

BILL ANALYSIS

Senate Research Center
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S.B. 1083
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Department of State Health Services (DSHS) handles the duties of the legacy agency Texas Health Care Information Council, including the collection of hospital inpatient discharge data as authorized by Chapter 108 (Texas Health Care Information Council), Health and Safety Code, and currently collected by DSHS's Center for Health Statistics (CHS). Statutory restrictions do not allow access to confidential data collected and as a result, cancer and birth defects data cannot be fully utilized by CHS or by other DSHS programs. Specifically, certain data cannot be used by the cancer and birth defects registries to obtain higher quality and more complete information on a number of conditions in Texas.

As proposed, S.B. 1083 authorizes access to certain confidential patient data collected by CHS; renames the Scientific Review Panel as the Institutional Review Board (board) and requires the board to determine approval for a request for information with the assistance of the executive commissioner of the Health and Human Services Commission; prohibits access to physician data; and prohibits the release of or access to personal identifying information outside of DSHS.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Health Care Information Council is transferred to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 108.013, Health and Safety Code) and SECTION 3 (Section 108.0135, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 108.002(7), Health and Safety Code, to redefine "department."

SECTION 2. Amends Section 108.013, Health and Safety Code, by amending Subsections (a)-(d), (g), (i), and (j) and by adding Subsections (k)-(n), as follows:

- (a) Requires that the data received by the Department of State Health Services (DSHS), rather than the council, be used by DSHS for the benefit of the public. Requires DSHS, subject to specific limitations established by this chapter and executive commissioner of the Health and Human Services Commission (executive commissioner) rule, rather than council rule, to make determinations on requests for information in favor of access. Makes a conforming change.
- (b) Requires the executive commissioner, rather than the council, by rule to designate and characters to be used as uniform patient identifiers.
- (c) Prohibits DSHS from releasing and a person or entity from gaining access to any data obtained under this chapter, unless specifically authorized by this chapter. Makes conforming changes.
- (d) Provides that all data collected and used by DSHS under this chapter, except as provided by this section, is subject to certain confidentiality provisions and criminal penalties.

(g) Prohibits DSHS, unless specifically authorized by this chapter, from releasing data elements in a manner that will reveal the identity of a patient. Makes a conforming change.

(i) Makes a conforming change.

(j) Requires the executive commissioner, rather than the council, by rule to develop and implement a mechanism to comply with Subsections (c)(1) (related to data obtained under this chapter that could reasonably be expected to reveal the identity of a patient) and (2) (related to data obtained under this chapter that could reasonably be expected to reveal the identity of a physician). Deletes existing text relating to the assistance of the advisory committee under Section 108.003(g)(5) (relating to requiring technical advisory committees to be composed of certain individuals who have expertise in hospital information systems).

(k) Authorizes DSHS to disclose data collected under this chapter that is not included in public use data to any program within DSHS if the disclosure is reviewed and approved by the institutional review board under Section 108.0135 (Scientific Review Panel).

(l) Provides that confidential data collected under this chapter that is disclosed to a program within DSHS remains subject to the confidentiality provisions of this chapter and other applicable law. Requires DSHS to identify the confidential data that is disclosed to a program under Subsection (k). Requires that the program maintain the confidentiality of the disclosed confidential data.

(m) Provides that Sections 81.103 (Confidentiality; Criminal Penalty), Sections 108.010(g) (related to requiring that any release of provider quality data to comply with certain sections) and (h) (related to prohibiting a provider quality data report from identifying an individual physician by name), Sections 108.011(e) (related to requiring the council to notify a provider about a release of data) and (f) (related to requiring a report issued by the council to include a reasonable review and comment period), Section 311.037 (Confidential Data; Criminal Penalty), and Section 159.002 (Confidential Communications), Occupations Code, do not apply to the disclosure of data to a DSHS program.

(n) Provides that nothing in this section authorizes the disclosure of physician identifying data.

SECTION 3. Amends Section 108.0135, Health and Safety Code, as follows:

Sec. 108.0135. New heading: INSTITUTIONAL REVIEW BOARD. (a) Requires DSHS to establish an institutional review board, rather than a scientific review panel, to review and approve requests for access to data not contained in public use data. Makes conforming changes.

(b) Requires the executive commissioner of the Health and Human Services Commission, rather than the council, to adopt rules similar to the federal Health Care Financing Administration's guidelines on releasing data to assist the institutional review board in determining whether to approve a request for information. Makes conforming changes.

(c) Requires that a request for information other than public use data be made on the form prescribed, rather than created, by DSHS. Makes conforming changes.

SECTION 4. Amends Chapter 108, Health and Safety Code, by adding Section 108.0026, as follows:

Sec. 108.0026. TRANSFER OF DUTIES; REFERENCE TO COUNCIL. (a) Provides that the powers and duties of the council under this chapter were transferred to DSHS in accordance with Section 1.19, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

(b) Provides that in this chapter, a reference to the council means DSHS.

SECTION 5. Repealer: Section 108.002(5) (definition of "council"), Health and Safety Code.

SECTION 6. Effective date: upon passage or September 1, 2009.