

Amend HB 1218 (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Chapter 531, Government Code, is amended by adding Subchapter V to read as follows:

SUBCHAPTER V. ELECTRONIC HEALTH INFORMATION EXCHANGE PROGRAM

Sec. 531.901. DEFINITIONS. In this subchapter:

(1) "Electronic health record" means an electronic record of aggregated health-related information concerning a person that conforms to nationally recognized interoperability standards and that can be created, managed, and consulted by authorized health care providers across two or more health care organizations.

(2) "Electronic medical record" means an electronic record of health-related information concerning a person that can be created, gathered, managed, and consulted by authorized clinicians and staff within a single health care organization.

(3) "Health information exchange system" means the electronic health information exchange system created under this subchapter that electronically moves health-related information among entities according to nationally recognized standards.

(4) "Local or regional health information exchange" means a health information exchange operating in this state that securely exchanges electronic health information, including information for patients receiving services under the child health plan or Medicaid program, among hospitals, clinics, physicians' offices, and other health care providers that are not owned by a single entity or included in a single operational unit or network.

Sec. 531.902. ELECTRONIC HEALTH INFORMATION EXCHANGE SYSTEM. (a) The commission shall develop an electronic health information exchange system to improve the quality, safety, and efficiency of health care services provided under the child health plan and Medicaid programs. In developing the system, the commission shall ensure that:

(1) the confidentiality of patients' health information is protected and the privacy of those patients is maintained in accordance with applicable federal and state law,

including:

(A) Section 1902(a)(7), Social Security Act (42 U.S.C. Section 1396a(a)(7));

(B) the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191);

(C) Chapter 552, Government Code;

(D) Subchapter G, Chapter 241, Health and Safety Code;

(E) Section 12.003, Human Resources Code; and

(F) federal and state rules and regulations, including:

(i) 42 C.F.R. Part 431, Subpart F; and

(ii) 45 C.F.R. Part 164;

(2) appropriate information technology systems used by the commission and health and human services agencies are interoperable;

(3) the system and external information technology systems are interoperable in receiving and exchanging appropriate electronic health information as necessary to enhance:

(A) the comprehensive nature of the information contained in electronic health records; and

(B) health care provider efficiency by supporting integration of the information into the electronic health record used by health care providers;

(4) the system and other health information systems not described by Subdivision (3) and data warehousing initiatives are interoperable; and

(5) the system has the elements described by Subsection (b).

(b) The health information exchange system must include the following elements:

(1) an authentication process that uses multiple forms of identity verification before allowing access to information systems and data;

(2) a formal process for establishing data-sharing agreements within the community of participating providers in accordance with the Health Insurance Portability and

Accountability Act of 1996 (Pub. L. No. 104-191) and the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5);

(3) a method by which the commission may open or restrict access to the system during a declared state emergency;

(4) the capability of appropriately and securely sharing health information with state and federal emergency responders;

(5) compatibility with the Nationwide Health Information Network (NHIN) and other national health information technology initiatives coordinated by the Office of the National Coordinator for Health Information Technology;

(6) an electronic master patient index or similar technology that allows for patient identification across multiple systems; and

(7) the capability of allowing a health care provider to access the system if the provider has technology that meets current national standards.

(c) The commission shall implement the health information exchange system in stages as described by this subchapter, except that the commission may deviate from those stages if technological advances make a deviation advisable or more efficient.

(d) The health information exchange system must be developed in accordance with the Medicaid Information Technology Architecture (MITA) initiative of the Center for Medicaid and State Operations and conform to other standards required under federal law.

Sec. 531.903. ELECTRONIC HEALTH INFORMATION EXCHANGE SYSTEM ADVISORY COMMITTEE. (a) The commission shall establish the Electronic Health Information Exchange System Advisory Committee to assist the commission in the performance of the commission's duties under this subchapter.

(b) The executive commissioner shall appoint to the advisory committee at least 12 and not more than 16 members who have an interest in health information technology and who have experience in serving persons receiving health care through the child health plan and Medicaid programs.

(c) The advisory committee must include the following

members:

- (1) Medicaid providers;
- (2) child health plan program providers;
- (3) fee-for-service providers;
- (4) at least one representative of the Texas Health Services Authority established under Chapter 182, Health and Safety Code;
- (5) at least one representative of each health and human services agency;
- (6) at least one representative of a major provider association;
- (7) at least one representative of a health care facility;
- (8) at least one representative of a managed care organization;
- (9) at least one representative of the pharmaceutical industry;
- (10) at least one representative of Medicaid recipients and child health plan enrollees;
- (11) at least one representative of a local or regional health information exchange; and
- (12) at least one representative who is skilled in pediatric medical informatics.

(d) The members of the advisory committee must represent the geographic and cultural diversity of the state.

(e) The executive commissioner shall appoint the presiding officer of the advisory committee.

(f) The advisory committee shall advise the commission on issues regarding the development and implementation of the electronic health information exchange system, including any issue specified by the commission and the following specific issues:

- (1) data to be included in an electronic health record;
- (2) presentation of data;
- (3) useful measures for quality of service and patient health outcomes;
- (4) federal and state laws regarding privacy and

management of private patient information;

(5) incentives for increasing health care provider adoption and usage of an electronic health record and the health information exchange system; and

(6) data exchange with local or regional health information exchanges to enhance:

(A) the comprehensive nature of the information contained in electronic health records; and

(B) health care provider efficiency by supporting integration of the information into the electronic health record used by health care providers.

(g) The advisory committee shall collaborate with the Texas Health Services Authority to ensure that the health information exchange system is interoperable with, and not an impediment to, the electronic health information infrastructure that the authority assists in developing.

Sec. 531.904. STAGE ONE: ELECTRONIC HEALTH RECORD. (a) In stage one of implementing the health information exchange system, the commission shall develop and establish an electronic health record for each person who receives medical assistance under the Medicaid program. The electronic health record must be available through a browser-based format.

(b) The commission shall consult and collaborate with, and accept recommendations from, physicians and other stakeholders to ensure that electronic health records established under this section support health information exchange with electronic medical records systems in use by physicians in the public and private sectors in a manner that:

(1) allows those physicians to exclusively use their own electronic medical records systems; and

(2) does not require the purchase of a new electronic medical records system.

(c) The executive commissioner shall adopt rules specifying the information required to be included in the electronic health record. The required information may include, as appropriate:

(1) the name and address of each of the person's health care providers;

(2) a record of each visit to a health care provider, including diagnoses, procedures performed, and laboratory test results;

(3) an immunization record;

(4) a prescription history;

(5) a list of due and overdue Texas Health Steps medical and dental checkup appointments; and

(6) any other available health history that health care providers who provide care for the person determine is important.

(d) Information under Subsection (c) may be added to any existing electronic health record or health information technology and may be exchanged with local and regional health information exchanges.

(e) The commission shall make an electronic health record for a patient available to the patient through the Internet.

Sec. 531.9041. STAGE ONE: ENCOUNTER DATA. In stage one of implementing the health information exchange system, the commission shall require for purposes of the implementation each managed care organization with which the commission contracts under Chapter 533 for the provision of Medicaid managed care services or Chapter 62, Health and Safety Code, for the provision of child health plan program services to submit to the commission complete and accurate encounter data not later than the 30th day after the last day of the month in which the managed care organization adjudicated the claim.

Sec. 531.905. STAGE ONE: ELECTRONIC PRESCRIBING. (a) In stage one of implementing the health information exchange system, the commission shall support and coordinate electronic prescribing tools used by health care providers and health care facilities under the child health plan and Medicaid programs.

(b) The commission shall consult and collaborate with, and accept recommendations from, physicians and other stakeholders to ensure that the electronic prescribing tools described by Subsection (a):

(1) are integrated with existing electronic prescribing systems otherwise in use in the public and private

sectors; and

(2) to the extent feasible:

(A) provide current payer formulary information at the time a health care provider writes a prescription; and

(B) support the electronic transmission of a prescription.

(c) The commission may take any reasonable action to comply with this section, including establishing information exchanges with national electronic prescribing networks or providing health care providers with access to an Internet-based prescribing tool developed by the commission.

(d) The commission shall apply for and actively pursue any waiver to the child health plan program or the state Medicaid plan from the federal Centers for Medicare and Medicaid Services or any other federal agency as necessary to remove an identified impediment to supporting and implementing electronic prescribing tools under this section, including the requirement for handwritten certification of certain drugs under 42 C.F.R. Section 447.512. If the commission with assistance from the Legislative Budget Board determines that the implementation of operational modifications in accordance with a waiver obtained as required by this subsection has resulted in cost increases in the child health plan or Medicaid program, the commission shall take the necessary actions to reverse the operational modifications.

Sec. 531.906. STAGE TWO: EXPANSION. (a) Based on the recommendations of the advisory committee established under Section 531.903 and feedback provided by interested parties, the commission in stage two of implementing the health information exchange system may expand the system by:

(1) providing an electronic health record for each child enrolled in the child health plan program;

(2) including state laboratory results information in an electronic health record, including the results of newborn screenings and tests conducted under the Texas Health Steps program, based on the system developed for the health passport under Section 266.006, Family Code;

(3) improving data-gathering capabilities for an

electronic health record so that the record may include basic health and clinical information in addition to available claims information, as determined by the executive commissioner;

(4) using evidence-based technology tools to create a unique health profile to alert health care providers regarding the need for additional care, education, counseling, or health management activities for specific patients; and

(5) continuing to enhance the electronic health record created under Section 531.904 as technology becomes available and interoperability capabilities improve.

(b) In expanding the system, the commission shall consult and collaborate with, and accept recommendations from, physicians and other stakeholders to ensure that electronic health records provided under this section support health information exchange with electronic medical records systems in use by physicians in the public and private sectors in a manner that:

(1) allows those physicians to exclusively use their own electronic medical records systems; and

(2) does not require the purchase of a new electronic medical records system.

Sec. 531.907. STAGE THREE: EXPANSION. In stage three of implementing the health information exchange system, the commission may expand the system by:

(1) developing evidence-based benchmarking tools that can be used by health care providers to evaluate their own performances on health care outcomes and overall quality of care as compared to aggregated performance data regarding peers; and

(2) expanding the system to include state agencies, additional health care providers, laboratories, diagnostic facilities, hospitals, and medical offices.

Sec. 531.908. INCENTIVES. The commission and the advisory committee established under Section 531.903 shall develop strategies to encourage health care providers to use the health information exchange system, including incentives, education, and outreach tools to increase usage.

Sec. 531.909. REPORTS. (a) The commission shall provide an initial report to the Senate Committee on Health and Human

Services or its successor, the House Committee on Human Services or its successor, and the House Committee on Public Health or its successor regarding the health information exchange system not later than January 1, 2011, and shall provide a subsequent report to those committees not later than January 1, 2013. Each report must:

(1) describe the status of the implementation of the system;

(2) specify utilization rates for each health information technology implemented as a component of the system; and

(3) identify goals for utilization rates described by Subdivision (2) and actions the commission intends to take to increase utilization rates.

(b) This section expires September 2, 2013.

Sec. 531.910. RULES. The executive commissioner may adopt rules to implement this subchapter.

(b) Subchapter B, Chapter 62, Health and Safety Code, is amended by adding Section 62.060 to read as follows:

Sec. 62.060. HEALTH INFORMATION TECHNOLOGY STANDARDS.

(a) In this section, "health information technology" means information technology used to improve the quality, safety, or efficiency of clinical practice, including the core functionalities of an electronic health record, an electronic medical record, a computerized health care provider order entry, electronic prescribing, and clinical decision support technology.

(b) The commission shall ensure that any health information technology used by the commission or any entity acting on behalf of the commission in the child health plan program conforms to standards required under federal law.

(c) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.073 to read as follows:

Sec. 32.073. HEALTH INFORMATION TECHNOLOGY STANDARDS.

(a) In this section, "health information technology" means information technology used to improve the quality, safety, or efficiency of clinical practice, including the core functionalities of an electronic health record, an electronic medical record, a computerized health care provider order entry,

electronic prescribing, and clinical decision support technology.

(b) The Health and Human Services Commission shall ensure that any health information technology used by the commission or any entity acting on behalf of the commission in the medical assistance program conforms to standards required under federal law.

(d) As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement the electronic health record and electronic prescribing system required by Subchapter V, Chapter 531, Government Code, as added by this section.

(e) The executive commissioner of the Health and Human Services Commission shall appoint the members of the Electronic Health Information Exchange System Advisory Committee established under Section 531.903, Government Code, as added by this section, as soon as practicable after the effective date of this Act.