

By: Huffman

S.B. No. 1083

A BILL TO BE ENTITLED

AN ACT

1
2 relating to access to certain confidential patient information
3 within the Department of State Health Services.

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

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

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

9 SECTION 2. Section 108.013, Health and Safety Code, is
10 amended by amending Subsections (a), (b), (c), (d), (g), (i), and
11 (j) and adding Subsections (k), (l), (m), and (n) to read as
12 follows:

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

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

23 (c) Unless specifically authorized by this chapter, the
24 department [~~council~~] may not release and a person or entity may not

1 gain access to any data obtained under this chapter:

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

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

6 (3) disclosing provider discounts or differentials
7 between payments and billed charges;

8 (4) relating to actual payments to an identified
9 provider made by a payer; or

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

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

18 (1) Section 311.037;

19 (2) Section 81.103; and

20 (3) Section 159.002, Occupations Code.

21 (g) Unless specifically authorized by this chapter, the
22 department [~~The council~~] may not release data elements in a manner
23 that will reveal the identity of a patient. The department
24 [~~council~~] may not release data elements in a manner that will reveal
25 the identity of a physician.

26 (i) Notwithstanding any other law, the [~~council and the~~]
27 department may not provide information made confidential by this

1 section to any other agency of this state.

2 (j) The executive commissioner [~~council~~] shall by rule[~~,~~
3 ~~with the assistance of the advisory committee under Section~~
4 ~~108.003(g)(5),~~] develop and implement a mechanism to comply with
5 Subsections (c)(1) and (2).

6 (k) The department may disclose data collected under this
7 chapter that is not included in public use data to any program
8 within the department if the disclosure is reviewed and approved by
9 the institutional review board under Section 108.0135.

10 (l) Confidential data collected under this chapter that is
11 disclosed to a program within the department remains subject to the
12 confidentiality provisions of this chapter and other applicable
13 law. The department shall identify the confidential data that is
14 disclosed to a program under Subsection (k). The program shall
15 maintain the confidentiality of the disclosed confidential data.

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

- 18 (1) Section 81.103;
19 (2) Sections 108.010(g) and (h);
20 (3) Sections 108.011(e) and (f);
21 (4) Section 311.037; and
22 (5) Section 159.002, Occupations Code.

23 (n) Nothing in this section authorizes the disclosure of
24 physician identifying data.

25 SECTION 3. Section 108.0135, Health and Safety Code, is
26 amended to read as follows:

27 Sec. 108.0135. INSTITUTIONAL [~~SCIENTIFIC~~] REVIEW BOARD

1 ~~[PANEL]~~. (a) The department ~~[council]~~ shall establish an
2 institutional ~~[a scientific]~~ review board ~~[panel]~~ to review and
3 approve requests for access to data not contained in ~~[information~~
4 ~~other than]~~ public use data. The members of the institutional
5 review board must ~~[panel shall]~~ have experience and expertise in
6 ethics, patient confidentiality, and health care data.

7 (b) To assist the institutional review board ~~[panel]~~ in
8 determining whether to approve a request for information, the
9 executive commissioner of the Health and Human Services Commission
10 ~~[council]~~ shall adopt rules similar to the federal Health Care
11 Financing Administration's guidelines on releasing data.

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

15 SECTION 4. Chapter 108, Health and Safety Code, is amended
16 by adding Section 108.0026 to read as follows:

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

18 (a) The powers and duties of the council under this chapter were
19 transferred to the Department of State Health Services in
20 accordance with Section 1.19, Chapter 198 (H.B. 2292), Acts of the
21 78th Legislature, Regular Session, 2003.

22 (b) In this chapter, a reference to the council means the
23 Department of State Health Services.

24 SECTION 5. Section 108.002(5), Health and Safety Code, is
25 repealed.

26 SECTION 6. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.