

By: Duncan

S.B. No. 1666

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a diabetes in youth registry.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 97 to read as follows:

CHAPTER 97. DIABETES IN YOUTH REGISTRY

Sec. 97.001. DEFINITIONS. In this chapter:

(1) "Clinical laboratory" means an accredited facility in which tests are performed that identify abnormal blood sugars.

(2) "Department" means the Department of State Health Services.

(3) "Diabetes" includes all types of diabetes.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Health care facility" means:

(A) a hospital as defined in Chapter 241;

(B) an ambulatory surgical center licensed under Chapter 243;

(C) an institution licensed under Chapter 242; or

(D) any other facility that provides diagnosis or treatment services to patients with diabetes.

(6) "Physician" means a person licensed to practice medicine in this state.

1           (7) "Registry" means the diabetes in youth registry  
2 established under this chapter.

3           Sec. 97.002. DIABETES IN YOUTH REGISTRY. (a) The  
4 department shall maintain an accurate, precise, and current  
5 registry of cases of diabetes diagnosed in persons younger than 21  
6 years of age designed to help determine the impact of diabetes in  
7 youth.

8           (b) The registry must include:

- 9                   (1) the type of diabetes diagnosed;  
10                   (2) the age of the patient;  
11                   (3) the region in which the patient resides;  
12                   (4) the results of a test of the patient's glycated  
13 hemoglobin at the time of diagnosis; and  
14                   (5) any other data appropriate to assist in  
15 determining the impact of diabetes in youth.

16           Sec. 97.003. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER  
17 AND DEPARTMENT. (a) The executive commissioner by rule shall  
18 develop guidelines to:

- 19                   (1) determine the type of data to include in the  
20 registry in accordance with Section 97.002(b);  
21                   (2) protect the confidentiality of patients in  
22 accordance with Sections 97.006 and 97.008 of this code and Section  
23 159.002, Occupations Code;  
24                   (3) collect the necessary data from clinical  
25 laboratories, health care facilities, and physicians;  
26                   (4) compile and analyze the data;  
27                   (5) publish studies derived from the patient data

1 obtained under this chapter; and

2 (6) provide information regarding diabetes that is  
3 useful to physicians, other medical personnel, and the public.

4 (b) The executive commissioner may adopt rules as necessary  
5 to administer this chapter.

6 (c) The department may enter into contracts as necessary for  
7 the purposes of this chapter.

8 (d) The department may accept and administer gifts and  
9 grants for the purposes of this chapter.

10 Sec. 97.004. REPORT OF REGISTRY ACTIVITIES AND FINDINGS.

11 (a) The department shall publish an annual report to the  
12 legislature using data contained in the registry. The report may  
13 include:

14 (1) a summary of the statistical information compiled  
15 in the registry, including a specific discussion of any clusters,  
16 high or low incidences, or trends encountered; or

17 (2) any policy, research, educational, or other  
18 recommendations the department considers appropriate.

19 (b) The department, in cooperation with other diabetes  
20 reporting organizations and research institutions, may publish  
21 reports the department determines are necessary or desirable to  
22 carry out the purpose of this chapter.

23 Sec. 97.005. DATA FROM MEDICAL RECORDS. (a) To ensure an  
24 accurate and continuing source of data concerning diabetes, each  
25 health care facility, clinical laboratory, and physician shall  
26 furnish to the department or its representative, on request, data  
27 the department considers necessary and appropriate that is derived

1 from each medical record in the custody or under the control of the  
2 health care facility, clinical laboratory, or physician that  
3 pertains to a newly diagnosed case of diabetes in a person younger  
4 than 21 years of age.

5 (b) A health care facility, clinical laboratory, or  
6 physician shall furnish the data requested under Subsection (a) in  
7 a reasonable format prescribed by the department and within six  
8 months of the diagnosis of diabetes.

9 (c) A health care facility, clinical laboratory, or  
10 physician that knowingly or in bad faith fails to furnish data as  
11 required by this chapter shall reimburse the department for the  
12 costs of accessing and reporting the data. The costs reimbursed  
13 under this subsection must be reasonable based on the actual costs  
14 incurred by the department in the collection of the data and may  
15 include salary and travel expenses.

16 (d) The department, after providing an opportunity for  
17 hearing, may assess a late fee on an amount due under Subsection (c)  
18 that is 60 days or more overdue. The late fee may not exceed one and  
19 one-half percent of the total amount due for each month or portion  
20 of a month the amount is not paid in full.

21 Sec. 97.006. CONFIDENTIALITY. (a) Reports, records, and  
22 information obtained under this chapter are confidential and are  
23 not subject to disclosure under Chapter 552, Government Code, are  
24 not subject to subpoena, and may not otherwise be released. The  
25 reports, records, and information obtained under this chapter are  
26 for the confidential use of the department and the persons or public  
27 or private entities that the department determines are necessary to

1 carry out the intent of this chapter.

2 (b) Medical or epidemiological information may be released:

3 (1) for statistical purposes in a manner that prevents  
4 identification of individuals, health care facilities, clinical  
5 laboratories, or physicians or other health care practitioners;

6 (2) with the consent of each person identified in the  
7 information; or

8 (3) to promote diabetes research, including release of  
9 information to other diabetes registries and appropriate state and  
10 federal agencies, under rules adopted by the executive commissioner  
11 to ensure confidentiality as required by state and federal laws.

12 (c) A state employee may not testify in a civil, criminal,  
13 special, or other proceeding as to the existence or contents of  
14 records, reports, or information concerning an individual whose  
15 medical records have been used in submitting data required under  
16 this chapter unless the individual consents in advance.

17 (d) Data furnished to a diabetes registry or a diabetes  
18 researcher under Subsection (b)(3) is for the confidential use of  
19 the diabetes registry or the diabetes researcher, as applicable,  
20 and is subject to Subsection (a).

21 Sec. 97.007. IMMUNITY FROM LIABILITY. The following  
22 persons subject to this chapter that act in compliance with this  
23 chapter are not civilly or criminally liable for furnishing the  
24 information required under this chapter:

25 (1) a health care facility or clinical laboratory;

26 (2) an administrator, officer, or employee of a health  
27 care facility or clinical laboratory;

1           (3) a physician or employee of a physician; and

2           (4) an employee of the department.

3           Sec. 97.008. COMPLIANCE WITH FEDERAL LAW. (a) To the extent  
4 that this chapter authorizes the disclosure of protected health  
5 information by a covered entity, as those terms are defined by the  
6 privacy rule of the Administrative Simplification subtitle of the  
7 Health Insurance Portability and Accountability Act of 1996 (Pub.  
8 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part  
9 164, Subparts A and E, the covered entity shall ensure that the  
10 disclosure complies with all applicable requirements, standards,  
11 and implementation specifications of the privacy rule.

12           (b) To the extent that the provisions of this chapter, and  
13 the rules adopted under this chapter, relating to the use or  
14 disclosure of information in the registry are more stringent than  
15 the privacy rule described by Subsection (a), this chapter governs  
16 the use or disclosure of information in the registry.

17           Sec. 97.009. EXAMINATION AND SUPERVISION NOT REQUIRED.  
18 This chapter does not require an individual to submit to any medical  
19 examination or supervision or to examination or supervision by the  
20 department.

21           SECTION 2. The Department of State Health Services is not  
22 required to collect information for the registry established under  
23 Chapter 97, Health and Safety Code, as added by this Act, for a  
24 patient who was diagnosed before January 1, 2006.

25           SECTION 3. This Act takes effect September 1, 2005.