

BILL ANALYSIS

S.B. 8
By: Nelson
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There has been recent discussion about possible improvements to the quality and efficiency of health care in Texas. S.B. 8 seeks to address this issue by amending current law relating to improving the quality and efficiency of health care.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance and the attorney general in SECTION 3.01; to the commissioner of insurance, the attorney general, and the board of directors of the Texas Institute of Health Care Quality and Efficiency in SECTION 3.07; and to the executive commissioner of the Health and Human Services Commission in SECTIONS 4.01, 5.03, 5.04, 5.08, 5.09, and 6.05 of this bill.

ANALYSIS

Article 1. Legislative Findings and Intent; Compliance with Antitrust Laws

S.B. 8 establishes legislative findings and intent relating to the improvement of the quality and efficiency of health care in Texas.

Article 2. Texas Institute of Health Care Quality and Efficiency

S.B. 8 amends the Health and Safety Code to establish the Texas Institute of Health Care Quality and Efficiency to improve health care quality, accountability, education, and cost containment in Texas by encouraging health care provider collaboration, effective health care delivery models, and coordination of health care services. The bill makes the institute subject to the Texas Sunset Act and provides that the institute is abolished and the bill's provisions relating to the institute expire September 1, 2017, unless continued in existence as provided by that act.

S.B. 8 sets out provisions relating to the composition of the board of directors of the institute, which includes 15 voting members who meet certain qualifications and are appointed by the governor and specified ex officio members. The bill sets out the terms of office of the appointed board members and requires the governor to appoint such members as soon as practicable after the bill's effective date. The bill specifies that the institute is administratively attached to the Health and Human Services Commission (HHSC) and requires HHSC to coordinate administrative responsibilities with the institute to streamline and integrate the institute's administrative operations and avoid unnecessary duplication of effort and costs. The bill sets out provisions relating to the compensation and reimbursement of board members, subjects information relating to the billing and payment of member expenses to public information laws, and provides for the designation of a presiding officer of the board. The bill sets out requirements for a board member or member of a committee formed by the board relating to conflicts of interest, including provisions relating to a conflict of interest statement and statement of ownership interests required to be filed with the board that is subject to public information laws, and prohibits the board from compensating, employing, or contracting with certain

individuals. The bill sets out provisions relating to the board meeting schedule and board member immunity from civil liability for certain acts or omissions.

S.B. 8 establishes that protected health information and individually identifiable health information collected, assembled, or maintained by the institute is confidential and not subject to disclosure under state public information law. The bill requires the institute to comply with all state and federal laws and rules relating to the protection, confidentiality, and transmission of health information, including the federal Health Insurance Portability and Accountability Act of 1996 and rules adopted under that act and certain other federal law. The bill prohibits such confidential information from being disclosed; establishes that confidential information, documents, and records are not subject to subpoena or discovery and are prohibited from being introduced into evidence in any civil or criminal proceeding; and prohibits an officer or employee of HHSC, the Department of State Health Services (DSHS), or the institute, including a board member, from being examined in a civil, criminal, special, administrative, or other proceeding as to such confidential information.

S.B. 8 authorizes the institute to be funded through the General Appropriations Act and to request, accept, and use gifts, grants, and donations as necessary to implement its functions. The bill authorizes the institute to participate in other revenue-generating activity that is consistent with the institute's purposes. The bill requires each state agency represented on the board as a nonvoting member to provide funds to support the institute and to implement related bill provisions. The bill requires HHSC to establish a funding formula to determine the level of support each state agency is required to provide.

S.B. 8 requires the institute to make certain recommendations to the legislature relating to improving quality and efficiency of health care delivery; improving reporting, consolidation, and transparency of health care information; and implementing and supporting innovative health care collaborative payment and delivery systems.

S.B. 8 requires the institute to study and develop recommendations to improve the quality and efficiency of health care delivery in Texas, including quality-based payment systems that align payment incentives with high-quality, cost-effective health care; alternative health care delivery systems that promote health care coordination and provider collaboration; and quality of care and efficiency outcome measurements that are effective measures of prevention, wellness, coordination, provider collaboration, and cost-effective health care. The bill requires the institute to study and develop recommendations for measuring quality of care and efficiency across all state employee and state retiree benefit plans, employee and retiree benefit plans provided through the Teacher Retirement System of Texas, the state Medicaid program, and the child health plan. The bill prohibits the institute from basing such recommendations solely on actuarial data and requires the institute to use the studies described above to develop recommendations for a statewide plan for quality and efficiency of the delivery of health care.

S.B. 8 requires the institute to study and make recommendations for alternative health care payment and delivery systems and to recommend methods to evaluate a health care collaborative's effectiveness, including methods to evaluate the efficiency and effectiveness of cost-containment methods used by the collaborative, alternative health care payment and delivery systems used by the collaborative, the quality of care, health care provider collaboration and coordination, the protection of patients, and patient satisfaction.

S.B. 8 requires the institute, with the assistance of DSHS, to complete an assessment of all health-related data collected by the state and how the public and health care providers benefit from this information, including health care cost and quality information. The bill requires the institute to develop a plan for consolidating reports of health-related data from various sources to reduce administrative costs to the state and reduce the administrative burden to health care providers; for improving health care transparency to the public and health care providers by making information available in the most effective format; and providing recommendations to

the legislature on enhancing existing health-related information available to health care providers and the public, including provider reporting of additional information not currently required to be reported under existing law, to improve quality of care.

S.B. 8 requires the institute to study the feasibility and desirability of establishing a centralized database for health care claims information across all payors and to consult with DSHS and the Texas Department of Insurance to develop recommendations to submit to the legislature on the establishment of such a centralized claims database.

S.B. 8 establishes that on the effective date of the bill, the Texas Health Care Policy Council is abolished and any unexpended and unobligated balance of money appropriated by the legislature to the council as it existed immediately before the effective date of the bill is transferred to the institute. The bill repeals provisions of law relating to the Texas Health Care Policy Council.

S.B. 8 requires the institute, not later than December 1, 2012, to submit a report regarding recommendations for improved health care reporting and a report regarding recommendations for an all payor claims database to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the appropriate standing committees of the legislature. The bill specifies the information required to be outlined in each report.

S.B. 8 defines "board," "commission," "department," "executive commissioner," "health care collaborative," "health care facility," "institute," "potentially preventable admission," "potentially preventable ancillary service," "potentially preventable complication," "potentially preventable event," "potentially preventable emergency room visit," and "potentially preventable readmission" for purposes of the bill's provisions relating to the Texas Institute of Health Care Quality and Efficiency.

Article 3. Health Care Collaboratives

S.B. 8 amends the Insurance Code to set out provisions relating to health care collaborative and makes an entity, other than a health maintenance organization, that by itself or through a subcontract with another entity, undertakes to arrange for or provide medical care or health care services to enrollees in exchange for predetermined payments on a prospective basis and that accepts responsibility for performing certain required functions under specified provisions of the Insurance Code and establishes that such an entity is not required to obtain a certificate of authority or determination of approval under the applicable bill provisions.

S.B. 8 prohibits a health care collaborative that is not an insurer or health maintenance organization from using in its name, contracts, or literature certain words or initials that are descriptive of the insurance, casualty, surety, or health maintenance organization business or that are deceptively similar to the name or description of an insurer, surety corporation, or health maintenance organization engaging in business in Texas. The bill prohibits an organization from arranging for or providing health care services to enrollees on a prepaid or indemnity basis through health insurance or a health benefit plan, including a health care plan, unless the organization as an insurer or health maintenance organization holds the appropriate certificate of authority issued under other Insurance Code provisions. The bill establishes that a health care collaborative's written description of a compensation agreement made or to be made with a health benefit plan, insurer, or health care provider in exchange for the provision or arrangement to provide services to enrollees is confidential and not subject to disclosure under public information law.

S.B. 8 authorizes a health care collaborative that is certified by DSHS under the bill's provisions to provide or arrange to provide health care services under contract with a governmental or private entity. The bill sets out provisions relating to the formation and governance of a health care collaborative. The bill requires the board of directors of a health care collaborative to establish a compensation advisory committee to develop and make recommendations to the

board regarding charges, fees, payments, distributions, or other compensation assessed for health care services provided by physicians or health care providers who participate in the health care collaborative and sets out requirements regarding the composition of the committee.

S.B. 8 prohibits an organization from organizing or operating a health care collaborative in Texas unless the organization holds a certificate of authority issued under applicable bill provisions and requires the commissioner of insurance to adopt rules governing the application for a certificate of authority for a health care collaborative. The bill exempts an organization from certification requirements if the organization holds an appropriate certificate of authority issued under another provision of the Insurance Code and exempts a person from such requirements to the extent that the person is a physician engaged in the delivery of medical care or a health care provider engaged in the delivery of health care services other than medical care as part of a health maintenance organization delivery network.

S.B. 8 authorizes an organization to apply to the commissioner of insurance for and obtain a certificate of authority to organize and operate a health care collaborative, establishes the requirements of such an application, and requires the commissioner to approve or deny the application not later than the 190th day after the date an applicant submits an application. The bill requires the commissioner to issue a certificate of authority on payment of the application fee if the commissioner is satisfied that the applicant and the proposed health care collaborative meet certain specified criteria. The bill prohibits the commissioner from issuing a certificate of authority if the commissioner determines that the applicant's proposed plan of operation does not meet the prescribed requirements and, if the commissioner denies an application, requires the commissioner to notify such an applicant that the plan is deficient and to specify the deficiencies.

S.B. 8 requires the commissioner to forward an application to the attorney general if the commissioner determines that an application for a certificate of authority complies with the prescribed requirements. The bill sets out procedures by which the attorney general is required to review such a forwarded application to determine whether the commissioner's review is adequate and requires the commissioner to deny an application if the attorney general notifies the commissioner that the commissioner's review is not adequate.

S.B. 8 requires a health care collaborative, not later than the 180th day before the one-year anniversary of the date on which the collaborative's certificate of authority was issued, to file with the commissioner an application to renew the certificate. The bill establishes requirements for an application for renewal and procedures for the renewal or denial of renewal of a certificate of authority by the commissioner and the attorney general, as applicable, and provides that, if the commissioner does not act on a renewal application before the one-year anniversary, a certificate of authority expires on the 90th day after the date of the one-year anniversary unless the renewal or determination of approval is approved before that date.

S.B. 8 authorizes a health care collaborative to provide or arrange for health care services through contracts with physicians and health care providers or with entities contracting on behalf of participating physicians and health care providers. The bill prohibits a health care collaborative from prohibiting a physician or other health care provider, as a condition of participating in the health care collaborative, from participating in another health care collaborative. The bill prohibits a health care collaborative from using a covenant not to compete to prohibit a physician from providing medical services or participating in another health care collaborative in the same service area after the termination of the physician's contract with the health care collaborative.

S.B. 8 requires, with exception, a health care collaborative, on written consent of a patient who was treated by a physician participating in the collaborative, to provide the physician with the medical records of the patient, regardless of whether the physician is participating in the collaborative at the time the request for the records is made. The bill requires such records to be made available to the physician in the format in which the records are maintained by the health

care collaborative and authorizes the health care collaborative to charge the physician a fee for copies of the records, as established by the Texas Medical Board. The bill prohibits the health care collaborative from charging a fee to a physician if the physician requests a patient's records for the purpose of providing emergency treatment to the patient and requires the health care collaborative to provide the records to such a physician regardless of whether the patient has provided written consent.

S.B. 8 authorizes a health care collaborative to contract with an insurer authorized to engage in business in Texas to provide insurance, reinsurance, indemnification, or reimbursement against the cost of health care and medical care services provided by the health care collaborative and specifies that such authorization does not affect the requirement that the health care collaborative maintain sufficient working capital and reserves. The bill authorizes a health care collaborative to contract for and accept payments from a governmental or private entity for all or part of the cost of services provided or arranged for by the health care collaborative and to distribute payments to participating physicians and health care providers. The bill authorizes a health care collaborative to contract for and accept payments from governmental or private payors based on alternative payment mechanisms, including bundled or global payments and quality-based payments. The bill authorizes a health care collaborative to contract with any person, including an affiliated entity, to perform administrative, management, or any other required business functions on behalf of the health care collaborative.

S.B. 8 grants a health care collaborative all powers of a partnership, association, corporation, or limited liability company, including a professional association or corporation, as appropriate under the organizational documents of the health care collaborative, that are not in conflict with applicable bill provisions or other applicable law. The bill requires a health care collaborative to establish policies to improve the quality and control the cost of health care services provided by participating physicians and health care providers that are consistent with prevailing professionally recognized standards of medical practice and requires the policies to include certain specified standards and procedures. The bill requires the governing body of a health care collaborative to establish a procedure for the periodic review of quality improvement and cost control measures.

S.B. 8 requires a health care collaborative to implement and maintain complaint systems that provide reasonable procedures to resolve an oral or written complaint initiated by a patient who received health care services provided by a participating physician or health care provider or initiated by a participating physician or health care provider. The bill requires the complaint system for complaints initiated by patients to include a process for the notice and appeal of a complaint. The bill prohibits a health care collaborative from taking a retaliatory or adverse action against a physician or health care provider who files a complaint with a regulatory authority regarding an action of the health care collaborative.

S.B. 8 authorizes a health care collaborative to enter into certain delegation agreements with a licensed life, health, or accident insurance company, group hospital service corporation, or health maintenance organization under certain conditions. The bill requires a health care collaborative that enters into such a delegation agreement to maintain reserves and capital in addition to the amounts required by provisions of law relating to the delegation of certain functions by health maintenance organizations in an amount and form determined by rule of the commissioner to be necessary for the liabilities and risks assumed by the health care collaborative. The bill establishes that a health care collaborative that enters into a delegation agreement is subject to provisions of law regulating solvency relating to financial condition, supervision and conservatorship, and the Insurer Receivership Act.

S.B. 8 establishes that the operations and trade practices of a health care collaborative that are consistent with the bill's provisions relating to health care collaboratives, rules adopted under those provisions, and applicable federal antitrust laws are presumed to be consistent with the Texas Free Enterprise and Antitrust Act of 1983. The bill sets out procedures by which a

physician is entitled to dispute a complaint received by a health care collaborative regarding the physician or to dispute the termination of the physician's association with a health care collaboration before the complaint is resolved or before the physician's association is terminated. The bill authorizes a health care collaborative to limit a physician or group of physicians from participating in the health care collaborative if the limitation is based on an established development plan approved by the board of directors and requires each applicant physician or group to be provided with a copy of the development plan.

S.B. 8 authorizes the commissioner and the attorney general to adopt reasonable rules as necessary and proper to implement the requirements established by the bill's provisions relating to health care collaboratives. The bill requires a health care collaborative to pay to DSHS an application fee in an amount determined by commissioner rule and an annual assessment in an amount determined by commissioner rule. The bill requires the commissioner to set such fees and assessments in an amount sufficient to pay the reasonable expenses of DSHS and the attorney general in administering the bill's provisions relating to health care collaboratives, including the direct and indirect expenses incurred by DSHS and the attorney general in examining and reviewing health care collaboratives. The bill requires such fees and assessments to be deposited to the credit of the Texas Department of Insurance operating account and to be allocated among health care collaboratives on a pro rata basis to the extent that the allocation is feasible.

S.B. 8 authorizes the attorney general to examine the financial affairs and operations of any health care collaborative or applicant for a certificate of authority for a health care collaborative and sets out provisions requiring a health care collaborative to make certain financial books and records available for an examination and to provide certain documents relating to the health care collaborative to the commissioner or attorney general for purposes of such an examination. The bill specifies that documentation provided to the commissioner or attorney general for such examination purposes is confidential and not subject to disclosure under state public information law.

S.B. 8 authorizes the commissioner, after notice and opportunity for a hearing, to suspend or revoke a certificate of authority issued to the health care collaborative, impose sanctions, issue a cease and desist order, or impose administrative penalties and establishes the conditions under which the commissioner is authorized to take such enforcement action against a health care collaborative. The bill prohibits a health care collaborative whose certificate of authority is suspended from entering into a new contract with a governmental or private entity or advertising or soliciting in any way during the period the certificate is suspended. The bill requires a health care collaborative, after its certificate of authority is revoked, to proceed, immediately following the effective date of the order of revocation, to conclude its affairs and prohibits the collaborative from conducting further business except as essential to the orderly conclusion of its affairs and from advertising or soliciting in any way. The bill authorizes the commissioner, by written order, to permit the further operation of the health care collaborative to the extent that the commissioner finds necessary to serve the best interest of governmental or private entities that have entered into contracts with the health care collaborative.

S.B. 8 authorizes the attorney general, at the request of the commissioner and if the commissioner believes that a health care collaborative or another person is violating or has violated the bill's provisions relating to health care collaboratives or a rule adopted under those provisions, to bring an action in a Travis County district court to enjoin the violation and obtain other relief the court considers appropriate.

S.B. 8 defines "affiliate," "health care collaborative," "health care services," "health care provider," "health maintenance organization," "hospital," "institute," and "physician" and provides for the meaning of "potentially preventable event" by reference for purposes of the bill's provisions relating to health care collaboratives.

S.B. 8 amends the Civil Practice and Remedies Code to redefine "health care provider," for purposes of provisions relating to medical liability, to include a certified health care collaborative certified under applicable bill provisions.

S.B. 8 amends the Insurance Code to authorize an insurer to enter into an agreement with a health care collaborative for the purpose of offering a network of preferred providers and to authorize an insurer's preferred provider benefit plan to offer access to other preferred providers or to limit access only to preferred providers who participate in the health care collaborative. The bill authorizes an insurer to offer a preferred provider benefit plan with enhanced benefits for services from preferred providers who participate in the health care collaborative. The bill exempts an insurer offering a preferred provider benefit plan with access to a health care collaborative from certain coinsurance requirements for services of nonpreferred providers and a provision of law requiring an insurer offering a preferred provider benefit plan to ensure that both preferred provider benefits and basic level benefits are reasonably available to all insureds within a designated services area.

S.B. 8 authorizes a preferred provider contract between an insurer and a health care collaborative to use a payment methodology other than a fee-for-service or discounted fee basis and specifies that an insurer is not subject to the Texas Health Maintenance Organization Act solely because an agreement between the insurer and a health care collaborative uses an alternative payment methodology.

S.B. 8 amends the Health and Safety Code to authorize a hospital district created under general or special law to form and sponsor a nonprofit health care collaborative that is certified under applicable bill provisions. The bill authorizes the hospital district to contribute money to or solicit money for the health care collaborative and requires the district, if the district contributes money to or solicits money for the health care collaborative, to establish procedures and controls sufficient to ensure that the money is used by the health care collaborative for public purposes.

S.B. 8 amends the Occupations Code to make provisions of law relating to the offense of soliciting patients inapplicable to a health care collaborative certified under applicable bill provisions and to redefine "health care entity," for purposes of the Medical Practice Act, to include a certified health care collaborative.

S.B. 8 requires the commissioner, the attorney general, and the board of directors of the Texas Institute of Health Care Quality and Efficiency, not later than April 1, 2012, to adopt rules as necessary to implement the bill's provisions relating to health care collaboratives.

Article 4. Patient Identification

S.B. 8 amends the Health and Safety Code to require DSHS to coordinate with hospitals to develop a statewide standardized patient risk identification system under which a patient with a specific medical risk may be readily identified through the use of a system that communicates to hospital personnel the existence of that risk. The bill requires the executive commissioner of HHSC to appoint an ad hoc committee of hospital representatives to assist DSHS in developing the statewide system.

S.B. 8 requires DSHS to require each hospital to implement and enforce the statewide standardized patient risk identification system unless DSHS exempts from the system a hospital that seeks to adopt another patient risk identification methodology supported by evidence-based protocols for the practice of medicine. The bill requires DSHS to modify the statewide system in accordance with evidence-based medicine as necessary. The bill authorizes the executive commissioner of HHSC to adopt rules to implement the bill's provisions relating to the statewide standardized patient risk identification system and defines "department" and "hospital" for purposes of those provisions.

Article 5. Reporting of Health Care-Associated Infections

S.B. 8 amends Section 98.001, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, for purposes of provisions relating to reporting of health care-associated infections and preventable adverse effects, to define "potentially preventable complication" and "potentially preventable readmission" by reference.

S.B. 8 amends Section 98.102(c), Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to make a conforming change.

S.B. 8 amends Section 98.103, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to specify that a pediatric and adolescent hospital is required to report to DSHS the incidence of surgical site infections occurring in ventricular, rather than ventriculoperitoneal, shunt procedures. The bill authorizes the executive commissioner of HHSC, by rule, to designate the federal Centers for Disease Control and Prevention's National Healthcare Safety Network, or its successor, to receive reports of health care-associated infections from health care facilities on behalf of DSHS. The bill requires a health care facility to file a report required in accordance with such a designation in accordance with the National Healthcare Safety Network's definitions, methods, requirements, and procedures. The bill requires a health care facility to authorize DSHS to have access to facility-specific data contained in a report filed with the network in accordance with the designation described above.

S.B. 8 amends Section 98.1045, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to authorize the executive commissioner of HHSC, by rule, to designate an agency of the United States Department of Health and Human Services to receive reports of preventable adverse events by health care facilities on behalf of DSHS. The bill requires a health care facility to authorize DSHS to have access to facility-specific data contained in a report made in accordance with such a designation.

S.B. 8 amends Subchapter C, Chapter 98, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to require DSHS, in consultation with the institute, to publicly report outcomes for potentially preventable complications and potentially preventable readmissions for hospitals. The bill requires DSHS to make such reports available to the public on the department's Internet website and prohibits DSHS from disclosing the identity of a patient or health care provider in the reports. The bill requires DSHS to study which adverse health conditions commonly occur in long-term care facilities and, of those health conditions, which are potentially preventable. The bill requires DSHS to develop recommendations for reporting adverse health conditions identified in that study.

S.B. 8 amends Section 98.105, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to make a conforming change.

S.B. 8 amends Sections 98.106(a), (b), and (d), Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to require data required to be made available to the public in the department's summary of reportable infections and preventable adverse events to include aggregate data covering a period of at least a full calendar quarter.

S.B. 8 amends Subchapter C, Chapter 98, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to require DSHS, in consultation with the institute, to develop a recognition program to recognize exemplary health care facilities for superior quality of health care. The bill authorizes DSHS to make available to the public the list of exemplary facilities recognized under the program and to authorize the facilities to use the receipt of the recognition in their advertising materials. The bill authorizes the executive

commissioner to adopt rules to implement the bill's provisions relating to the recognition of exemplary health care facilities.

S.B. 8 amends Section 98.108, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to authorize the executive commissioner of HHSC to adopt rules requiring health care facilities to report to DSHS the occurrence of reportable infections and preventable adverse events more frequently than quarterly if more frequent reporting is necessary to meet the requirements for participation in the federal Centers for Disease Control and Prevention's National Healthcare Safety Network.

S.B. 8 amends Section 98.110, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, to authorize DSHS to disclose information regarding reported health care-associated infections and preventable adverse events to the federal Centers for Disease Control and Prevention, in addition to certain health and human services agencies, for certain public health research or analysis purposes. The bill authorizes an agency of the United States Department of Health and Human Services that is designated by the executive commissioner of HHSC to receive reports of health care-associated infections or preventable adverse events to use the information submitted for purposes allowed by federal law.

S.B. 8 repeals Section 98.104, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007, a provision of law relating to alternative surgical site infection reporting requirements for a health care facility that does not perform at least an average of 50 applicable procedures per month and makes conforming changes.

Article 6. Information Maintained by Department of State Health Services

S.B. 8 amends the Health and Safety Code to account for the transfer of powers and duties from the Texas Health Care Information Council to DSHS and transfers rulemaking authority from the council to the executive commissioner of the Health and Human Services Commission in accordance with Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003. The bill requires DSHS to accept health care data in the format developed by the American National Standards Institute or its successor, rather than the National Uniform Billing Committee (Uniform Hospital Billing Form UB 92) and HCFA-1500.

S.B. 8 requires DSHS to establish an institutional review board, rather than a scientific review board panel, to review and approve requests for access to data not contained in public use data. The bill clarifies that data received by DSHS under applicable provisions is required to be used by DSHS and HHSC for the benefit of the public. The bill requires the executive commissioner to adopt rules similar to the federal Centers for Medicare and Medicaid Services' guidelines on releasing data, rather than those of the federal Health Care Financing Administration. The bill requires any approval to release such data to require that applicable confidentiality provisions be maintained and that any subsequent use of the information conform to such confidentiality provisions.

S.B. 8 authorizes DSHS to disclose health care data collected by DSHS that is not included in public use data to any DSHS or HHSC program if the disclosure is reviewed and approved by the institutional review board. The bill establishes that confidential data that is disclosed to a DSHS or HHSC program remains subject to applicable confidentiality provisions. The bill requires DSHS to identify the confidential data that is disclosed to a program and requires such a program to maintain a confidentiality of the disclosed confidential data. The bill specifies that provisions relating to the confidentiality of test results for AIDS and related disorders, collection and dissemination of provider quality data, public use data requested about a specific provider, the review and comment period required to be provided for a report issued by DSHS containing certain information relating to public use data, confidential hospital data, and confidential physician-patient communications do not apply to the disclosure of data to a DSHS or HHSC program. The bill specifies that nothing in provisions relating to confidentiality and access to

health care data collected by DSHS authorizes the disclosure of physician identifying data.

S.B. 8, effective September 1, 2014, repeals a provision of law defining "council" and "rural provider" and certain provisions of law relating to rural providers for purposes of data submitted to the Texas Health Care Information Council. The bill defines "commission," "department," and "executive commissioner" for purposes of provisions relating to the Texas Health Care Information Council.

S.B. 8 makes conforming and nonsubstantive changes.

Repealers

S.B. 8 repeals the following provisions of the Health and Safety Code:

- Chapter 109
- Section 98.104, Health and Safety Code, as added by Chapter 359 (S.B. 288), Acts of the 80th Legislature, Regular Session, 2007
- Sections 108.002(5) and (18)
- Section 108.0025
- Section 108.009(c)

EFFECTIVE DATE

Except as otherwise provided, September 1, 2011.