

## **BILL ANALYSIS**

S.B. 286  
By: Nelson  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Health and Human Services Commission (HHSC) is required under the Deficit Reduction Act and state law to improve the efficiency of the state Medicaid program. An electronic health record is more accessible than a paper record to health care providers and can reduce medical errors and the need for duplicate copies. The bill seeks to improve quality of care and the management of the state Medicaid program by requiring HHSC to expand the use of the health passport, which is an electronic health record.

S.B. 286 requires HHSC to develop and provide a health passport for each person receiving acute care under the state Medicaid program through a managed care plan who is not provided a health passport under law and sets forth the requirements for the health passport.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

### **ANALYSIS**

S.B. 286 amends the Government Code to require the Health and Human Services Commission (HHSC), with the assistance of physicians and other health care providers experienced with the use of health information technology or electronic health records, to develop and provide a health passport for each person who is receiving acute care under the state Medicaid program through a managed care plan as defined by state law, and who is not provided a health passport under another law of Texas.

S.B. 286 adds a temporary provision, set to expire September 1, 2014, establishing that HHSC is not required to provide such a health passport until September 1, 2014. The bill requires HHSC, beginning as soon as feasible after September 1, 2009, to provide a health passport to each child entitled to a health passport under the bill's provisions, or if initial provision of health passports to all children is impossible, to selected categories of children. The bill requires HHSC, thereafter, at intervals occurring as soon as possible, to expand the provision of health passports to additional children and finally to adults.

S.B. 286 requires information accessible through the health passport provided under the bill's provisions to be maintained in an electronic format that uses the HHSC's existing computer resources to the greatest extent possible. The bill requires the executive commissioner of HHSC to adopt rules specifying the information required to be included in the health passport. The bill authorizes the required information to include the name and address of each of the person's physicians and health care providers; a record of each visit to a physician or other health care provider, including routine checkups; an immunization record; a list of the person's known health problems and allergies; information on all medications prescribed to the person in adequate detail to permit refills of prescriptions, including the disease or condition that each medication treats; and any other available health history that physicians and other health care

providers who provide care for the person determine is important. The bill requires the system used to access the health passport to be secure and maintain the confidentiality of the person's health records. The bill requires that, to the extent that the bill's provisions authorize the use or disclosure of protected health information by a covered entity, as those terms are defined by the privacy rule of administrative simplification provisions of the federal Health Insurance Portability and Accountability Act of 1996, the covered entity ensure that the use or disclosure complies with all applicable requirements, standards, or implementation specifications of that rule. The bill requires HHSC to provide training or instructional materials regarding use of a health passport to adults who receive health passports; parents, guardians, and caretakers of children who receive health passports; and physicians, and other health care providers. The bill requires HHSC to make health passport information available for 90 days in printed and electronic formats to the following individuals when a person loses eligibility for Medicaid, unless HHSC is required to provide a health passport under another program: the person, if the person is an adult or a child who has had the disabilities of minority removed, or the person's parent, legal guardian, or other caretaker, if the person is a child. The bill requires HHSC to coordinate the health passports and procedures adopted for the Medicaid program under the bill's provisions with the health passport and procedures adopted under provisions of the Family Code regarding the health passport for a child in the foster care system, to ensure that a child's health passport is transferable between the Medicaid program and that system.

S.B. 286 amends Section 32.102(b), Human Resources Code, as added by Chapter 268 (S.B. 10), Acts of the 80th Legislature, Regular Session, 2007, relating to HHSC's authority to evaluate the feasibility of developing and, if feasible, develop, health information technology in the Medicaid program through the use or expansion of other systems or technologies HHSC uses for other purposes, to include systems or technologies used for a health passport developed under the provisions added by the bill.

S.B. 286 requires a state agency that is affected by a provision of the bill to request a federal waiver or authorization if the agency determines that a waiver or authorization is necessary for the implementation of the provision, and it authorizes the agency to delay implementation until the federal waiver or authorization is obtained.

#### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2009.