

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Menendez, Thompson

H.B. No. 1342

A BILL TO BE ENTITLED

AN ACT

relating to adoption of certain information technology.

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

SECTION 1. Subtitle J, Title 8, Insurance Code, is amended by adding Chapter 1661 to read as follows:

CHAPTER 1661. INFORMATION TECHNOLOGY

Sec. 1661.001. DEFINITIONS. In this chapter:

(1) "Health benefit plan" means a plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage that is offered by:

(A) an insurance company;

(B) a group hospital service corporation operating under Chapter 842;

(C) a fraternal benefit society operating under Chapter 885;

(D) a stipulated premium company operating under Chapter 884;

(E) a Lloyd's plan operating under Chapter 941;

(F) an exchange operating under Chapter 942;

(G) a health maintenance organization operating under Chapter 843;

1           (H) a multiple employer welfare arrangement that  
2 holds a certificate of authority under Chapter 846;

3           (I) an approved nonprofit health corporation  
4 that holds a certificate of authority under Chapter 844; or

5           (J) an entity not authorized under this code or  
6 another insurance law of this state that contracts directly for  
7 health care services on a risk-sharing basis, including a  
8 capitation basis.

9           (2) "Health benefit plan issuer" means an entity  
10 authorized to issue a health benefit plan in this state.

11         Sec. 1661.002. USE OF CERTAIN INFORMATION TECHNOLOGY  
12 REQUIRED. (a) A health benefit plan issuer shall use information  
13 technology that provides a physician, hospital, or other health  
14 care provider with real-time information at the point of care  
15 concerning:

16           (1) the enrollee's:

17                   (A) copayment and coinsurance;

18                   (B) applicable deductibles; and

19                   (C) covered benefits and services; and

20           (2) the enrollee's estimated total financial  
21 responsibility for the care.

22         (b) A health benefit plan issuer shall use information  
23 technology that provides an enrollee with information concerning  
24 the enrollee's:

25                   (1) copayment and coinsurance;

26                   (2) applicable deductibles;

27                   (3) covered benefits and services; and

1           (4) estimated financial responsibility for the health  
2 care provided to the enrollee.

3           (c) Nothing in this section may be interpreted as a  
4 guarantee of payment for health care services.

5           Sec. 1661.003. REQUIRED USE OF TECHNOLOGY BY PROVIDERS. A  
6 physician, hospital, or other health care provider shall use  
7 information technology as required under this chapter beginning not  
8 later than September 1, 2013.

9           Sec. 1661.004. REFUND OF OVERPAYMENT. A physician,  
10 hospital, or other health care provider that receives an  
11 overpayment from an enrollee must refund the amount of the  
12 overpayment to the enrollee not later than the 30th day after the  
13 date the physician, hospital, or health care provider determines  
14 that an overpayment has been made. This section does not apply to an  
15 overpayment subject to Section 843.350 or 1301.132.

16           Sec. 1661.005. HEALTH BENEFIT PLAN ISSUER CONDUCT. A  
17 contract between a health benefit plan issuer and a physician,  
18 hospital, or other health care provider may not prohibit the  
19 physician, hospital, or health care provider from collecting, at  
20 the time of care, the estimated amount for which the enrollee may be  
21 financially responsible.

22           Sec. 1661.006. CERTAIN FEES PROHIBITED. A health benefit  
23 plan issuer may not directly charge or collect from an enrollee or a  
24 physician, or other health care provider, a fee to cover the costs  
25 incurred by the health benefit plan issuer in complying with this  
26 chapter.

27           Sec. 1661.007. WAIVER. (a) A health benefit plan issuer

1 may apply to the commissioner for a waiver of the requirement under  
2 this chapter to use information technology.

3 (b) The commissioner by rule shall identify circumstances  
4 that justify a waiver, including:

5 (1) undue hardship, including financial or  
6 operational hardship;

7 (2) the geographical area in which the health benefit  
8 plan issuer operates;

9 (3) the number of enrollees covered by a health  
10 benefit plan issuer; and

11 (4) other special circumstances.

12 (c) The commissioner shall approve or deny a waiver  
13 application under this section not later than the 60th day after the  
14 date of receipt of the application.

15 (d) This section expires January 1, 2012.

16 Sec. 1661.008. RULES. The commissioner shall adopt rules  
17 as necessary to implement this chapter, including rules that ensure  
18 that the information technology used by a health benefit plan  
19 issuer does not have legal or technical restrictions for encoding,  
20 displaying, exchanging, reading, printing, transmitting, or  
21 storing information or data in electronic form.

22 SECTION 2. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect January 1, 2010.

ADOPTED

MAY 14 2009

*Antony D'Amico*  
Secretary of the Senate

By: Chris Harris

H.B. No. 1342

Substitute the following for H.B. No. 1342:

By: Leticia VandePutte

C.S.H.B. No. 1342

A BILL TO BE ENTITLED

AN ACT

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SECTION 1. Subtitle J, Title 8, Insurance Code, is amended by adding Chapter 1661 to read as follows:

CHAPTER 1661. INFORMATION TECHNOLOGY

Sec. 1661.001. DEFINITIONS. In this chapter:

(1) "Health benefit plan" means a plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage that is offered by:

(A) an insurance company;

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1                   (H) a multiple employer welfare arrangement that  
2 holds a certificate of authority under Chapter 846;

3                   (I) an approved nonprofit health corporation  
4 that holds a certificate of authority under Chapter 844; or

5                   (J) an entity not authorized under this code or  
6 another insurance law of this state that contracts directly for  
7 health care services on a risk-sharing basis, including a  
8 capitation basis.

9                   (2) "Health benefit plan issuer" means an entity  
10 authorized to issue a health benefit plan in this state.

11                   (3) "Health care provider" means:

12                   (A) an individual who is licensed, certified, or  
13 otherwise authorized to provide health care services; or

14                   (B) a hospital, emergency clinic, outpatient  
15 clinic, or other facility providing health care services.

16                   (4) "Participating provider" means a health care  
17 provider who has contracted with a health benefit plan issuer to  
18 provide services to enrollees.

19                   Sec. 1661.002. USE OF CERTAIN INFORMATION TECHNOLOGY  
20 REQUIRED. (a) A health benefit plan issuer shall use information  
21 technology that provides a participating provider with real-time  
22 information at the point of care concerning:

23                   (1) the enrollee's:

24                   (A) copayment and coinsurance;

25                   (B) applicable deductibles; and

26                   (C) covered benefits and services; and

27                   (2) the enrollee's estimated total financial

1 responsibility for the care.

2 (b) A health benefit plan issuer shall use information  
3 technology that provides an enrollee with information concerning  
4 the enrollee's:

5 (1) copayment and coinsurance;

6 (2) applicable deductibles;

7 (3) covered benefits and services; and

8 (4) estimated financial responsibility for the health  
9 care provided to the enrollee.

10 (c) Nothing in this section may be interpreted as a  
11 guarantee of payment for health care services.

12 (d) A health benefit plan issuer's Internet website may be  
13 used to meet the information technology requirements of this  
14 chapter.

15 Sec. 1661.003. EXCEPTIONS. This chapter does not apply to:

16 (1) a health benefit plan that provides coverage only:

17 (A) for a specified disease or diseases or under  
18 a limited benefit policy;

19 (B) for accidental death or dismemberment;

20 (C) as a supplement to a liability insurance  
21 policy; or

22 (D) for dental or vision care;

23 (2) disability income insurance coverage;

24 (3) credit insurance coverage;

25 (4) a hospital confinement indemnity policy;

26 (5) a Medicare supplemental policy as defined by  
27 Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);

1                   (6) a workers' compensation insurance policy;

2                   (7) medical payment insurance coverage provided under  
3 a motor vehicle insurance policy;

4                   (8) a long-term care insurance policy, including a  
5 nursing home fixed indemnity policy, unless the commissioner  
6 determines that the policy provides benefits so comprehensive that  
7 the policy is a health benefit plan and should not be subject to the  
8 exemption provided under this section;

9                   (9) the child health plan program under Chapter 62,  
10 Health and Safety Code, or the health benefits plan for children  
11 under Chapter 63, Health and Safety Code; or

12                   (10) a Medicaid managed care program operated under  
13 Chapter 533, Government Code, or a Medicaid program operated under  
14 Chapter 32, Human Resources Code.

15           Sec. 1661.004. REQUIRED USE OF TECHNOLOGY BY PROVIDERS. A  
16 physician, hospital, or other health care provider shall use  
17 information technology as required under this chapter beginning not  
18 later than September 1, 2013.

19           Sec. 1661.005. REFUND OF OVERPAYMENT. A physician,  
20 hospital, or other health care provider that receives an  
21 overpayment from an enrollee must refund the amount of the  
22 overpayment to the enrollee not later than the 30th day after the  
23 date the physician, hospital, or health care provider determines  
24 that an overpayment has been made. This section does not apply to an  
25 overpayment subject to Section 843.350 or 1301.132.

26           Sec. 1661.006. HEALTH BENEFIT PLAN ISSUER CONDUCT. A  
27 contract between a health benefit plan issuer and a physician,



1 hospital, or other health care provider may not prohibit the  
2 physician, hospital, or health care provider from collecting, at  
3 the time of care, the estimated amount for which the enrollee may be  
4 financially responsible.

5 Sec. 1661.007. CERTAIN FEES PROHIBITED. A health benefit  
6 plan issuer may not directly charge or collect from an enrollee or a  
7 physician, or other health care provider, a fee to cover the costs  
8 incurred by the health benefit plan issuer in complying with this  
9 chapter.

10 Sec. 1661.008. WAIVER. (a) A health benefit plan issuer  
11 may apply to the commissioner for a waiver of the requirement under  
12 this chapter to use information technology.

13 (b) The commissioner by rule shall identify circumstances  
14 that justify a waiver, including:

15 (1) undue hardship, including financial or  
16 operational hardship;

17 (2) the geographical area in which the health benefit  
18 plan issuer operates;

19 (3) the number of enrollees covered by a health  
20 benefit plan issuer; and

21 (4) other special circumstances.

22 (c) The commissioner shall approve or deny a waiver  
23 application under this section not later than the 60th day after the  
24 date of receipt of the application.

25 (d) This section expires January 1, 2012.

26 Sec. 1661.009. RULES. (a) The commissioner shall adopt  
27 rules as necessary to implement this chapter, including rules that

1 ensure that the information technology used by a health benefit  
2 plan issuer does not have legal or technical restrictions for  
3 encoding, displaying, exchanging, reading, printing, transmitting,  
4 or storing information or data in electronic form.

5 (b) Rules adopted by the commissioner must be consistent  
6 with national standards established by the Workgroup for Electronic  
7 Data Interchange or by other similar organizations recognized by  
8 the commissioner.

9 SECTION 2. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect January 1, 2010.

**ADOPTED**

MAY 14 2009

FLOOR AMENDMENT NO. 1

*Atty Gen*  
Secretary of the Senate

BY:

*Chris Harris*

1 Amend C.S.H.B. No. 1342 (senate committee report) as follows:

2 (1) In SECTION 1 of the bill, in added Chapter 1661,  
3 Insurance Code (page 2, between lines 48 and 49), insert the  
4 following:

5 Sec. 1661.0055. USE OF TECHNOLOGY: WAIVER. (a)  
6 Notwithstanding Section 1661.004, physicians or health care  
7 providers with fewer than five full-time-equivalent employees are  
8 not required to use information technology as required under this  
9 chapter.

10 (b) A health benefit plan issuer may not require, through  
11 contract or otherwise, physicians or health care providers with  
12 fewer than five full-time-equivalent employees to use information  
13 technology as required under this chapter.

14 (c) A contract between the issuer of a health benefit plan  
15 and a physician or health care provider must provide for a waiver of  
16 any requirement for the use of information technology as  
17 established or required under this chapter.

18 (d) The commissioner shall establish the circumstances  
19 under which the requirements of this chapter do not apply to a  
20 physician or health care provider including:

21 (1) undue hardship, including fiscal or operational  
22 hardship; or

23 (2) any other special circumstance that would justify  
24 an exclusion.

25 (e) The commissioner shall establish circumstances under  
26 which a waiver under Subsection (c) is required, including:

27 (1) undue hardship, including fiscal or operational  
28 hardship; or

29 (2) any other special circumstance that would justify

1 a waiver.

2 (f) Any physician or health care provider that is denied a  
3 waiver by a health benefit plan issuer may appeal the denial to the  
4 commissioner. The commissioner shall determine whether a waiver  
5 must be granted.

6 (g) A health benefit plan issuer may not refuse to contract  
7 or renew a contract with a physician or health care provider based  
8 in whole or in part on the physician or provider requesting or  
9 receiving a waiver or appealing a waiver determination. A health  
10 benefit plan issuer may not refuse to contract or renew a contract  
11 with a physician or health care provider based in whole or in part  
12 on the physician or provider meeting the exemptions contained in  
13 Subsections (a) and (b).

14 (h) A waiver approved under this section expires September  
15 1, 2013.

16 (2) In SECTION 1 of the bill, in added Section 1661.008,  
17 Insurance Code (page 3, between lines 6 and 7), insert

18 "(e) A waiver approved under this section expires September  
19 1, 2013."

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 14, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1342** by Menendez (Relating to adoption of certain information technology.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code to require certain health care providers to use information technology to provide additional information to the enrollee and physician or health care provider at the point of service. The bill also would require the Texas Department of Insurance (TDI) to adopt rules to implement the bill and create a waiver process to exempt certain insurers and health care providers from requirements listed in the bill. It is anticipated that any costs associated with implementing the provisions of the bill could be absorbed within existing agency resources.

Based on the analysis by the Teacher Retirement System, the agency would have an additional cost from the third-party administrator for TRS-Active Care to implement the bill's information technology requirements. These costs are expected to be absorbed within the agency's existing budget.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 323 Teacher Retirement System, 720 The University of Texas System Administration

**LBB Staff:** JOB, SD, CH, KJG



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 5, 2009**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1342** by Menendez (Relating to adoption of certain information technology.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code to require certain health care providers to use information technology to provide additional information to the enrollee and physician or health care provider at the point of service. The bill also would require the Texas Department of Insurance (TDI) to adopt rules to implement the bill. TDI indicates that any costs associated with implementing the provisions of the bill could be absorbed within existing agency resources.

Based on the analysis by the Teacher Retirement System, the agency would have an additional cost from the third-party administrator for TRS-Active Care to implement the bill's information technology requirements. These costs are expected to be absorbed within the agency's existing budget.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 323 Teacher Retirement System, 720 The University of Texas System Administration

**LBB Staff:** JOB, CH, KJG





**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 3, 2009**

**TO:** Honorable Robert Duncan, Chair, Senate Committee on State Affairs

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1342** by Menendez (Relating to adoption of certain information technology.), As  
**Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code to require certain health care providers to use information technology to provide additional information to the enrollee and physician or health care provider at the point of service. The bill also would require the Texas Department of Insurance (TDI) to adopt rules to implement the bill. TDI indicates that any costs associated with implementing the provisions of the bill could be absorbed within existing agency resources.

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No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 323 Teacher Retirement System, 720 The University of Texas System Administration

**LBB Staff:** JOB, CH, KJG



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 16, 2009**

**TO:** Honorable John T. Smithee, Chair, House Committee on Insurance

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1342** by Menendez (Relating to adoption of certain information technology.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code to require certain health care providers to use information technology to provide additional information to the enrollee and physician or health care provider at the point of service. The bill also would require the Texas Department of Insurance (TDI) to adopt rules to implement the bill. TDI indicates that any costs associated with implementing the provisions of the bill could be absorbed within existing agency resources.

Based on the analysis by the Teacher Retirement System, the agency would have an additional cost from the third-party administrator for TRS-Active Care to implement the bill's information technology requirements. These costs are expected to be absorbed within the agency's existing budget.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 323 Teacher Retirement System, 720 The University of Texas System Administration

**LBB Staff:** JOB, CH, KJG



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 30, 2009**

**TO:** Honorable John T. Smithee, Chair, House Committee on Insurance

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB1342** by Menendez (Relating to adoption of certain information technology.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Insurance Code to require certain health care providers to use information technology to provide additional information to the enrollee and physician or health care provider at the point of service. The bill also would require the Texas Department of Insurance (TDI) to adopt rules to implement the bill. TDI indicates that any costs associated with implementing the provisions of the bill could be absorbed within existing agency resources.

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**LBB Staff:** JOB, KJG, CH

5