1-1 By: Nelson S.B. No. 8
1-2 (In the Senate - Filed April 24, 2009; April 24, 2009, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 May 5, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; May 5, 2009, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 8 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the administration, powers, and duties of the Texas
1-11 Health Services Authority.
1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-13 SECTION 1. Section 182.001, Health and Safety Code, is
1-14 amended to read as follows:
1-15 Sec. 182.001. PURPOSE. This chapter establishes the Texas
1-16 Health Services Authority as a public-private collaborative to:
1-17 (1) implement the state-level health information
1-18 technology functions identified by the Texas Health Information
1-19 Technology Advisory Committee by serving as a catalyst for the
1-20 development of a seamless electronic health information
1-21 infrastructure to support the health care system in the state and to
1-22 improve patient safety and quality of care; and
1-23 (2) make recommendations to improve the quality of
1-24 health care funded by both public and private payors and to increase
1-25 accountability and transparency.
1-26 SECTION 2. Section 182.002, Health and Safety Code, is
1-27 amended by amending Subdivision (5) and adding Subdivisions (1-a),
1-28 (3-a), (3-b), and (3-c) to read as follows:
1-29 (1-a) "Clinical integration" means a network of health
1-30 care practitioners implementing an active and ongoing program to
1-31 evaluate and modify practice patterns by the network's participants
1-32 and create a high degree of interdependence and cooperation to
1-33 control costs and ensure quality and operating in accordance with
1-34 the antitrust laws of the United States and this state.
1-35 (3-a) "Global payments" means compensation paid to a
1-36 health care practitioner or a health care facility for providing or
1-37 arranging a defined set of covered health care services to
1-38 participating persons for a specific period. The amount of
1-39 compensation is based on a predetermined payment for each person
1-40 for that period regardless of the specific services actually
1-41 provided to persons in that period.
1-42 (3-b) "Health care facility" means a hospital,
1-43 emergency clinic, outpatient clinic, birthing center, ambulatory
1-44 surgical center, or other facility providing health care services.
1-45 (3-c) "Health care practitioner" means an individual
1-46 who is licensed or otherwise authorized to provide health care
1-47 services in this state.
1-48 (5) "Payor" [~~"Physician"~~] means:
1-49 (A) an insurer that writes health insurance
1-50 policies [~~individual licensed to practice medicine in this state~~
1-51 ~~under the authority of Subtitle B, Title 3, Occupations Code~~];
1-52 (B) a preferred provider organization, health
1-53 maintenance organization, or self-insurance plan [~~professional~~
1-54 ~~entity organized in conformity with Title 7, Business Organizations~~
1-55 ~~Code, and permitted to practice medicine under Subtitle B, Title 3,~~
1-56 ~~Occupations Code~~]; or
1-57 (C) any other person that provides, offers to
1-58 provide, or administers hospital, outpatient, medical, or other
1-59 health benefits to a person treated by a health care practitioner
1-60 under a policy, plan, or contract [~~a partnership organized in~~
1-61 ~~conformity with Title 4, Business Organizations Code, composed~~
1-62 ~~entirely of individuals licensed to practice medicine under~~
1-63 ~~Subtitle B, Title 3, Occupations Code;~~

2-1 [~~(D) an approved nonprofit health corporation~~
2-2 ~~certified under Chapter 162, Occupations Code;~~
2-3 [~~(E) a medical school or medical and dental unit,~~
2-4 ~~as defined or described by Section 61.003, 61.501, or 74.601,~~
2-5 ~~Education Code, that employs or contracts with physicians to teach~~
2-6 ~~or provide medical services or employs physicians and contracts~~
2-7 ~~with physicians in a practice plan; or~~
2-8 [~~(F) an entity wholly owned by individuals~~
2-9 ~~licensed to practice medicine under Subtitle B, Title 3,~~
2-10 ~~Occupations Code~~].
2-11 SECTION 3. Subsection (a), Section 182.051, Health and
2-12 Safety Code, is amended to read as follows:
2-13 (a) The corporation is established to:
2-14 (1) promote, implement, and facilitate the voluntary
2-15 and secure electronic exchange of health information[~~;~~] and
2-16 [~~(2)~~] create incentives to promote, implement, and
2-17 facilitate the voluntary and secure electronic exchange of health
2-18 information<u>; and</u>
2-19 <u>(2) research, develop, support, and promote</u>
2-20 <u>recommended strategies, including strategies based on standards</u>
2-21 <u>created by nationally recognized organizations, to improve the</u>
2-22 <u>quality of health care in this state and to increase accountability</u>
2-23 <u>and transparency through voluntary implementation of the</u>
2-24 <u>recommendations by health care practitioners, health care</u>
2-25 <u>facilities, and payors, including recommendations for:</u>
2-26 <u>(A) evidence-based best practice standards for</u>
2-27 <u>health care facilities and health care practitioners;</u>
2-28 <u>(B) performance measures for health care</u>
2-29 <u>practitioners;</u>
2-30 <u>(C) improved payment methodologies for payors;</u>
2-31 <u>and</u>
2-32 <u>(D) streamlined administrative processes,</u>
2-33 <u>including standardized claims</u>.
2-34 SECTION 4. Subchapter B, Chapter 182, Health and Safety
2-35 Code, is amended by adding Section 182.0515 to read as follows:
2-36 <u>Sec. 182.0515. ADMINISTRATIVE ATTACHMENT. (a) The</u>
2-37 <u>corporation is administratively attached to the Health and Human</u>
2-38 <u>Services Commission.</u>
2-39 <u>(b) Notwithstanding any other law, the Health and Human</u>
2-40 <u>Services Commission shall:</u>
2-41 <u>(1) provide administrative assistance, services, and</u>
2-42 <u>materials to the corporation, including budget planning and</u>
2-43 <u>purchasing;</u>
2-44 <u>(2) accept, deposit, and disburse money made available</u>
2-45 <u>to the corporation;</u>
2-46 <u>(3) accept gifts and grants on behalf of the</u>
2-47 <u>corporation from any public or private entity;</u>
2-48 <u>(4) pay the salaries and benefits of the staff of the</u>
2-49 <u>corporation;</u>
2-50 <u>(5) reimburse expenses of the members of the board</u>
2-51 <u>incurred in the performance of official duties;</u>
2-52 <u>(6) apply for and receive on behalf of the corporation</u>
2-53 <u>any appropriations, gifts, or other money from the state or federal</u>
2-54 <u>government or any other public or private entity, subject to</u>
2-55 <u>limitations and conditions prescribed by legislative</u>
2-56 <u>appropriation;</u>
2-57 <u>(7) provide the corporation with adequate computer</u>
2-58 <u>equipment and support; and</u>
2-59 <u>(8) provide the corporation with adequate office</u>
2-60 <u>space.</u>
2-61 <u>(c) If the board hires a chief executive officer under</u>
2-62 <u>Section 182.059, the chief executive officer and any staff hired</u>
2-63 <u>under that section are employees of the corporation and not</u>
2-64 <u>employees of the Health and Human Services Commission.</u>
2-65 SECTION 5. Subsections (a), (b), and (c), Section 182.053,
2-66 Health and Safety Code, are amended to read as follows:
2-67 (a) The corporation is governed by a board of <u>15</u> [~~11~~]
2-68 directors appointed <u>as follows:</u>
2-69 <u>(1) five members appointed</u> by the governor<u>;</u>

3-1 (2) five members appointed by the governor from a list
3-2 of candidates prepared by the speaker of the house of
3-3 representatives; and
3-4 (3) five members appointed by the lieutenant
3-5 governor[~~, with the advice and consent of the senate~~].
3-6 (b) The following [~~governor shall also appoint at least two~~]
3-7 ex officio, nonvoting members also serve on the board:
3-8 (1) the commissioner of [~~representing~~] the Department
3-9 of State Health Services;
3-10 (2) the executive commissioner of the Health and Human
3-11 Services Commission;
3-12 (3) the commissioner of insurance;
3-13 (4) the executive director of the Employees Retirement
3-14 System of Texas;
3-15 (5) the executive director of the Teacher Retirement
3-16 System of Texas; and
3-17 (6) the state Medicaid director of the Health and
3-18 Human Services Commission.
3-19 (c) The governor and lieutenant governor shall appoint as
3-20 voting board members individuals who represent consumers, clinical
3-21 laboratories, health benefit plans, hospitals, regional health
3-22 information exchange initiatives, pharmacies, physicians, or rural
3-23 health providers, or who possess expertise in any other area the
3-24 governor or lieutenant governor finds necessary for the successful
3-25 operation of the corporation.
3-26 SECTION 6. Section 182.054, Health and Safety Code, is
3-27 amended to read as follows:
3-28 Sec. 182.054. TERMS OF OFFICE. Appointed members of the
3-29 board serve two-year terms and may continue to serve until a
3-30 successor has been appointed by the appropriate appointing
3-31 authority [~~governor~~].
3-32 SECTION 7. Section 182.058, Health and Safety Code, is
3-33 amended by amending Subsection (a) and adding Subsections (c) and
3-34 (d) to read as follows:
3-35 (a) The board may meet as often as necessary, but shall meet
3-36 at least once each calendar quarter [~~twice a year~~].
3-37 (c) Board meetings are open to the public.
3-38 (d) The board shall provide notice of the meeting in
3-39 accordance with Chapter 551, Government Code.
3-40 SECTION 8. Section 182.059, Health and Safety Code, is
3-41 amended to read as follows:
3-42 Sec. 182.059. CHIEF EXECUTIVE OFFICER; MEDICAL ADVISOR;
3-43 PERSONNEL. (a) The board may hire a chief executive officer.
3-44 Under the direction of the board, the chief executive officer shall
3-45 perform the duties required by this chapter or designated by the
3-46 board.
3-47 (b) The board shall employ or contract with a medical
3-48 advisor, who must be a physician licensed to practice medicine in
3-49 this state.
3-50 (c) The chief executive officer may hire additional staff to
3-51 carry out the responsibilities of the corporation.
3-52 SECTION 9. Subchapter B, Chapter 182, Health and Safety
3-53 Code, is amended by adding Section 182.0595 to read as follows:
3-54 Sec. 182.0595. ADVISORY COMMITTEES. (a) The board shall
3-55 establish the following advisory committees to assist the board in
3-56 performing its functions under this chapter:
3-57 (1) an advisory committee on technology; and
3-58 (2) an advisory committee on evidence-based best
3-59 practices and quality of care.
3-60 (b) The board may establish additional advisory committees
3-61 that the board considers necessary to assist the board in
3-62 performing its functions under this chapter.
3-63 (c) The board shall appoint to the advisory committees
3-64 established under this section persons who:
3-65 (1) have significant expertise in the relevant areas,
3-66 with at least one member of each committee having practical
3-67 experience in the relevant area; and
3-68 (2) represent both the private and public sectors and
3-69 groups likely to be affected by the implementation of the

4-1 recommendations of the corporation.
4-2 (d) Members of the advisory committees serve without
4-3 compensation but are entitled to reimbursement for the members'
4-4 travel expenses as provided by Chapter 660, Government Code, and
4-5 the General Appropriations Act.
4-6 (e) Chapter 2110, Government Code, does not apply to the
4-7 size, composition, or duration of the advisory committees.
4-8 (f) Meetings of the advisory committees under this section
4-9 are subject to Chapter 551, Government Code.
4-10 SECTION 10. Section 182.101, Health and Safety Code, is
4-11 amended to read as follows:
4-12 Sec. 182.101. GENERAL POWERS AND DUTIES. (a) The
4-13 corporation may:
4-14 (1) establish statewide health information exchange
4-15 capabilities, including capabilities for electronic laboratory
4-16 results, diagnostic studies, and medication history delivery, and,
4-17 where applicable, promote definitions and standards for electronic
4-18 interactions statewide;
4-19 (2) seek funding to:
4-20 (A) implement, promote, and facilitate the
4-21 voluntary exchange of secure electronic health information between
4-22 and among individuals and entities that are providing or paying for
4-23 health care services or procedures; and
4-24 (B) create incentives to implement, promote, and
4-25 facilitate the voluntary exchange of secure electronic health
4-26 information between and among individuals and entities that are
4-27 providing or paying for health care services or procedures;
4-28 (3) establish statewide health information exchange
4-29 capabilities for streamlining health care administrative functions
4-30 including:
4-31 (A) communicating point of care services,
4-32 including laboratory results, diagnostic imaging, and prescription
4-33 histories;
4-34 (B) communicating patient identification and
4-35 emergency room required information in conformity with state and
4-36 federal privacy laws;
4-37 (C) real-time communication of enrollee status
4-38 in relation to health plan coverage, including enrollee
4-39 cost-sharing responsibilities; and
4-40 (D) current census and status of health plan
4-41 contracted providers;
4-42 (4) support regional health information exchange
4-43 initiatives by:
4-44 (A) identifying data and messaging standards for
4-45 health information exchange;
4-46 (B) administering programs providing financial
4-47 incentives, including grants and loans for the creation and support
4-48 of regional health information networks, subject to available
4-49 funds;
4-50 (C) providing technical expertise where
4-51 appropriate;
4-52 (D) sharing intellectual property developed
4-53 under Section 182.105;
4-54 (E) waiving the corporation's fees associated
4-55 with intellectual property, data, expertise, and other services or
4-56 materials provided to regional health information exchanges
4-57 operated on a nonprofit basis; and
4-58 (F) applying operational and technical standards
4-59 developed by the corporation to existing health information
4-60 exchanges only on a voluntary basis, except for standards related
4-61 to ensuring effective privacy and security of individually
4-62 identifiable health information; and
4-63 (5) [~~identify standards for streamlining health care~~
4-64 ~~administrative functions across payors and providers, including~~
4-65 ~~electronic patient registration, communication of enrollment in~~
4-66 ~~health plans, and information at the point of care regarding~~
4-67 ~~services covered by health plans; and~~
4-68 [~~(6)~~] support the secure, electronic exchange of
4-69 health information through other strategies identified by the

5-1 board.
5-2 (b) The corporation shall research, develop, support, and
5-3 promote:
5-4 (1) evidence-based best practice standards for health
5-5 care practitioners and health care facilities;
5-6 (2) strategies to require or encourage adherence to
5-7 evidence-based best practice standards, including providing health
5-8 care practitioners and health care facilities with the support
5-9 tools and information necessary to promote adherence to
5-10 evidence-based best practice standards;
5-11 (3) performance measures that may be used to evaluate
5-12 the quality of care that a patient receives from a health care
5-13 practitioner or at a health care facility;
5-14 (4) standards for reporting the results of performance
5-15 measures under Subdivision (3), comparing health care
5-16 practitioners and health care facilities based on the performance
5-17 measures, and sharing this information among health care
5-18 practitioners, health care facilities, and payors;
5-19 (5) recommendations for disseminating the results of
5-20 the performance measures under Subdivision (3) to the public;
5-21 (6) standards for technology to collect information to
5-22 measure medical outcomes, quality of care, and adherence to
5-23 evidence-based best practice standards;
5-24 (7) strategies for use of existing resources that are
5-25 available for the exchange of health care information;
5-26 (8) strategies for use by the state to facilitate the
5-27 exchange of health care information, the interoperability of
5-28 different information storage and transmission systems, and the
5-29 standardization of health care information in the system;
5-30 (9) recommendations to encourage clinical integration
5-31 and collaboration of health care practitioners to control costs and
5-32 improve quality;
5-33 (10) alternative payment methodologies for payors of
5-34 health care practitioners and health care facilities that improve
5-35 efficiency and promote a higher quality of patient care and the use
5-36 of evidence-based best practices, including:
5-37 (A) bundling payments for episodes of care and
5-38 using global payments to health care practitioners and health care
5-39 facilities;
5-40 (B) replacing payment methodologies that are
5-41 based on number of patients seen or procedures performed; and
5-42 (C) promoting the use of new payment
5-43 methodologies by both public and private payors;
5-44 (11) standards for streamlining health care
5-45 administrative functions across payors, health care practitioners,
5-46 and health care facilities, including electronic patient
5-47 registration, communication of enrollment in health plans, and
5-48 information at the point of care regarding services covered by
5-49 health plans; and
5-50 (12) recommendations for streamlining health care
5-51 administrative functions, including:
5-52 (A) communicating point of care services,
5-53 including laboratory results, diagnostic imaging, and prescription
5-54 histories;
5-55 (B) communicating patient identification and
5-56 emergency room required information in conformity with state and
5-57 federal privacy laws;
5-58 (C) real-time communication at the point of
5-59 service of enrollee status in relation to health plan coverage,
5-60 including enrollee cost-sharing responsibilities; and
5-61 (D) a current census and the status of health
5-62 plan contracted health care practitioners and health care
5-63 facilities.
5-64 (c) In performing the board's duties under Subsection (b),
5-65 the board shall examine:
5-66 (1) existing standards, guidelines, strategies, and
5-67 methodologies created by nationally recognized organizations; and
5-68 (2) existing standards, guidelines, strategies, and
5-69 methodologies used in the federal Medicare program.

6-1 (d) The board shall develop recommendations on achieving
6-2 maximum participation of health care practitioners, health care
6-3 facilities, and payors in using the standards, guidelines,
6-4 strategies, and methodologies developed under Subsection (b).
6-5 SECTION 11. Subchapter C, Chapter 182, Health and Safety
6-6 Code, is amended by adding Section 182.1015 to read as follows:
6-7 Sec. 182.1015. STUDIES ON PAYMENT METHODOLOGIES. (a) The
6-8 corporation shall conduct a study or contract for a study to be
6-9 conducted to develop payment incentives to increase access to
6-10 primary care. The study must evaluate proposals for changes to
6-11 payment methodologies for implementation by multiple public and
6-12 private payors and must consider payment methodologies that:
6-13 (1) reward primary health care practitioners for
6-14 patient retention;
6-15 (2) encourage primary health care practitioners to
6-16 spend an appropriate amount of time with each patient;
6-17 (3) reward primary health care practitioners for
6-18 monitoring patients, including reminders to obtain follow-up care;
6-19 (4) provide incentives for having 24-hour
6-20 availability of a primary health care practitioner in the practice
6-21 and taking other action to reduce unnecessary emergency room
6-22 visits; and
6-23 (5) improve access to primary care.
6-24 (b) The corporation shall conduct a study or contract for a
6-25 study to be conducted to develop payment methodologies based on
6-26 risk-adjusted episodes of care, including global payments, that
6-27 create incentives for a higher quality of services and reduce
6-28 unnecessary services. The study must:
6-29 (1) evaluate payment methodologies that:
6-30 (A) align incentives for health care
6-31 practitioners and health care facilities;
6-32 (B) bundle payments based on episodes of care or
6-33 provide global payments to address variation in cost while
6-34 providing incentives for higher-quality care;
6-35 (C) allow for the adjustment of costs based on
6-36 the risk factors of the patient, including age; and
6-37 (D) may be adopted by private and public payors;
6-38 and
6-39 (2) identify high-cost, frequently performed
6-40 procedures for which the cost would be most affected by a change in
6-41 payment methodologies.
6-42 (c) The studies under Subsections (a) and (b) must:
6-43 (1) examine:
6-44 (A) payment methodologies created by nationally
6-45 recognized organizations;
6-46 (B) payment methodologies that promote
6-47 evidence-based best practices; and
6-48 (C) payment methodologies used by the federal
6-49 Medicare system, including methodologies designed to increase
6-50 provision of primary care services; and
6-51 (2) include recommendations on achieving maximum
6-52 participation of health care practitioners, health care
6-53 facilities, and payors in using the payment methodologies evaluated
6-54 under those studies.
6-55 (d) The corporation shall submit to the legislature not
6-56 later than January 1, 2011:
6-57 (1) a summary of the results of the studies conducted
6-58 under this section; and
6-59 (2) legislative recommendations regarding the
6-60 studies' findings, including methods to require or encourage as
6-61 many payors as possible to use the payment methodologies
6-62 recommended by the studies.
6-63 (e) This section expires September 1, 2011.
6-64 SECTION 12. Subsection (a), Section 182.102, Health and
6-65 Safety Code, is repealed.
6-66 SECTION 13. (a) The term of a voting member of the board of
6-67 directors of the Texas Health Services Authority serving
6-68 immediately before the effective date of this Act expires on that
6-69 date.

7-1 (b) The governor and lieutenant governor shall appoint
7-2 voting members of the board of directors of the Texas Health
7-3 Services Authority under Subsection (a), Section 182.053, Health
7-4 and Safety Code, as amended by this Act, as soon as possible after
7-5 the effective date of this Act. A person who is a voting member of
7-6 the board of directors immediately before the effective date of
7-7 this Act may be reappointed to the board.
7-8 SECTION 14. This Act takes effect September 1, 2009.

7-9 * * * * *