

BILL ANALYSIS

C.S.S.B. 293
By: Watson
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Home telemonitoring technology has the potential to help patients with chronic diseases avoid unnecessary hospitalizations by identifying symptoms early and prompting adjustments in care before a crisis occurs. This technology transmits certain health-related data, such as weight, vital signs, blood oxygen saturation, and blood sugar on a scheduled real-time basis to a home health agency. Nurses then review the patient's data to determine if it is outside prescribed norms and work in coordination with a physician to determine whether change is necessary to achieve compliance with a patient's treatment plan.

C.S.S.B. 293 seeks to provide telemedicine medical services, telehealth services, and home telemonitoring services to certain Medicaid recipients by requiring the Health and Human Services Commission (HHSC), if cost-effective and feasible, to establish a statewide program that permits reimbursement under the state Medicaid program for home telemonitoring services. The bill intends to allow HHSC to discontinue the program and stop providing such reimbursements if HHSC determines that the program is not cost-effective and to require HHSC to take certain actions if HHSC determines that the provision of home telemonitoring services achieves cost savings for the Medicare program.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 2 and 5 of this bill and jointly to the executive commissioner of the Health and Human Services Commission and the Telecommunications Infrastructure Fund Board in SECTION 4 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practical, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

C.S.S.B. 293 amends the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC) by rule, if HHSC determines that establishing a statewide program that permits reimbursement under the state Medicaid program for home telemonitoring services would be cost-effective and feasible, to establish such a program. The bill requires such a program to provide that home telemonitoring services are available only to persons diagnosed with one or more conditions specified under provisions of law relating to telemedicine medical services and telehealth services pilot programs and who exhibit two or

more specified risk factors. The bill requires the program to ensure that clinical information gathered by a home health agency while providing home telemonitoring services is shared with the patient's physician and that the program does not duplicate disease management program services provided to Medicaid recipients through the Department of State Health Services. The bill authorizes HHSC, if, after implementation, HHSC determines that the program is not cost-effective, to discontinue the program and stop providing reimbursement under the state Medicaid program for home telemonitoring services. The bill requires HHSC to determine whether the provision of home telemonitoring services to persons who are eligible to receive benefits under both the Medicaid and Medicare programs achieves cost savings for the Medicare program. The bill requires HHSC, if HHSC determines that the provision of home telemonitoring services achieves cost savings for the Medicare program, to pursue the creation of accountable care organizations to participate in the Medicare shared savings program in accordance with federal law. The bill defines "home health agency" for purposes of these provisions.

C.S.S.B. 293 makes provisions of law relating to reimbursement of certain service providers under Medicaid applicable to providers of services performed using telehealth services, requires the executive commissioner to adopt rules related to developing and implementing a system of reimbursement of those providers for those services, requires the executive commissioner to use specified language in rules the commissioner is authorized to adopt in references to the site where a physician or health professional who provides telemedicine medical services or telehealth services is located, and makes conforming changes.

C.S.S.B. 293 makes provisions relating to telemedicine technology standards for an operating system used in the provision of certain services by a health care facility participating in the state Medicaid program applicable to telehealth and home telemonitoring services. The bill requires the executive commissioner and the Telecommunications Infrastructure Fund Board, by joint rule, to establish and adopt minimum technology standards for an operating system used in the provision of telehealth services or home telemonitoring services, in addition to the provision of telemedicine medical services, by a health care facility participating in the state Medicaid program.

C.S.S.B. 293 includes telemedicine medical services and telehealth services in the telemedicine pilot program. The bill includes the monitoring of chronic conditions among the medical or health care services on which HHSC is required to focus for purposes of enhancing health outcomes in the area served by the pilot program. The bill includes applications for chronic obstructive pulmonary disease, hypertension, and congestive heart failure in the condition-specific applications required to be considered by HHSC in developing and operating the pilot program. The bill changes the name of the telemedicine advisory committee to the telemedicine and telehealth advisory committee, requires that the advisory committee include representatives of providers of telemedicine medical services, telehealth services, and home telemonitoring services, and makes conforming changes.

C.S.S.B. 293 requires HHSC, not later than December 31, 2012, to submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the establishment and implementation of the program to permit reimbursement under the state Medicaid program for home telemonitoring services. The bill sets out the elements required to be included in the report.

C.S.S.B. 293 repeals the definitions of "telehealth service" and "telemedicine medical service" for purposes of provisions relating to telemedicine technology standards, reimbursement for certain medical consultations, and telemedicine pilot programs and repeals a provision relating to the telemedicine medical services and telehealth services pilot program. The bill defines "home telemonitoring services," "telehealth service," and "telemedicine medical service."

C.S.S.B. 293 requires a state agency that is affected by a provision of the bill to request a federal waiver or authorization if the agency determines that a waiver or authorization is necessary for

the implementation of the provision, and it authorizes the agency to delay implementation until the federal waiver or authorization is obtained.

C.S.S.B. 293 repeals the following provisions of the Government Code:

- Section 531.02161(a)
- Sections 531.0217(a)(3) and (4)
- Sections 531.02171(a)(3) and (4), as added by Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular Session, 2001
- Section 531.02171, as added by Chapter 959 (S.B. 1536), Acts of the 77th Legislature, Regular Session, 2001

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 293 differs from the original by defining "home telemonitoring service" as a health service that requires scheduled remote monitoring of data related to a patient's health and the transmission of the data to a licensed home health agency, whereas the original defines that term as a health service that requires such monitoring and transmission of data to a licensed home health agency or hospital.

C.S.S.B. 293 differs from the original by retaining and making a conforming change to a provision of law requiring the executive commissioner of the Health and Human Services Commission, in developing a system to reimburse providers of services under the state Medicaid program for services performed using telemedicine medical services or telehealth services, to by rule provide for an approval process before a provider can receive reimbursement for services, whereas the original removes that provision of law. The substitute differs from the original, in a provision of law requiring the executive commissioner, in developing such a system, to by rule consult with certain entities to establish specified procedures, by making a conforming change to require the executive commissioner to consult with the telemedicine and telehealth advisory committee, whereas the original requires the executive commissioner to consult with providers. The substitute differs from the original by including telehealth services providers and home telemonitoring services providers among the providers for which the executive commissioner must establish a separate provider identifier, whereas the original removes the requirement that the executive commissioner, in developing a system to reimburse providers of services under the state Medicaid program for services performed using telemedicine medical services or telehealth services, establish a separate provider identifier for telemedicine medical services providers.

C.S.S.B. 293 contains a provision not included in the original making provisions relating to telemedicine technology standards for an operating system used in the provision of certain services by a health care facility participating in the state Medicaid program applicable to telehealth and home telemonitoring services. The substitute contains a provision not included in the original requiring the executive commissioner and the Telecommunications Infrastructure Fund Board, by joint rule, to establish and adopt minimum technology standards for an operating system used in the provision of telehealth services or home telemonitoring services, in addition to the provision of telemedicine medical services, by a health care facility participating in the state Medicaid program.

C.S.S.B. 293 omits a provision included in the original defining "hospital" by reference to the Health and Safety Code for purposes of provisions relating to Medicaid services provided through home telemonitoring services.

C.S.S.B. 293 differs from the original by requiring the executive commissioner by rule, if HHSC determines that establishing a statewide program that permits reimbursement under the state Medicaid program for home telemonitoring services would be cost-effective and feasible, to establish such a program, whereas the original requires the executive commissioner by rule to establish such a program. The substitute contains a provision not included in the original authorizing HHSC, if, after implementation, HHSC determines that the program is not cost-effective, to discontinue the program and stop providing reimbursement under the state Medicaid program for home telemonitoring services. The substitute contains a provision not included in the original requiring HHSC to determine whether the provision of home telemonitoring services to persons who are eligible to receive benefits under both the Medicaid and Medicare programs achieves cost savings for the Medicare program and requires HHSC, if HHSC determines that the provision of home telemonitoring services achieves cost savings for the Medicare program, to pursue the creation of accountable care organizations to participate in the Medicare shared savings program in accordance with federal law.

C.S.S.B. 293 contains provisions not included in the original including telemedicine medical services and telehealth services in the telemedicine pilot program and making conforming changes.

C.S.S.B. 293 contains provisions not included in the original changing the name of the telemedicine advisory committee to the telemedicine and telehealth advisory committee and requiring that the advisory committee include representatives of providers of telemedicine medical services, telehealth services, and home telemonitoring services.

C.S.S.B. 293 contains provisions not included in the original requiring HHSC, not later than December 31, 2012, to submit a report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the establishment and implementation of the program to permit reimbursement under the state Medicaid program for home telemonitoring services and setting out the elements required to be included in the report.

C.S.S.B. 293 differs from the original in conforming and nonsubstantive ways.