

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 17, 2003

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1136 by Nelson (Relating to access to certain private medical information.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would clarify the definition of "Health Insurance Portability and Accountability Act (HIPAA) and Privacy Standards" and "marketing." The bill would delete the following definitions: "protected health information" and "health care operations". These definitions are already defined under the federal HIPAA. The bill would require covered entities to obtain permission to use protected health information for marketing purposes in most instances. In proceedings to impose penalties related to illegal disclosure of information, the bill would allow the introduction of mitigating evidence of the entity's good faith to comply with law.

The bill would require the Office of the Attorney (OAG) to analyze state law to determine if any provisions are preempted by the federal HIPPA and to make a report of its findings to the legislature by November 1, 2004. The OAG may establish a task force to assist in this endeavor. The workload required for the analysis could be reasonably absorbed within existing resources.

The bill would also delete provisions providing for the privacy of the health information of clinical research subjects.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 327 Employees Retirement System, 501 Department of Health, 529 Health and Human Services Commission, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

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