

By: Nelson, et al.

S.B. No. 8

Substitute the following for S.B. No. 8:

By: McReynolds

C.S.S.B. No. 8

A BILL TO BE ENTITLED

AN ACT

relating to the administration, powers, and duties of the Texas Health Services Authority.

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

SECTION 1. Section 182.001, Health and Safety Code, is amended to read as follows:

Sec. 182.001. PURPOSE. This chapter establishes the Texas Health Services Authority as a public-private collaborative to:

(1) implement the state-level health information technology functions identified by the Texas Health Information Technology Advisory Committee by serving as a catalyst for the development of a seamless electronic health information infrastructure to support the health care system in the state and to improve patient safety and quality of care; and

(2) make recommendations to improve the quality of health care funded by both public and private payors and to increase accountability and transparency.

SECTION 2. Section 182.002, Health and Safety Code, is amended by amending Subdivision (5) and adding Subdivisions (1-a), (3-a), (3-b), and (3-c) to read as follows:

(1-a) "Clinical integration" means a network of health care practitioners implementing an active and ongoing program to evaluate and modify practice patterns by the network's participants and create a high degree of interdependence and cooperation to

1 control costs and ensure quality and operating in accordance with  
2 the antitrust laws of the United States and this state.

3 (3-a) "Global payments" means compensation paid to a  
4 health care practitioner and a health care facility for providing  
5 or arranging a defined set of covered health care services to  
6 participating persons for a specific period.

7 (3-b) "Health care facility" means a hospital,  
8 emergency clinic, outpatient clinic, birthing center, ambulatory  
9 surgical center, or other facility providing health care services.

10 (3-c) "Health care practitioner" means an individual  
11 who is licensed or otherwise authorized to provide health care  
12 services in this state.

13 (5) "Payor" ["Physician"] means:

14 (A) an insurer that writes health insurance  
15 policies [~~individual licensed to practice medicine in this state~~  
16 ~~under the authority of Subtitle B, Title 3, Occupations Code~~];

17 (B) a preferred provider organization, health  
18 maintenance organization, or self-insurance plan [~~professional~~  
19 ~~entity organized in conformity with Title 7, Business Organizations~~  
20 ~~Code, and permitted to practice medicine under Subtitle B, Title 3,~~  
21 ~~Occupations Code~~]; or

22 (C) any other person that provides, offers to  
23 provide, or administers hospital, outpatient, medical, or other  
24 health benefits to a person treated by a health care practitioner  
25 under a policy, plan, or contract [~~a partnership organized in~~  
26 ~~conformity with Title 4, Business Organizations Code, composed~~  
27 ~~entirely of individuals licensed to practice medicine under~~

1 ~~Subtitle B, Title 3, Occupations Code,~~

2 ~~[(D) an approved nonprofit health corporation~~  
3 ~~certified under Chapter 162, Occupations Code,~~

4 ~~[(E) a medical school or medical and dental unit,~~  
5 ~~as defined or described by Section 61.003, 61.501, or 74.601,~~  
6 ~~Education Code, that employs or contracts with physicians to teach~~  
7 ~~or provide medical services or employs physicians and contracts~~  
8 ~~with physicians in a practice plan; or~~

9 ~~[(F) an entity wholly owned by individuals~~  
10 ~~licensed to practice medicine under Subtitle B, Title 3,~~  
11 ~~Occupations Code].~~

12 SECTION 3. Subsection (a), Section 182.051, Health and  
13 Safety Code, is amended to read as follows:

14 (a) The corporation is established to:

15 (1) promote, implement, and facilitate the voluntary  
16 and secure electronic exchange of health information[+] and

17 ~~[-2-]~~ create incentives to promote, implement, and  
18 facilitate the voluntary and secure electronic exchange of health  
19 information; and

20 (2) research, develop, support, and promote  
21 recommended strategies, including strategies based on standards  
22 created by nationally recognized organizations such as the  
23 Physician Consortium for Performance Improvement, the National  
24 Quality Forum, or the AQA Alliance, to improve the quality of health  
25 care in this state and to increase accountability and transparency  
26 through voluntary implementation of the recommendations by health  
27 care practitioners, health care facilities, and payors, including

1 recommendations for:

2 (A) evidence-based best practice standards for  
3 health care facilities and health care practitioners as identified  
4 by the advisory committee established under Section  
5 182.0595(a)(2);

6 (B) performance measures for health care  
7 practitioners as identified by the advisory committee established  
8 under Section 182.0595(a)(2);

9 (C) improved payment methodologies to reward  
10 adoption of clinical best practices and improved outcomes;

11 (D) streamlined administrative processes,  
12 including standardized claims;

13 (E) verification and authentication of the  
14 source data used in performance measures; and

15 (F) development and distribution of electronic  
16 applications for use by a health care practitioner in  
17 self-evaluation of individual performance compared to the  
18 practitioner's peers.

19 SECTION 4. Subchapter B, Chapter 182, Health and Safety  
20 Code, is amended by adding Sections 182.0515 and 182.0516 to read as  
21 follows:

22 Sec. 182.0515. ADMINISTRATIVE ATTACHMENT. (a) The  
23 corporation is administratively attached to the Health and Human  
24 Services Commission.

25 (b) Notwithstanding any other law, the Health and Human  
26 Services Commission shall:

27 (1) provide administrative assistance, services, and

1 materials to the corporation, including budget planning and  
2 purchasing;

3 (2) accept, deposit, and disburse money made available  
4 to the corporation;

5 (3) seek and accept gifts and grants, including  
6 applicable federal grants, on behalf of the corporation from any  
7 public or private entity;

8 (4) pay the salaries and benefits of the staff of the  
9 corporation;

10 (5) reimburse expenses of the members of the board  
11 incurred in the performance of official duties;

12 (6) apply for and receive on behalf of the corporation  
13 any appropriations, gifts, or other money from the state or federal  
14 government or any other public or private entity, subject to  
15 limitations and conditions prescribed by legislative  
16 appropriation;

17 (7) provide the corporation with adequate computer  
18 equipment and support; and

19 (8) provide the corporation with adequate office  
20 space.

21 (c) If the board hires a chief executive officer under  
22 Section 182.059, the chief executive officer and any staff hired  
23 under that section are employees of the corporation and not  
24 employees of the Health and Human Services Commission.

25 Sec. 182.0516. APPLICABILITY OF CERTAIN LAWS RELATING TO  
26 POLITICAL ACTIVITIES. The corporation is subject to Chapter 556,  
27 Government Code, and for purposes of that chapter:

1           (1) the corporation is considered to be a state  
2 agency; and

3           (2) each corporation employee is considered to be a  
4 state employee.

5           SECTION 5. Subsections (a), (b), and (c), Section 182.053,  
6 Health and Safety Code, are amended to read as follows:

7           (a) The corporation is governed by a board of 15 [~~11~~]  
8 directors appointed as follows:

9                 (1) five members appointed by the governor;

10                (2) five members appointed by the governor from a list  
11 of candidates prepared by the speaker of the house of  
12 representatives; and

13                (3) five members appointed by the lieutenant  
14 governor [~~, with the advice and consent of the senate~~].

15           (b) The following [~~governor shall also appoint at least two~~]  
16 ex officio, nonvoting members also serve on the board:

17                 (1) the commissioner of [~~representing~~] the Department  
18 of State Health Services;

19                 (2) the executive commissioner of the Health and Human  
20 Services Commission;

21                 (3) the commissioner of insurance;

22                 (4) the executive director of the Employees Retirement  
23 System of Texas;

24                 (5) the executive director of the Teacher Retirement  
25 System of Texas; and

26                 (6) the state Medicaid director of the Health and  
27 Human Services Commission.

1 (c) The governor and lieutenant governor shall appoint as  
2 voting board members individuals who represent consumers, clinical  
3 laboratories, health benefit plans, hospitals, regional health  
4 information exchange initiatives, pharmacies, physicians, or rural  
5 health providers, or who possess expertise in any other area the  
6 governor or lieutenant governor finds necessary for the successful  
7 operation of the corporation.

8 SECTION 6. Section 182.054, Health and Safety Code, is  
9 amended to read as follows:

10 Sec. 182.054. TERMS OF OFFICE. Appointed members of the  
11 board serve two-year terms and may continue to serve until a  
12 successor has been appointed by the appropriate appointing  
13 authority [~~governor~~].

14 SECTION 7. Section 182.058, Health and Safety Code, is  
15 amended by amending Subsection (a) and adding Subsections (c) and  
16 (d) to read as follows:

17 (a) The board may meet as often as necessary, but shall meet  
18 at least once each calendar quarter [~~twice a year~~].

19 (c) Board meetings are open to the public.

20 (d) The board shall provide notice of the meeting in  
21 accordance with Chapter 551, Government Code.

22 SECTION 8. Section 182.059, Health and Safety Code, is  
23 amended to read as follows:

24 Sec. 182.059. CHIEF EXECUTIVE OFFICER; MEDICAL ADVISOR;  
25 PERSONNEL. (a) The board may hire a chief executive officer.  
26 Under the direction of the board, the chief executive officer shall  
27 perform the duties required by this chapter or designated by the

1 board.

2 (b) The board may employ or contract with a medical advisor  
3 who:

4 (1) is a physician licensed to practice medicine in  
5 this state;

6 (2) has provided direct medical care to patients  
7 during the physician's career; and

8 (3) has expertise in health care quality improvement  
9 and health care performance measures.

10 (c) The chief executive officer may employ a technology  
11 director who must have education, training, and experience in  
12 planning, developing, and implementing health information exchange  
13 initiatives.

14 (d) The chief executive officer may hire additional staff to  
15 carry out the responsibilities of the corporation.

16 (e) Personnel hired under this section are state employees  
17 for all purposes, including accrual of leave time, insurance  
18 benefits, retirement benefits, and travel regulations.

19 SECTION 9. Subchapter B, Chapter 182, Health and Safety  
20 Code, is amended by adding Section 182.0595 to read as follows:

21 Sec. 182.0595. ADVISORY COMMITTEES. (a) The board shall  
22 establish the following advisory committees to assist the board in  
23 performing its functions under this chapter:

24 (1) an advisory committee on technology; and

25 (2) an advisory committee on evidence-based best  
26 practices and quality of care.

27 (b) The board may establish additional advisory committees



1 that the board considers necessary to assist the board in  
2 performing its functions under this chapter.

3 (c) The board shall appoint to the advisory committees  
4 established under this section persons who:

5 (1) have significant expertise in the relevant areas,  
6 with at least one member of each committee having practical  
7 experience in the relevant area; and

8 (2) represent both the private and public sectors and  
9 groups likely to be affected by the implementation of the  
10 recommendations of the corporation.

11 (d) Members of the advisory committees serve without  
12 compensation but are entitled to reimbursement for the members'  
13 travel expenses as provided by Chapter 660, Government Code, and  
14 the General Appropriations Act.

15 (e) Chapter 2110, Government Code, does not apply to the  
16 size, composition, or duration of the advisory committees.

17 (f) Meetings of the advisory committees under this section  
18 are subject to Chapter 551, Government Code.

19 SECTION 10. Section 182.101, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 182.101. GENERAL POWERS AND DUTIES. (a) The  
22 corporation may:

23 (1) establish statewide health information exchange  
24 capabilities, including capabilities for electronic laboratory  
25 results, diagnostic studies, and medication history delivery, and  
26 capabilities for enabling patients to access their own medical  
27 records through the internet, and, where applicable, promote

1 definitions and standards for electronic interactions statewide;

2 (2) seek funding to:

3 (A) implement, promote, and facilitate the  
4 voluntary exchange of secure electronic health information between  
5 and among individuals and entities that are providing or paying for  
6 health care services or procedures; and

7 (B) create incentives to implement, promote, and  
8 facilitate the voluntary exchange of secure electronic health  
9 information between and among individuals and entities that are  
10 providing or paying for health care services or procedures;

11 (3) establish statewide health information exchange  
12 capabilities for streamlining health care administrative functions  
13 including:

14 (A) communicating point of care services,  
15 including laboratory results, diagnostic imaging, and prescription  
16 histories;

17 (B) communicating patient identification and  
18 emergency room required information in conformity with state and  
19 federal privacy laws;

20 (C) real-time communication of enrollee status  
21 in relation to health plan coverage, including enrollee  
22 cost-sharing responsibilities; and

23 (D) current census and status of health plan  
24 contracted providers;

25 (4) support regional health information exchange  
26 initiatives by:

27 (A) identifying data and messaging standards for

1 health information exchange;

2 (B) administering programs providing financial  
3 incentives, including grants and loans for the creation and support  
4 of regional health information networks, subject to available  
5 funds;

6 (C) providing technical expertise where  
7 appropriate;

8 (D) sharing intellectual property developed  
9 under Section 182.105;

10 (E) waiving the corporation's fees associated  
11 with intellectual property, data, expertise, and other services or  
12 materials provided to regional health information exchanges  
13 operated on a nonprofit basis; and

14 (F) applying operational and technical standards  
15 developed by the corporation to existing health information  
16 exchanges only on a voluntary basis, except for standards related  
17 to ensuring effective privacy and security of individually  
18 identifiable health information; and

19 ~~(5) [identify standards for streamlining health care  
20 administrative functions across payors and providers, including  
21 electronic patient registration, communication of enrollment in  
22 health plans, and information at the point of care regarding  
23 services covered by health plans; and~~

24 ~~(6)~~ support the secure, electronic exchange of  
25 health information through other strategies identified by the  
26 board.

27 (b) The corporation shall research, develop, support, and

1 promote:

2 (1) evidence-based best practice standards for health  
3 care practitioners and health care facilities, such as the  
4 standards developed by the Physician Consortium for Performance  
5 Improvement, the National Quality Forum, or the AQA Alliance;

6 (2) strategies to require or encourage adherence to  
7 evidence-based best practice standards, including providing health  
8 care practitioners and health care facilities with the support  
9 tools and information necessary to promote adherence to  
10 evidence-based best practice standards;

11 (3) performance measures that may be used to evaluate  
12 the quality of care that a patient population receives from similar  
13 health care practitioners or health care facilities;

14 (4) standards for reporting the results of performance  
15 measures under Subdivision (3), comparing health care  
16 practitioners and health care facilities based on the performance  
17 measures, and sharing this information among health care  
18 practitioners, health care facilities, and payors;

19 (5) recommendations for disseminating the results of  
20 the performance measures under Subdivision (3) to the public;

21 (6) standards for technology to collect information to  
22 measure medical outcomes, quality of care, and adherence to  
23 evidence-based best practice standards;

24 (7) strategies for use of existing resources that are  
25 available for the exchange of health care information;

26 (8) strategies for use by the state to facilitate the  
27 exchange of health care information, the interoperability of

1 different information storage and transmission systems, including  
2 the formation of statewide interoperability among local health  
3 information exchanges, and the standardization of health care  
4 information in the system;

5           (9) recommendations to encourage clinical integration  
6 and collaboration of health care practitioners to control costs and  
7 improve quality;

8           (10) alternative payment methodologies for payors of  
9 health care practitioners and health care facilities that are  
10 developed recognizing the infrastructure and system investments  
11 needed to deliver primary care in a patient-centered medical home  
12 and to reward health care practitioners and health care facilities  
13 and that are for improving efficiency, promoting a higher quality  
14 of patient care, and using evidence-based best practices,  
15 including:

16                   (A) bundling payments for episodes of care and  
17 using global payments to health care practitioners and health care  
18 facilities;

19                   (B) replacing payment methodologies that are  
20 based on number of patients seen or procedures performed;

21                   (C) promoting the use of new payment  
22 methodologies by both public and private payors;

23                   (D) aligning incentives for health care  
24 practitioners and health care facilities; and

25                   (E) allowing for the adjustment of payment based  
26 on the risk factors of the patient, including age, comorbidity, and  
27 severity;

1           (11) standards for streamlining health care  
2 administrative functions across payors, health care practitioners,  
3 and health care facilities, including electronic patient  
4 registration, communication of enrollment in health plans, and  
5 information at the point of care regarding services covered by  
6 health plans;

7           (12) recommendations for streamlining health care  
8 administrative functions, including:

9                   (A) communicating point of care services,  
10 including laboratory results, diagnostic imaging, and prescription  
11 histories;

12                   (B) communicating patient identification and  
13 emergency room required information in conformity with state and  
14 federal privacy laws;

15                   (C) real-time communication at the point of  
16 service of enrollee status in relation to health plan coverage,  
17 including communication of enrollee cost-sharing responsibilities  
18 at the point of service; and

19                   (D) a current census and the status of  
20 health-plan-contracted health care practitioners and health care  
21 facilities; and

22           (13) standards for verification and authentication of  
23 source data used in performance measures.

24           (c) In performing the board's duties under Subsection (b),  
25 the board shall:

26                   (1) examine:

27                           (A) existing standards, guidelines, strategies,

1 and methodologies created by nationally recognized organizations;  
2 and

3 (B) existing standards, guidelines, strategies,  
4 and methodologies used in the federal Medicare program; and

5 (2) review all standards, guidelines, strategies,  
6 recommendations, and methodologies to ensure they are safe,  
7 effective, timely, efficient, equitable, and patient-centered,  
8 considering the six aims of quality care identified by the  
9 Institute of Medicine.

10 (d) The board shall develop recommendations on achieving  
11 maximum participation of health care practitioners, health care  
12 facilities, and payors in using the standards, guidelines,  
13 strategies, and methodologies developed under Subsection (b).

14 (e) The board shall develop recommendations for the use of  
15 electronic applications by a health care practitioner in  
16 self-evaluation of individual performance compared to the  
17 practitioner's peers.

18 SECTION 11. Subchapter C, Chapter 182, Health and Safety  
19 Code, is amended by adding Section 182.1015 to read as follows:

20 Sec. 182.1015. STUDIES ON PAYMENT METHODOLOGIES. (a) The  
21 corporation shall conduct a study or contract for a study to be  
22 conducted to develop payment incentives to increase access to  
23 primary care. The study must evaluate proposals for changes to  
24 payment methodologies for implementation by multiple public and  
25 private payors. In evaluating the proposals, the study must  
26 consider the six aims of quality care identified by the Institute of  
27 Medicine and must consider payment methodologies that:

1           (1) reward primary health care practitioners for  
2 patient retention;

3           (2) encourage primary health care practitioners to  
4 spend an appropriate amount of time with each patient;

5           (3) reward primary health care practitioners for  
6 monitoring patients, including reminders to obtain follow-up care;

7           (4) provide incentives for having 24-hour  
8 availability of a primary health care practitioner in the practice  
9 and taking other action to reduce unnecessary emergency room  
10 visits; and

11           (5) improve access to primary care.

12           (b) The corporation shall conduct a study or contract for a  
13 study to be conducted to develop payment methodologies based on  
14 risk-adjusted episodes of care, including global payments, that  
15 create incentives for a higher quality of services and reduce  
16 unnecessary services. The study must:

17           (1) evaluate payment methodologies that:

18                   (A) align incentives for health care  
19 practitioners and health care facilities;

20                   (B) bundle payments based on episodes of care or  
21 provide global payments to address variation in cost while  
22 providing incentives for higher-quality care;

23                   (C) allow for the adjustment of payments based on  
24 the risk factors of the patient, including age, comorbidity, and  
25 severity; and

26                   (D) may be adopted by private and public payors;

27 and



1           (2) identify high-cost, frequently performed  
2 procedures for which the cost would be most affected by a change in  
3 payment methodologies.

4           (c) The studies under Subsections (a) and (b) must:

5                 (1) examine:

6                     (A) payment methodologies created by nationally  
7 recognized organizations;

8                     (B) payment methodologies that promote  
9 evidence-based best practices; and

10                    (C) payment methodologies used by the federal  
11 Medicare system, including methodologies designed to increase  
12 provision of primary care services;

13                    (2) review all payment methodologies to ensure that  
14 they are safe, effective, timely, efficient, equitable, and  
15 patient-centered, considering the six aims of quality care  
16 identified by the Institute of Medicine; and

17                    (3) include recommendations on achieving maximum  
18 participation of health care practitioners, health care  
19 facilities, and payors in using the payment methodologies evaluated  
20 under those studies.

21           (d) The corporation shall submit to the legislature not  
22 later than January 1, 2011:

23                    (1) a summary of the results of the studies conducted  
24 under this section; and

25                    (2) legislative recommendations regarding the  
26 studies' findings, including methods to require or encourage as  
27 many payors as possible to use the payment methodologies

1 recommended by the studies.

2 (e) This section expires September 1, 2011.

3 SECTION 12. Subsection (a), Section 182.102, Health and  
4 Safety Code, is repealed.

5 SECTION 13. (a) The term of a voting member of the board of  
6 directors of the Texas Health Services Authority serving  
7 immediately before the effective date of this Act expires on that  
8 date.

9 (b) The governor and lieutenant governor shall appoint  
10 voting members of the board of directors of the Texas Health  
11 Services Authority under Subsection (a), Section 182.053, Health  
12 and Safety Code, as amended by this Act, as soon as possible after  
13 the effective date of this Act. A person who is a voting member of  
14 the board of directors immediately before the effective date of  
15 this Act may be reappointed to the board.

16 SECTION 14. This Act takes effect September 1, 2009.