty of safeguarding all of the health information it collected. The corporation would comply with all state and federal law and rules regarding privacy, including the Health Insurance Portability and Accountability Act (HIPAA) and create standards that comply with national standards for the protection of health information. The corporation should establish policies and procedures concerning disciplinary action for violation of state or federal privacy laws.

Reporting. The corporation would be required to submit an annual report to the governor, the lieutenant governor, the speaker of the House, and the oversight committees in the Senate and the House of Representatives. The annual report would include financial information and progress updates on the corporation.

Funding. The corporation could be funded through the general appropriations act, accept gifts and grants, and charge fees conditioned on receipt of services provided.

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, 2007.

SUPPORTERS
SAY:

CSHB 1066 would provide an important, secure, and cost-effective component in helping health care providers deliver quality care to Texas patients. Medical errors are a serious problem in this country, and many stem from miscommunication between physicians, inaccessible records, mislabeled lab specimens, missing charts, and other preventable issues. This bill would foster a true private-public partnership that would involve the collaboration of many entities to improve quality by safely streamlining the access to and exchange of health care information.

In 2004, President Bush outlined a plan to provide every American with an electronic health record within a decade. The President's Health Information Technology Plan aims to address longstanding problems of preventable errors, uneven quality, and rising costs in the nation's health care system. To accomplish this goal, the President's plan calls for adopting health information standards to ensure that electronic health information can be shared. This bill would help further the effort to encourage health care providers to implement electronic health record systems.

CSHB 1066 would motivate Texas physicians to use state and national performance data in health care quality improvement efforts. The analysis and reporting of clinical data are key to the process of developing and sharing best practices that translate to improved patient care. The bill also would support the promotion of regional health exchange networks for communication of health information. Ultimately this bill would foster, promote, and increase the interoperability of physicians, clinics, hospitals, and other health care providers to decrease errors, reduce costs, and improve health care.

To address concerns about the safety and security involved with the transmission and analysis of health care data, the bill would require the corporation to adopt policies to safeguard health information and create disciplinary procedures for actions against a board member who violated the privacy policies. The corporation would establish layered levels of security so that only a small number of people had full access to all of the health information. Additionally, CSHB 1066 would not require the establishment of a large database, and current models in other states suggest that large databases are not how most electronic health records would be handled.

An additional benefit of the secure electronic exchange of health information would be efficiency. This bill would help reduce redundant lab tests and diagnostic imaging and adverse drug events resulting from drug interactions and other costs associated with duplicative therapies would be avoided. There have been estimates that up to 30 percent of health care spending is wasted. Electronic health care records offer the greatest potential to reduce this waste, and the potential savings can be calculated in the many billions.

**OPPONENTS
SAY:**

CSHB 1066 would raise safety and privacy concerns. The creation of a large database could make private information vulnerable to hackers and information thieves. In addition, there is little need for exchange of information on a statewide level because most patients interact and move between physicians, hospitals, and clinics in their communities. A local health information exchange would be more beneficial and safer than a larger statewide data network. Moreover, most physicians only need access to a limited amount of information to maintain continuity of care, including the patient's medical problems or diagnoses, medications, allergies, and data from the patient's most recent laboratory tests.

NOTES:

According to the fiscal note, the cost to operate the Texas Health Services Authority corporation is unknown. It is assumed that the corporation would be funding primarily with non-state funds or revenue generated by the corporation.