

By: Huffman

S.B. No. 1083

A BILL TO BE ENTITLED

AN ACT

relating to access to certain confidential patient information within the Department of State Health Services.

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

SECTION 1. Subdivision (7), Section 108.002, Health and Safety Code, is amended to read as follows:

(7) "Department" means the ~~[Texas]~~ Department of State Health Services.

SECTION 2. Chapter 108, Health and Safety Code, is amended by adding Section 108.0026 to read as follows:

Sec. 108.0026. TRANSFER OF DUTIES; REFERENCE TO COUNCIL.

(a) The powers and duties of the Texas Health Care Information Council under this chapter were transferred to the Department of State Health Services in accordance with Section 1.19, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

(b) In this chapter, a reference to the Texas Health Care Information Council means the Department of State Health Services.

SECTION 3. Subsection (h), Section 108.009, Health and Safety Code, is amended to read as follows:

(h) The department ~~[council]~~ shall coordinate data collection with the data submission formats used by hospitals and other providers. The department ~~[council]~~ shall accept data in the format developed by the American National Standards Institute ~~[National Uniform Billing Committee (Uniform Hospital Billing Form~~

1 ~~UB 92) and HCFA-1500]~~ or its successor [~~their successors~~] or other
2 nationally [~~universally~~] accepted standardized forms that
3 hospitals and other providers use for other complementary purposes.

4 SECTION 4. Section 108.013, Health and Safety Code, is
5 amended by amending Subsections (a), (b), (c), (d), (g), (i), and
6 (j) and adding Subsections (k), (l), (m), and (n) to read as
7 follows:

8 (a) The data received by the department under this chapter
9 [~~council~~] shall be used by the department [~~council~~] for the benefit
10 of the public. Subject to specific limitations established by this
11 chapter and executive commissioner [~~council~~] rule, the department
12 [~~council~~] shall make determinations on requests for information in
13 favor of access.

14 (b) The executive commissioner [~~council~~] by rule shall
15 designate the characters to be used as uniform patient identifiers.
16 The basis for assignment of the characters and the manner in which
17 the characters are assigned are confidential.

18 (c) Unless specifically authorized by this chapter, the
19 department [~~council~~] may not release and a person or entity may not
20 gain access to any data obtained under this chapter:

21 (1) that could reasonably be expected to reveal the
22 identity of a patient;

23 (2) that could reasonably be expected to reveal the
24 identity of a physician;

25 (3) disclosing provider discounts or differentials
26 between payments and billed charges;

27 (4) relating to actual payments to an identified

1 provider made by a payer; or

2 (5) submitted to the department under this chapter
3 ~~[council]~~ in a uniform submission format that is not included in the
4 public use data set established under Sections 108.006(f) and (g),
5 except in accordance with Section 108.0135.

6 (d) Except as provided by this section, all ~~[All]~~ data
7 collected and used by the department ~~[and the council]~~ under this
8 chapter is subject to the confidentiality provisions and criminal
9 penalties of:

- 10 (1) Section 311.037;
- 11 (2) Section 81.103; and
- 12 (3) Section 159.002, Occupations Code.

13 (g) Unless specifically authorized by this chapter, the
14 department ~~[The council]~~ may not release data elements in a manner
15 that will reveal the identity of a patient. The department
16 ~~[council]~~ may not release data elements in a manner that will reveal
17 the identity of a physician.

18 (i) Notwithstanding any other law, the ~~[council and the]~~
19 department may not provide information made confidential by this
20 section to any other agency of this state.

21 (j) The executive commissioner ~~[council]~~ shall by rule~~,~~
22 ~~with the assistance of the advisory committee under Section~~
23 ~~108.003(g)(5),~~ develop and implement a mechanism to comply with
24 Subsections (c)(1) and (2).

25 (k) The department may disclose data collected under this
26 chapter that is not included in public use data to any program
27 within the department if the disclosure is reviewed and approved by

1 the institutional review board under Section 108.0135.

2 (1) Confidential data collected under this chapter that is
3 disclosed to a program within the department remains subject to the
4 confidentiality provisions of this chapter and other applicable
5 law. The department shall identify the confidential data that is
6 disclosed to a program under Subsection (k). The program shall
7 maintain the confidentiality of the disclosed confidential data.

8 (m) The following provisions do not apply to the disclosure
9 of data to a department program:

- 10 (1) Section 81.103;
11 (2) Sections 108.010(g) and (h);
12 (3) Sections 108.011(e) and (f);
13 (4) Section 311.037; and
14 (5) Section 159.002, Occupations Code.

15 (n) Nothing in this section authorizes the disclosure of
16 physician identifying data.

17 SECTION 5. Section 108.0135, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 108.0135. INSTITUTIONAL [~~SCIENTIFIC~~] REVIEW BOARD
20 [~~PANEL~~]. (a) The department [~~council~~] shall establish an
21 institutional [~~a scientific~~] review board [~~panel~~] to review and
22 approve requests for access to data not contained in [~~information~~
23 ~~other than~~] public use data. The members of the institutional
24 review board must [~~panel shall~~] have experience and expertise in
25 ethics, patient confidentiality, and health care data.

26 (b) To assist the institutional review board [~~panel~~] in
27 determining whether to approve a request for information, the

1 executive commissioner of the Health and Human Services Commission
2 ~~[council]~~ shall adopt rules similar to the federal Centers for
3 Medicare and Medicaid Services' ~~[Health Care Financing~~
4 ~~Administration's]~~ guidelines on releasing data.

5 (c) A request for information other than public use data
6 must be made on the form prescribed ~~[created]~~ by the department
7 ~~[council]~~.

8 (d) Any approval to release information under this section
9 must require that the confidentiality provisions of this chapter be
10 maintained and that any subsequent use of the information conform
11 to the confidentiality provisions of this chapter.

12 SECTION 6. Subdivision (5), Section 108.002, Health and
13 Safety Code, is repealed.

14 SECTION 7. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2009.