

By: Nelson

S.B. No. 8

A BILL TO BE ENTITLED

AN ACT

relating to improving the quality and efficiency of health care.

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

ARTICLE 1. LEGISLATIVE FINDINGS AND INTENT; COMPLIANCE WITH
ANTITRUST LAWS

SECTION 1.01. (a) The legislature finds that it would benefit the State of Texas to:

(1) explore innovative health care delivery and payment models to improve quality and efficiency of health care in this state;

(2) improve health care transparency;

(3) give health care providers the flexibility to collaborate and innovate to improve the quality and efficiency of health care; and

(4) create incentives to improve quality and efficiency of health care.

(b) The legislature intends to exempt from antitrust laws and provide immunity from federal antitrust laws through the state action doctrine a health care collaborative certified under Chapter 848, Insurance Code, as added by Article 3 of this Act, and that collaborative's negotiations of contracts with payors. The legislature does not intend or authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of federal antitrust laws.

ARTICLE 2. TEXAS INSTITUTE OF HEALTH CARE QUALITY AND EFFICIENCY

SECTION 2.01. Title 12, Health and Safety Code, is amended by adding Chapter 1002 to read as follows:

CHAPTER 1002. TEXAS INSTITUTE OF HEALTH CARE QUALITY AND EFFICIENCY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1002.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the Texas Institute of Health Care Quality and Efficiency established under this chapter.

(2) "Commission" means the Health and Human Services Commission.

(3) "Department" means the Department of State Health Services.

(4) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(5) "Health care collaborative" has the meaning assigned by Section 848.001, Insurance Code.

(6) "Institute" means the Texas Institute of Health Care Quality and Efficiency established under this chapter.

(7) "Potentially preventable admission" means an admission of a person to a hospital or long-term care facility that could reasonably have been prevented if care and treatment had been provided by a health care provider in accordance with accepted standards of care.

(8) "Potentially preventable ancillary service" means a health care service provided or ordered by a health care provider

1 to supplement or support the evaluation or treatment of a patient,
2 including a diagnostic test, laboratory test, therapy service, or
3 radiology service, that is not reasonably necessary for the
4 provision of quality health care or treatment.

5 (9) "Potentially preventable complication" means a
6 harmful event or negative outcome with respect to a person,
7 including an infection or surgical complication, that:

8 (A) occurs after the person's admission to a
9 hospital or long-term care facility;

10 (B) results from the care or treatment provided
11 or the lack of care during the hospital or long-term care facility
12 stay rather than from a natural progression of an underlying
13 disease; and

14 (C) could reasonably have been prevented if care
15 and treatment had been provided in accordance with accepted
16 standards of care.

17 (10) "Potentially preventable event" means a
18 potentially preventable admission, a potentially preventable
19 ancillary service, a potentially preventable complication, a
20 potentially preventable hospital emergency room visit, a
21 potentially preventable readmission, or a combination of those
22 events.

23 (11) "Potentially preventable hospital emergency room
24 visit" means treatment of a person in a hospital emergency room for
25 a condition that does not require emergency medical attention
26 because the condition could be treated by a health care provider in
27 a nonemergency setting.

1 (12) "Potentially preventable readmission" means a
2 return hospitalization of a person within a period specified by the
3 commission that results from deficiencies in the care or treatment
4 provided to the person during a previous hospital stay or from
5 deficiencies in post-hospital discharge follow-up. The term does
6 not include a hospital readmission necessitated by the occurrence
7 of unrelated events after the discharge. The term includes the
8 readmission of a person to a hospital for:

9 (A) the same condition or procedure for which the
10 person was previously admitted;

11 (B) an infection or other complication resulting
12 from care previously provided;

13 (C) a condition or procedure that indicates that
14 a surgical intervention performed during a previous admission was
15 unsuccessful in achieving the anticipated outcome; or

16 (D) another condition or procedure of a similar
17 nature, as determined by the executive commissioner.

18 Sec. 1002.002. ESTABLISHMENT; PURPOSE. The Texas Institute
19 of Health Care Quality and Efficiency is established to improve
20 health care quality, accountability, and cost containment in this
21 state by encouraging health care provider collaboration, effective
22 health care delivery models, and coordination of health care
23 services.

24 [Sections 1002.003-1002.050 reserved for expansion]

25 SUBCHAPTER B. ADMINISTRATION

26 Sec. 1002.051. APPLICATION OF SUNSET ACT. The institute is
27 subject to Chapter 325, Government Code. Unless continued in

1 existence as provided by that chapter, the institute is abolished
2 and this chapter expires September 1, 2017.

3 Sec. 1002.052. COMPOSITION OF BOARD OF DIRECTORS. (a) The
4 institute is governed by a board of 15 directors appointed as
5 follows:

6 (1) five members appointed by the governor;

7 (2) five members appointed by the governor from a list
8 of candidates prepared by the speaker of the house of
9 representatives; and

10 (3) five members appointed by the lieutenant governor.

11 (b) The following ex officio, nonvoting members also serve
12 on the board:

13 (1) the commissioner of the department;

14 (2) the executive commissioner;

15 (3) the commissioner of insurance;

16 (4) the executive director of the Employees Retirement
17 System of Texas;

18 (5) the executive director of the Teacher Retirement
19 System of Texas;

20 (6) the state Medicaid director of the Health and
21 Human Services Commission; and

22 (7) a representative from each state agency or system
23 of higher education that purchases or provides health care
24 services, as determined by the governor.

25 (c) The governor and lieutenant governor shall appoint as
26 board members health care providers, payors, consumers, and health
27 care quality experts or persons who possess expertise in any other

1 area the governor or lieutenant governor finds necessary for the
2 successful operation of the institute.

3 Sec. 1002.053. TERMS OF OFFICE. (a) Appointed members of
4 the board serve two-year terms ending January 31 of each
5 odd-numbered year.

6 (b) Board members may serve consecutive terms.

7 Sec. 1002.054. ADMINISTRATIVE SUPPORT. (a) The institute
8 is administratively attached to the commission.

9 (b) The commission shall coordinate administrative
10 responsibilities with the institute to streamline and integrate the
11 institute's administrative operations and avoid unnecessary
12 duplication of effort and costs.

13 Sec. 1002.055. EXPENSES. Members of the board serve
14 without compensation but, subject to the availability of
15 appropriated funds, may receive reimbursement for actual and
16 necessary expenses incurred in attending meetings of the board.

17 Sec. 1002.056. OFFICER; CONFLICT OF INTEREST. (a) The
18 governor shall designate a member of the board as presiding officer
19 to serve in that capacity at the pleasure of the governor.

20 (b) Any board member or a member of a committee formed by the
21 board with direct interest, personally or through an employer, in a
22 matter before the board shall abstain from deliberations and
23 actions on the matter in which the conflict of interest arises and
24 shall further abstain on any vote on the matter, and may not
25 otherwise participate in a decision on the matter.

26 (c) Each board member shall file a conflict of interest
27 statement and a statement of ownership interests with the board to

1 ensure disclosure of all existing and potential personal interests
2 related to board business.

3 Sec. 1002.057. PROHIBITION ON CERTAIN CONTRACTS AND
4 EMPLOYMENT. The board may not compensate, employ, or contract with
5 any individual who serves as a member of the board of any other
6 governmental body, including any agency, council, or committee, in
7 this state.

8 Sec. 1002.058. MEETINGS. (a) The board may meet as often
9 as necessary, but shall meet at least once each calendar quarter.

10 (b) The board shall develop and implement policies that
11 provide the public with a reasonable opportunity to appear before
12 the board and to speak on any issue under the authority of the
13 institute.

14 Sec. 1002.059. BOARD MEMBER IMMUNITY. (a) A board member
15 may not be held civilly liable for an act performed, or omission
16 made, in good faith in the performance of the member's powers and
17 duties under this chapter.

18 (b) A cause of action does not arise against a member of the
19 board for an act or omission described by Subsection (a).

20 Sec. 1002.060. PRIVACY OF INFORMATION. (a) Protected
21 health information and individually identifiable health
22 information collected, assembled, or maintained by the institute is
23 confidential and is not subject to disclosure under Chapter 552,
24 Government Code.

25 (b) The institute shall comply with all state and federal
26 laws and rules relating to the protection, confidentiality, and
27 transmission of health information, including the Health Insurance

1 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)
2 and rules adopted under that Act, 42 U.S.C. Section 290dd-2, and 42
3 C.F.R. Part 2.

4 (c) The commission, department, or institute or an officer
5 or employee of the commission, department, or institute, including
6 a board member, may not disclose any information that is
7 confidential under this section.

8 (d) Information, documents, and records that are
9 confidential as provided by this section are not subject to
10 subpoena or discovery and may not be introduced into evidence in any
11 civil or criminal proceeding.

12 (e) An officer or employee of the commission, department, or
13 institute, including a board member, may not be examined in a civil,
14 criminal, special, or other proceeding as to information that is
15 confidential under this section.

16 Sec. 1002.061. FUNDING. (a) The institute may be funded
17 through the General Appropriations Act and may request, accept, and
18 use gifts and grants as necessary to implement its functions.

19 (b) The institute may participate in other
20 revenue-generating activity that is consistent with the
21 institute's purposes.

22 (c) Each state agency represented on the board as a
23 nonvoting member shall provide funds to support the institute and
24 implement this chapter. The commission shall establish a funding
25 formula to determine the level of support each state agency is
26 required to provide.

27 [Sections 1002.062-1002.100 reserved for expansion]

1 SUBCHAPTER C. POWERS AND DUTIES

2 Sec. 1002.101. GENERAL POWERS AND DUTIES. The institute
3 shall:

4 (1) improve quality and efficiency of health care
5 delivery by:

6 (A) providing a forum for payors and providers to
7 discuss and implement initiatives that promote the use of best
8 practices, increase health care provider collaboration, improve
9 health care outcomes, and contain health care costs;

10 (B) researching, developing, supporting, and
11 promoting strategies to improve the quality and efficiency of
12 health care in this state;

13 (C) determining the outcome measures that are the
14 most effective measures of quality and efficiency, such as the
15 incidence of potentially preventable events; and

16 (D) creating a state plan for improving the
17 quality and efficiency of health care services;

18 (2) improve reporting, consolidation, and
19 transparency of health care information; and

20 (3) make recommendations for and provide support for
21 innovative health care collaborative payment and delivery systems
22 under Chapter 848, Insurance Code.

23 Sec. 1002.102. GOALS FOR QUALITY AND EFFICIENCY OF HEALTH
24 CARE; STATEWIDE PLAN. (a) The institute shall study and develop
25 recommendations to improve the quality and efficiency of health
26 care delivery in this state, including:

27 (1) quality-based payment systems that align payment

1 incentives with high-quality, cost-effective health care;

2 (2) alternative health care delivery systems that
3 promote health care coordination and provider collaboration; and

4 (3) quality of care and efficiency outcome
5 measurements that are effective measures of prevention, wellness,
6 coordination, provider collaboration, and cost-effective health
7 care.

8 (b) The institute shall study and develop recommendations
9 for measuring quality of care and efficiency across:

10 (1) all state employee and state retiree benefit
11 plans;

12 (2) employee and retiree benefit plans provided
13 through the Teacher Retirement System of Texas;

14 (3) the state medical assistance program under Chapter
15 32, Human Resources Code; and

16 (4) the child health plan under Chapter 62, Health and
17 Safety Code.

18 (c) Using the studies described by Subsections (a) and (b),
19 the institute shall develop a statewide plan for quality and
20 efficiency of the delivery of health care.

21 [Sections 1002.103-1002.150 reserved for expansion]

22 SUBCHAPTER D. HEALTH CARE COLLABORATIVE GUIDELINES AND SUPPORT

23 Sec. 1002.151. INSTITUTE STUDIES AND RECOMMENDATIONS
24 REGARDING PAYMENT AND DELIVERY SYSTEMS. (a) The institute shall
25 study alternative payment and delivery systems and determine which
26 models are appropriate for certification as a health care
27 collaborative under Chapter 848, Insurance Code.

1 (b) The institute shall make recommendations for the
2 eligibility requirements for initial and continuing certification
3 as a health care collaborative, such as recommendations concerning
4 how a collaborative will:

5 (1) improve health care provider collaboration and
6 coordination of services;

7 (2) improve quality of care; and

8 (3) contain health care costs.

9 (c) The institute shall recommend methods to evaluate a
10 health care collaborative's effectiveness, including methods to
11 evaluate:

12 (1) the efficiency and effectiveness of
13 cost-containment methods used by the collaborative;

14 (2) the quality of care;

15 (3) health care provider collaboration and
16 coordination;

17 (4) the protection of patients; and

18 (5) patient satisfaction.

19 [Sections 1002.152-1002.200 reserved for expansion]

20 SUBCHAPTER E. IMPROVED TRANSPARENCY

21 Sec. 1002.201. HEALTH CARE ACCOUNTABILITY; IMPROVED
22 TRANSPARENCY. (a) With the assistance of the department, the
23 institute shall complete an assessment of all health-related data
24 collected by the state and how the public and health care providers
25 benefit from this information, including health care cost and
26 quality information.

27 (b) The institute shall develop a plan:

1 (1) for consolidating reports of health-related data
2 from various sources to reduce administrative costs to the state
3 and reduce the administrative burden to health care providers;

4 (2) for improving health care transparency to the
5 public and health care providers by making information available in
6 the most effective format; and

7 (3) for enhancing existing health-related information
8 available to health care providers and the public, including
9 provider reporting of additional information not currently
10 required to be reported under existing law, to improve quality of
11 care.

12 Sec. 1002.202. ALL PAYOR CLAIMS DATABASE. (a) The
13 institute shall study the feasibility and desirability of
14 establishing a centralized database for health care claims
15 information across all payors.

16 (b) The institute shall consult with the department and the
17 Texas Department of Insurance to develop a plan to establish the
18 centralized claims database described by Subsection (a).

19 SECTION 2.02. Chapter 109, Health and Safety Code, is
20 repealed.

21 SECTION 2.03. On the effective date of this Act:

22 (1) the Texas Health Care Policy Council established
23 under Chapter 109, Health and Safety Code, is abolished; and

24 (2) any unexpended and unobligated balance of money
25 appropriated by the legislature to the Texas Health Care Policy
26 Council established under Chapter 109, Health and Safety Code, as
27 it existed immediately before the effective date of this Act, is

1 transferred to the Texas Institute of Health Care Quality and
2 Efficiency created by Chapter 1002, Health and Safety Code, as
3 added by this Act.

4 SECTION 2.04. The governor and lieutenant governor shall
5 appoint voting members of the board of directors of the Texas
6 Institute of Health Care Quality and Efficiency under Section
7 1002.052, Health and Safety Code, as added by this Act, as soon as
8 practicable after the effective date of this Act.

9 SECTION 2.05. (a) Not later than December 1, 2012, the
10 Texas Institute of Health Care Quality and Efficiency shall submit
11 a report regarding improved health care reporting to the governor,
12 the lieutenant governor, the speaker of the house of
13 representatives, and the chairs of the appropriate standing
14 committees of the legislature outlining:

15 (1) the initial assessment conducted under Section
16 1002.201(a), Health and Safety Code, as added by this Act;

17 (2) the plans initially developed under Section
18 1002.201(b), Health and Safety Code, as added by this Act;

19 (3) the changes in existing law that would be
20 necessary to implement the assessment and plans described by
21 Subdivisions (1) and (2) of this subsection; and

22 (4) the cost implications to state agencies to
23 implement the assessment and plans described by Subdivisions (1)
24 and (2) of this subsection.

25 (b) Not later than December 1, 2012, the Texas Institute of
26 Health Care Quality and Efficiency shall submit a report regarding
27 an all payor claims database to the governor, the lieutenant

1 governor, the speaker of the house of representatives, and the
2 chairs of the appropriate standing committees of the legislature
3 outlining:

4 (1) the feasibility and desirability of establishing a
5 centralized database for health care claims;

6 (2) the initial plan developed under Section
7 1002.202(b), Health and Safety Code, as added by this Act;

8 (3) the changes in existing law that would be
9 necessary to implement the plan described by Subdivision (2) of
10 this subsection; and

11 (4) the cost implications to state agencies to
12 implement the plan described by Subdivision (2) of this subsection.

13 ARTICLE 3. HEALTH CARE COLLABORATIVES

14 SECTION 3.01. Subtitle C, Title 6, Insurance Code, is
15 amended by adding Chapter 848 to read as follows:

16 CHAPTER 848. HEALTH CARE COLLABORATIVES

17 SUBCHAPTER A. GENERAL PROVISIONS

18 Sec. 848.001. DEFINITIONS. In this chapter:

19 (1) "Affiliate" means a person who controls, is
20 controlled by, or is under common control with one or more other
21 persons.

22 (2) "Health care collaborative" means an
23 organization:

24 (A) consisting of participating physicians or
25 health care providers, or entities contracting on behalf of
26 participating physicians or health care providers, that is
27 organized within a formal legal structure to provide or arrange to

1 provide health care services; and

2 (B) capable of receiving and distributing
3 payments to participating physicians or health care providers.

4 (3) "Health care services" means services provided by
5 a physician or health care provider to prevent, alleviate, cure, or
6 heal human illness or injury. The term includes:

7 (A) pharmaceutical services;

8 (B) medical, chiropractic, or dental care; and

9 (C) hospitalization.

10 (4) "Health care provider" means any person,
11 partnership, professional association, corporation, facility, or
12 institution licensed, certified, registered, or chartered by this
13 state to provide health care services. The term includes a hospital
14 but does not include a physician.

15 (5) "Health maintenance organization" means an
16 organization operating under Chapter 843.

17 (6) "Hospital" means a general or special hospital,
18 including a public or private institution licensed under Chapter
19 241 or 577, Health and Safety Code.

20 (7) "Institute" means the Texas Institute of Health
21 Care Quality and Efficiency established under Chapter 1002, Health
22 and Safety Code.

23 (8) "Physician" means:

24 (A) an individual licensed to practice medicine
25 in this state;

26 (B) a professional association organized under
27 the Texas Professional Association Act (Article 1528f, Vernon's

1 Texas Civil Statutes) or the Texas Professional Association Law by
2 an individual or group of individuals licensed to practice medicine
3 in this state;

4 (C) a partnership or limited liability
5 partnership formed by a group of individuals licensed to practice
6 medicine in this state;

7 (D) a nonprofit health corporation certified
8 under Section 162.001, Occupations Code;

9 (E) a company formed by a group of individuals
10 licensed to practice medicine in this state under the Texas Limited
11 Liability Company Act (Article 1528n, Vernon's Texas Civil
12 Statutes) or the Texas Professional Limited Liability Company Law;
13 or

14 (F) an organization wholly owned and controlled
15 by individuals licensed to practice medicine in this state.

16 (9) "Potentially preventable event" has the meaning
17 assigned by Section 1002.001, Health and Safety Code.

18 Sec. 848.002. USE OF INSURANCE-RELATED TERMS BY HEALTH CARE
19 COLLABORATIVE. A health care collaborative that is not an insurer
20 or health maintenance organization may not use in its name,
21 contracts, or literature:

22 (1) the following words or initials:

23 (A) "insurance";

24 (B) "casualty";

25 (C) "surety";

26 (D) "mutual";

27 (E) "health maintenance organization"; or

1 (F) "HMO"; or

2 (2) any other words or initials that are:

3 (A) descriptive of the insurance, casualty,
4 surety, or health maintenance organization business; or

5 (B) deceptively similar to the name or
6 description of an insurer, surety corporation, or health
7 maintenance organization engaging in business in this state.

8 Sec. 848.003. APPLICABILITY OF INSURANCE LAWS. An
9 organization may not arrange for or provide health care services to
10 enrollees on a prepaid or indemnity basis through health insurance
11 or a health benefit plan, including a health care plan, as defined
12 by Section 843.002, unless the organization holds the appropriate
13 certificate of authority issued under:

14 (1) Chapter 841;

15 (2) Chapter 842;

16 (3) Chapter 843; or

17 (4) Chapter 883.

18 [Sections 848.004-848.050 reserved for expansion]

19 SUBCHAPTER B. AUTHORITY TO ENGAGE IN BUSINESS

20 Sec. 848.051. OPERATION OF HEALTH CARE COLLABORATIVE. A
21 health care collaborative certified under this chapter may provide
22 or arrange to provide health care services under a contract with a
23 governmental or private entity.

24 Sec. 848.052. CERTIFICATE OF AUTHORITY REQUIRED. (a) An
25 organization may not organize or operate a health care
26 collaborative in this state unless the organization holds a
27 certificate of authority issued under this chapter.

1 (b) An organization may not use the term "health care
2 collaborative" in its name, contracts, or literature unless the
3 organization holds a certificate of authority issued under this
4 chapter.

5 Sec. 848.053. EXCEPTIONS. (a) An organization is not
6 required to obtain a certificate of authority under this chapter if
7 the organization holds an appropriate certificate of authority
8 issued under another chapter of this code.

9 (b) An organization is not required to obtain a certificate
10 of authority under this chapter to the extent that the organization
11 provides health care services only under contract with:

12 (1) the Centers for Medicare and Medicaid Services as
13 a health care collaborative under the Medicare shared savings
14 program (42 U.S.C. Section 1395jjj); or

15 (2) the Health and Human Services Commission under
16 Chapter 531, Government Code.

17 Sec. 848.054. CERTIFICATE APPLICATION. (a) An organization
18 may apply to the commissioner for and obtain a certificate of
19 authority to organize and operate a health care collaborative.

20 (b) An application for a certificate of authority must:

21 (1) comply with all rules adopted by the commissioner;
22 and

23 (2) be verified by the applicant or an officer or other
24 authorized representative of the applicant.

25 (c) An application for a certificate of authority is
26 confidential and is not subject to disclosure under Chapter 552,
27 Government Code.

1 Sec. 848.055. REQUIREMENTS FOR APPROVAL OF APPLICATION.

2 The commissioner shall issue a certificate of authority on payment
3 of the application fee prescribed by Section 848.152 if the
4 commissioner is satisfied that:

5 (1) the applicant meets the requirements of Section
6 848.054;

7 (2) with respect to health care services to be
8 provided, the applicant:

9 (A) has demonstrated the willingness and
10 potential ability to ensure that the health care services will be
11 provided in a manner that:

12 (i) increases collaboration among health
13 care providers and integrates health care services;

14 (ii) promotes quality-based health care
15 outcomes, patient engagement, and coordination of services;

16 (iii) reduces the occurrence of potentially
17 preventable events; and

18 (iv) contains health care costs;

19 (B) has processes to develop, compile, evaluate,
20 and report statistics relating to the quality and cost of health
21 care services, the pattern of utilization of services, and
22 availability and accessibility of services; and

23 (C) has processes to address complaints made by
24 patients receiving services provided through the organization; and

25 (3) the applicant is in compliance with all rules
26 adopted by the commissioner under Section 848.151.

27 Sec. 848.056. DENIAL OF CERTIFICATE OF AUTHORITY;

1 LIMITATIONS ON MARKET POWER. (a) The commissioner may not issue a
2 certificate of authority if the commissioner determines that:

3 (1) the applicant's proposed plan of operation does
4 not meet the requirements of Section 848.055;

5 (2) the applicant's proposed health care collaborative
6 is likely to reduce competition in any market for physician,
7 hospital, or ancillary health care services due to:

8 (A) the size of the health care collaborative; or

9 (B) the composition of the collaborative,
10 including the distribution of physicians by specialty within the
11 collaborative in relation to the number of competing health care
12 providers in the health care collaborative's geographic market; or

13 (3) the applicant's proposed health care collaborative
14 is likely to possess market power sufficient to raise rates above
15 competitive levels.

16 (b) The commissioner may revoke a health care
17 collaborative's certificate of authority as provided by Section
18 848.201 if the commissioner determines that a change in the health
19 care collaborative's market, or a change in the size or composition
20 of the health care collaborative, has occurred that is likely to
21 result in reduced competition, as described by Subsection (a)(2),
22 or market power sufficient to raise rates above competitive levels,
23 as described by Subsection (a)(3).

24 (c) If the commissioner denies an application for a
25 certificate of authority under Subsection (a), the commissioner
26 shall notify the applicant that the plan is deficient and specify
27 the deficiencies.

1 [Sections 848.057-848.100 reserved for expansion]

2 SUBCHAPTER C. GENERAL POWERS AND DUTIES OF HEALTH CARE

3 COLLABORATIVE

4 Sec. 848.101. PROVIDING OR ARRANGING FOR SERVICES. A
5 health care collaborative may provide or arrange for health care
6 services through contracts with physicians and health care
7 providers or with entities contracting on behalf of participating
8 physicians and health care providers.

9 Sec. 848.102. INSURANCE, REINSURANCE, INDEMNITY, AND
10 REIMBURSEMENT. A health care collaborative may contract with an
11 insurer authorized to engage in business in this state to provide
12 insurance, reinsurance, indemnification, or reimbursement against
13 the cost of health care and medical care services provided by the
14 health care collaborative.

15 Sec. 848.103. PAYMENT BY GOVERNMENTAL OR PRIVATE ENTITY.

16 (a) A health care collaborative may:

17 (1) contract for and accept payments from a
18 governmental or private entity for all or part of the cost of
19 services provided or arranged for by the health care collaborative;
20 and

21 (2) distribute payments to participating physicians
22 and health care providers.

23 (b) Notwithstanding Section 164.052(a)(13) or (17) or
24 165.156, Occupations Code, a health care collaborative may contract
25 for, receive, allocate, and distribute payments for health care
26 services provided by a physician or health care provider
27 participating within the organization.

1 Sec. 848.104. CONTRACTS FOR ADMINISTRATIVE OR MANAGEMENT
2 SERVICES. A health care collaborative may contract with any
3 person, including an affiliated entity, to perform administrative,
4 management, or any other required functions on behalf of the health
5 care collaborative.

6 Sec. 848.105. CORPORATION, PARTNERSHIP, OR ASSOCIATION
7 POWERS. A health care collaborative has all powers of a
8 partnership, association, corporation, or limited liability
9 company, including a professional association or corporation, as
10 appropriate under the organizational documents of the health care
11 collaborative, that are not in conflict with this chapter or other
12 applicable law.

13 Sec. 848.106. QUALITY AND COST OF HEALTH CARE SERVICES.
14 (a) A health care collaborative shall establish policies to
15 improve the quality and control the cost of health care services
16 provided by participating physicians and health care providers that
17 are consistent with prevailing professionally recognized standards
18 of medical practice. The policies must include standards and
19 procedures relating to:

20 (1) the selection and credentialing of participating
21 physicians and health care providers;

22 (2) the development, implementation, and monitoring
23 of evidence-based best practices and other processes to improve the
24 quality and control the cost of health care services provided by
25 participating physicians and health care providers, including
26 practices or processes to reduce the occurrence of potentially
27 preventable events; and

1 (3) the development, implementation, and monitoring
2 of processes to improve patient engagement and coordination of
3 health care services provided by participating physicians and
4 health care providers.

5 (b) The governing body of a health care collaborative shall
6 establish a procedure for the periodic review of quality
7 improvement and cost control measures.

8 Sec. 848.107. COMPLAINT SYSTEM. A health care
9 collaborative shall implement and maintain a complaint system that
10 provides reasonable procedures to resolve an oral or written
11 complaint initiated by a complainant concerning health care
12 services provided by participating physicians or health care
13 providers. The complaint system must include a process for the
14 notice and appeal of a complaint.

15 Sec. 848.108. FINANCIAL RESERVE REQUIREMENTS. A health
16 care collaborative shall maintain reserves in an amount determined
17 by commissioner rule to be adequate for the liabilities and risks
18 assumed by the health care collaborative, as computed in accordance
19 with accepted standards, practices, and procedures relating to the
20 liabilities and risks for which the reserves are maintained,
21 including known and unknown components and anticipated expenses of
22 providing health care services.

23 Sec. 848.109. VALIDITY OF OPERATIONS AND TRADE PRACTICES OF
24 HEALTH CARE COLLABORATIVES. The operations and trade practices of
25 a health care collaborative that are consistent with the provisions
26 of this chapter, the rules adopted under this chapter, and
27 applicable federal antitrust laws are presumed to be consistent

1 with Chapter 15, Business & Commerce Code, or any other applicable
2 provision of law.

3 [Sections 848.110-848.150 reserved for expansion]

4 SUBCHAPTER D. REGULATION OF HEALTH CARE COLLABORATIVES

5 Sec. 848.151. RULES. The commissioner in consultation with
6 the institute may adopt reasonable rules as necessary and proper
7 to:

8 (1) improve the quality and efficiency of health care
9 delivery by a health care collaborative;

10 (2) facilitate the creation of innovative health care
11 collaborative payment systems; and

12 (3) implement the requirements of this chapter.

13 Sec. 848.152. FEES. (a) The commissioner shall, within
14 the limits prescribed by this section, prescribe the fees to be
15 charged under this section.

16 (b) Fees collected under this section shall be deposited to
17 the credit of the Texas Department of Insurance operating account.

18 (c) A health care collaborative shall pay to the
19 commissioner:

20 (1) an application fee in an amount not to exceed \$750
21 for filing and review of its original application for a certificate
22 of authority; and

23 (2) an annual fee in an amount not to exceed \$750 for
24 renewal of the certificate of authority.

25 (d) A health care collaborative shall pay to the
26 commissioner a fee in an amount assessed by the commissioner and
27 paid in accordance with rules adopted by the commissioner for the

1 expenses of an examination under Section 848.154 that:

2 (1) are incurred by the commissioner or under the
3 commissioner's authority; and

4 (2) are directly attributable to that examination,
5 including the actual salaries and expenses of the examiners
6 directly attributable to that examination, as determined under
7 rules adopted by the commissioner.

8 Sec. 848.153. ANNUAL REPORT. (a) Not later than March 1 of
9 each year, a health care collaborative shall file with the
10 commissioner a report covering the preceding calendar year.

11 (b) The report shall:

12 (1) be verified by at least two principal officers;

13 (2) be in a form prescribed by the commissioner; and

14 (3) include:

15 (A) a financial statement of the health care
16 collaborative, including its balance sheet and receipts and
17 disbursements for the preceding calendar year, certified by an
18 independent public accountant; and

19 (B) a statement of:

20 (i) the service area of the health care
21 collaborative;

22 (ii) the number and types of physicians and
23 health care providers participating within the health care
24 collaborative;

25 (iii) an evaluation of the quality and cost
26 of health care services provided by the health care collaborative;

27 and

1 (iv) an evaluation of the health care
2 collaborative's processes to promote evidence-based medicine,
3 patient engagement, and coordination of health care services
4 provided by the organization.

5 (c) An annual report filed with the commissioner under this
6 section is confidential and is not subject to disclosure under
7 Chapter 552, Government Code.

8 Sec. 848.154. EXAMINATIONS. (a) The commissioner may
9 examine the financial affairs and operations of any health care
10 collaborative or applicant for a certificate of authority under
11 this chapter.

12 (b) A health care collaborative shall make its books and
13 records relating to its financial affairs and operations available
14 for an examination by the commissioner.

15 (c) On request of the commissioner, a health care
16 collaborative shall provide to the commissioner:

17 (1) a copy of any contract, agreement, or other
18 arrangement between the health care collaborative and a physician
19 or health care provider; and

20 (2) a general description of the fee arrangements
21 between the health care collaborative and the physician or health
22 care provider.

23 (d) Documentation provided to the commissioner under this
24 section is confidential and is not subject to disclosure under
25 Chapter 552, Government Code.

26 [Sections 848.155-848.200 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT

Sec. 848.201. ENFORCEMENT ACTIONS. (a) After notice and opportunity for a hearing, the commissioner may:

(1) suspend or revoke a certificate of authority issued to a health care collaborative under this chapter;

(2) impose sanctions under Chapter 82;

(3) issue a cease and desist order under Chapter 83; or

(4) impose administrative penalties under Chapter 84.

(b) The commissioner may take an enforcement action listed in Subsection (a) against a health care collaborative if the commissioner finds that the health care collaborative:

(1) is operating in a manner that is:

(A) significantly contrary to its basic organizational documents; or

(B) contrary to the manner described in and reasonably inferred from other information submitted under Section 848.055;

(2) does not meet the requirements of Section 848.055;

(3) cannot fulfill its obligation to provide health care services as required under its contracts with governmental or private entities;

(4) does not meet the financial reserve requirements described by Section 848.108;

(5) has not implemented the complaint system required by Section 848.107 in a manner to resolve reasonably valid complaints;

(6) has advertised or merchandised its services in an

1 untrue, misrepresentative, misleading, deceptive, or unfair manner
2 or a person on behalf of the health care collaborative has
3 advertised or merchandised the health care collaborative's
4 services in an untrue, misrepresentative, misleading, deceptive,
5 or untrue manner;

6 (7) has not complied substantially with this chapter
7 or a rule adopted under this chapter; or

8 (8) has not taken corrective action the commissioner
9 considers necessary to correct a failure to comply with this
10 chapter, any applicable provision of this code, or any applicable
11 rule or order of the commissioner not later than the 30th day after
12 the date of notice of the failure or within any longer period
13 specified in the notice and determined by the commissioner to be
14 reasonable.

15 Sec. 848.202. OPERATIONS DURING SUSPENSION OR AFTER
16 REVOCAION OF CERTIFICATE OF AUTHORITY. (a) During the period a
17 certificate of authority of a health care collaborative is
18 suspended, the health care collaborative may not:

19 (1) enter into a new contract with a governmental or
20 private entity; or

21 (2) advertise or solicit in any way.

22 (b) After a certificate of authority of a health care
23 collaborative is revoked, the health care collaborative:

24 (1) shall proceed, immediately following the
25 effective date of the order of revocation, to conclude its affairs;

26 (2) may not conduct further business except as
27 essential to the orderly conclusion of its affairs; and

1 (3) may not advertise or solicit in any way.

2 (c) Notwithstanding Subsection (b), the commissioner may,
3 by written order, permit the further operation of the health care
4 collaborative to the extent that the commissioner finds necessary
5 to serve the best interest of governmental or private entities that
6 have entered into contracts with the health care collaborative.

7 Sec. 848.203. INJUNCTIONS. If the commissioner believes
8 that a health care collaborative or another person is violating or
9 has violated this chapter or a rule adopted under this chapter, the
10 attorney general at the request of the commissioner may bring an
11 action in a Travis County district court to enjoin the violation and
12 obtain other relief the court considers appropriate.

13 SECTION 3.02. Section 74.001(a)(12)(A), Civil Practice and
14 Remedies Code, is amended to read as follows:

15 (A) "Health care provider" means any person,
16 partnership, professional association, corporation, facility, or
17 institution duly licensed, certified, registered, or chartered by
18 the State of Texas to provide health care, including:

- 19 (i) a registered nurse;
- 20 (ii) a dentist;
- 21 (iii) a podiatrist;
- 22 (iv) a pharmacist;
- 23 (v) a chiropractor;
- 24 (vi) an optometrist; ~~or~~
- 25 (vii) a health care institution; or
- 26 (viii) a health care collaborative
27 certified under Chapter 848, Insurance Code.

1 SECTION 3.03. Subchapter O, Chapter 285, Health and Safety
2 Code, is amended by adding Section 285.303 to read as follows:

3 Sec. 285.303. ESTABLISHMENT OF HEALTH CARE COLLABORATIVE.

4 (a) A hospital district created under general or special law may
5 form and sponsor a nonprofit health care collaborative that is
6 certified under Chapter 848, Insurance Code.

7 (b) The governing body of the hospital district shall
8 appoint the board of the health care collaborative formed under
9 this section.

10 (c) The hospital district may contribute money to or solicit
11 money for the health care collaborative. If the district
12 contributes money to or solicits money for the health care
13 collaborative, the district shall establish procedures and
14 controls sufficient to ensure that the money is used by the health
15 care collaborative for public purposes.

16 SECTION 3.04. Section 102.005, Occupations Code, is amended
17 to read as follows:

18 Sec. 102.005. APPLICABILITY TO CERTAIN ENTITIES. Section
19 102.001 does not apply to:

20 (1) a licensed insurer;

21 (2) a governmental entity, including:

22 (A) an intergovernmental risk pool established
23 under Chapter 172, Local Government Code; and

24 (B) a system as defined by Section 1601.003,
25 Insurance Code;

26 (3) a group hospital service corporation; ~~or~~

27 (4) a health maintenance organization that

1 reimburses, provides, offers to provide, or administers hospital,
2 medical, dental, or other health-related benefits under a health
3 benefits plan for which it is the payor; or

4 (5) a health care collaborative certified under
5 Chapter 848, Insurance Code.

6 SECTION 3.05. Section 151.002(a)(5), Occupations Code, is
7 amended to read as follows:

8 (5) "Health care entity" means:

9 (A) a hospital licensed under Chapter 241 or 577,
10 Health and Safety Code;

11 (B) an entity, including a health maintenance
12 organization, group medical practice, nursing home, health science
13 center, university medical school, hospital district, hospital
14 authority, or other health care facility, that:

15 (i) provides or pays for medical care or
16 health care services; and

17 (ii) follows a formal peer review process
18 to further quality medical care or health care;

19 (C) a professional society or association of
20 physicians, or a committee of such a society or association, that
21 follows a formal peer review process to further quality medical
22 care or health care; ~~or~~

23 (D) an organization established by a
24 professional society or association of physicians, hospitals, or
25 both, that:

26 (i) collects and verifies the authenticity
27 of documents and other information concerning the qualifications,

1 competence, or performance of licensed health care professionals;
2 and

3 (ii) acts as a health care facility's agent
4 under the Health Care Quality Improvement Act of 1986 (42 U.S.C.
5 Section 11101 et seq.); or

6 (E) a health care collaborative certified under
7 Chapter 848, Insurance Code.

8 SECTION 3.06. Not later than April 1, 2012, the
9 commissioner of insurance and the board of directors of the Texas
10 Institute of Health Care Quality and Efficiency shall adopt rules
11 as necessary to implement this article.

12 ARTICLE 4. PATIENT IDENTIFICATION

13 SECTION 4.01. Subchapter A, Chapter 311, Health and Safety
14 Code, is amended by adding Section 311.004 to read as follows:

15 Sec. 311.004. STANDARDIZED PATIENT RISK IDENTIFICATION
16 SYSTEM. (a) In this section:

17 (1) "Department" means the Department of State Health
18 Services.

19 (2) "Hospital" means a general or special hospital as
20 defined by Section 241.003. The term includes a hospital
21 maintained or operated by this state.

22 (b) The department shall coordinate with hospitals to
23 develop a statewide standardized patient risk identification
24 system under which a patient with a specific medical risk may be
25 readily identified through the use of a system that communicates to
26 hospital personnel the existence of that risk. The executive
27 commissioner of the Health and Human Services Commission shall

1 appoint an ad hoc committee of hospital representatives to assist
2 the department in developing the statewide system.

3 (c) The department shall require each hospital to implement
4 and enforce the statewide standardized patient risk identification
5 system developed under Subsection (b) unless the department
6 authorizes an exemption for the reason stated in Subsection (d).

7 (d) The department may exempt from the statewide
8 standardized patient risk identification system a hospital that
9 seeks to adopt another patient risk identification methodology
10 supported by evidence-based protocols for the practice of medicine.

11 (e) The department shall modify the statewide standardized
12 patient risk identification system in accordance with
13 evidence-based medicine as necessary.

14 (f) The executive commissioner of the Health and Human
15 Services Commission may adopt rules to implement this section.

16 ARTICLE 5. REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS

17 SECTION 5.01. Section 98.001, Health and Safety Code, as
18 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,
19 Regular Session, 2007, is amended by adding Subdivision (10-a) to
20 read as follows:

21 (10-a) "Potentially preventable complication" and
22 "potentially preventable readmission" have the meanings assigned
23 by Section 1002.001, Health and Safety Code.

24 SECTION 5.02. Section 98.102(c), Health and Safety Code, as
25 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,
26 Regular Session, 2007, is amended to read as follows:

27 (c) The data reported by health care facilities to the

1 department must contain sufficient patient identifying information
2 to:

- 3 (1) avoid duplicate submission of records;
- 4 (2) allow the department to verify the accuracy and
5 completeness of the data reported; and
- 6 (3) for data reported under Section 98.103 [~~or~~
7 ~~98.104~~], allow the department to risk adjust the facilities'
8 infection rates.

9 SECTION 5.03. Section 98.103, Health and Safety Code, as
10 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,
11 Regular Session, 2007, is amended by amending Subsection (b) and
12 adding Subsection (d-1) to read as follows:

13 (b) A pediatric and adolescent hospital shall report the
14 incidence of surgical site infections, including the causative
15 pathogen if the infection is laboratory-confirmed, occurring in the
16 following procedures to the department:

- 17 (1) cardiac procedures, excluding thoracic cardiac
18 procedures;
- 19 (2) ventricular [~~ventriculoperitoneal~~] shunt
20 procedures; and
- 21 (3) spinal surgery with instrumentation.

22 (d-1) The executive commissioner by rule may designate the
23 federal Centers for Disease Control and Prevention's National
24 Healthcare Safety Network, or its successor, to receive reports of
25 health care-associated infections from health care facilities on
26 behalf of the department. A health care facility must file a report
27 required in accordance with a designation made under this

1 subsection in accordance with the National Healthcare Safety
2 Network's definitions, methods, requirements, and procedures. A
3 health care facility shall authorize the department to have access
4 to facility-specific data contained in a report filed with the
5 National Healthcare Safety Network in accordance with a designation
6 made under this subsection.

7 SECTION 5.04. Section 98.1045, Health and Safety Code, as
8 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,
9 Regular Session, 2007, is amended by adding Subsection (c) to read
10 as follows:

11 (c) The executive commissioner by rule may designate an
12 agency of the United States Department of Health and Human Services
13 to receive reports of preventable adverse events by health care
14 facilities on behalf of the department. A health care facility
15 shall authorize the department to have access to facility-specific
16 data contained in a report made in accordance with a designation
17 made under this subsection.

18 SECTION 5.05. Subchapter C, Chapter 98, Health and Safety
19 Code, as added by Chapter 359 (S.B. 288), Acts of the 80th
20 Legislature, Regular Session, 2007, is amended by adding Sections
21 98.1046 and 98.1047 to read as follows:

22 Sec. 98.1046. PUBLIC REPORTING OF CERTAIN POTENTIALLY
23 PREVENTABLE EVENTS FOR HOSPITALS. (a) In consultation with the
24 Texas Institute of Health Care Quality and Efficiency under Chapter
25 1002, the department shall publicly report outcomes for potentially
26 preventable complications and potentially preventable readmissions
27 for hospitals.

1 (b) The department shall make the reports compiled under
2 Subsection (a) available to the public on the department's Internet
3 website.

4 Sec. 98.1047. STUDIES ON LONG-TERM CARE FACILITY REPORTING
5 OF ADVERSE HEALTH CONDITIONS. (a) The department shall study which
6 adverse health conditions commonly occur in long-term care
7 facilities and, of those health conditions, which are potentially
8 preventable.

9 (b) The department shall develop recommendations for
10 reporting adverse health conditions identified under Subsection
11 (a).

12 SECTION 5.06. Section 98.105, Health and Safety Code, as
13 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,
14 Regular Session, 2007, is amended to read as follows:

15 Sec. 98.105. REPORTING SYSTEM MODIFICATIONS. Based on the
16 recommendations of the advisory panel, the executive commissioner
17 by rule may modify in accordance with this chapter the list of
18 procedures that are reportable under Section 98.103 [~~or 98.104~~].
19 The modifications must be based on changes in reporting guidelines
20 and in definitions established by the federal Centers for Disease
21 Control and Prevention.

22 SECTION 5.07. Sections 98.106(a) and (b), Health and Safety
23 Code, as added by Chapter 359 (S.B. 288), Acts of the 80th
24 Legislature, Regular Session, 2007, are amended to read as follows:

25 (a) The department shall compile and make available to the
26 public a summary, by health care facility, of:

27 (1) the infections reported by facilities under

1 Section [~~Sections~~] 98.103 [~~and 98.104~~]; and

2 (2) the preventable adverse events reported by
3 facilities under Section 98.1045.

4 (b) Information included in the departmental summary with
5 respect to infections reported by facilities under Section
6 [~~Sections~~] 98.103 [~~and 98.104~~] must be risk adjusted and include a
7 comparison of the risk-adjusted infection rates for each health
8 care facility in this state that is required to submit a report
9 under Section [~~Sections~~] 98.103 [~~and 98.104~~].

10 SECTION 5.08. Subchapter C, Chapter 98, Health and Safety
11 Code, as added by Chapter 359 (S.B. 288), Acts of the 80th
12 Legislature, Regular Session, 2007, is amended by adding Section
13 98.1065 to read as follows:

14 Sec. 98.1065. INCENTIVES; RECOGNITION FOR HEALTH CARE
15 QUALITY. (a) The department, in consultation with the Texas
16 Institute of Health Care Quality and Efficiency, shall develop a
17 recognition program to recognize exemplary health care providers
18 and health care facilities for superior quality of health care.

19 (b) The department may:

20 (1) make available to the public the list of exemplary
21 providers and facilities recognized under this section; and

22 (2) authorize the providers or facilities to use the
23 receipt of the recognition in their advertising materials.

24 (c) The executive commissioner of the Health and Human
25 Services Commission may adopt rules to implement this section.

26 SECTION 5.09. Section 98.108, Health and Safety Code, as
27 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,

1 Regular Session, 2007, is amended to read as follows:

2 Sec. 98.108. FREQUENCY OF REPORTING. In consultation with
3 the advisory panel, the executive commissioner by rule shall
4 establish the frequency of reporting by health care facilities
5 required under Sections 98.103[~~, 98.104,~~] and 98.1045. Facilities
6 may not be required to report more frequently than monthly
7 [~~quarterly~~].

8 SECTION 5.10. Section 98.110, Health and Safety Code, as
9 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,
10 Regular Session, 2007, is amended to read as follows:

11 Sec. 98.110. DISCLOSURE AMONG CERTAIN AGENCIES. (a)
12 Notwithstanding any other law, the department may disclose
13 information reported by health care facilities under Section
14 98.103[~~, 98.104,~~] or 98.1045 to other programs within the
15 department, to the Health and Human Services Commission, [~~and~~] to
16 other health and human services agencies, as defined by Section
17 531.001, Government Code, and to the federal Centers for Disease
18 Control and Prevention for public health research or analysis
19 purposes only, provided that the research or analysis relates to
20 health care-associated infections or preventable adverse events.
21 The privilege and confidentiality provisions contained in this
22 chapter apply to such disclosures.

23 (b) If the executive commissioner designates an agency of
24 the United States Department of Health and Human Services to
25 receive reports of health care-associated infections or
26 preventable adverse events, that agency may use the information
27 submitted for purposes allowed by federal law.

1 SECTION 5.11. Section 98.104, Health and Safety Code, as
2 added by Chapter 359 (S.B. 288), Acts of the 80th Legislature,
3 Regular Session, 2007, is repealed.

4 ARTICLE 6. INFORMATION MAINTAINED BY DEPARTMENT OF STATE HEALTH
5 SERVICES

6 SECTION 6.01. Section 108.002, Health and Safety Code, is
7 amended by adding Subdivisions (4-a) and (8-a) and amending
8 Subdivision (7) to read as follows:

9 (4-a) "Commission" means the Health and Human Services
10 Commission.

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

13 (8-a) "Executive commissioner" means the executive
14 commissioner of the Health and Human Services Commission.

15 SECTION 6.02. Chapter 108, Health and Safety Code, is
16 amended 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 Texas Health Care Information
19 Council under this chapter were transferred to the Department of
20 State Health Services in accordance with Section 1.19, Chapter 198
21 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

22 (b) In this chapter or other law, a reference to the Texas
23 Health Care Information Council means the Department of State
24 Health Services.

25 SECTION 6.03. Section 108.009(h), Health and Safety Code,
26 is amended to read as follows:

27 (h) The department [~~council~~] shall coordinate data

1 collection with the data submission formats used by hospitals and
 2 other providers. The department [~~council~~] shall accept data in the
 3 format developed by the American National Standards Institute
 4 [~~National Uniform Billing Committee (Uniform Hospital Billing Form~~
 5 ~~UB 92) and HCFA-1500~~] or its successor [~~their successors~~] or other
 6 nationally [~~universally~~] accepted standardized forms that
 7 hospitals and other providers use for other complementary purposes.

8 SECTION 6.04. Section 108.013, Health and Safety Code, is
 9 amended by amending Subsections (a), (b), (c), (d), (g), (i), and
 10 (j) and adding Subsections (k), (l), (m), and (n) to read as
 11 follows:

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

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

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

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

27 (2) that could reasonably be expected to reveal the

1 identity of a physician;

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

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

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

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

14 (1) Section 311.037;

15 (2) Section 81.103; and

16 (3) Section 159.002, Occupations Code.

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

22 (i) Notwithstanding any other law and except as provided by
23 this section, the [~~council and the~~] department may not provide
24 information made confidential by this section to any other agency
25 of this state.

26 (j) The executive commissioner [~~council~~] shall by rule[
27 ~~with the assistance of the advisory committee under Section~~

1 ~~108.003(g)(5),~~ develop and implement a mechanism to comply with
2 Subsections (c)(1) and (2).

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

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

13 (m) The following provisions do not apply to the disclosure
14 of data to a department or commission program:

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

20 (n) Nothing in this section authorizes the disclosure of
21 physician identifying data.

22 SECTION 6.05. Section 108.0135, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 108.0135. INSTITUTIONAL [~~SCIENTIFIC~~] REVIEW BOARD
25 [~~PANEL~~]. (a) The department [~~council~~] shall establish an
26 institutional [~~a scientific~~] review board [~~panel~~] to review and
27 approve requests for access to data not contained in [~~information~~

1 ~~other than~~] public use data. The members of the institutional
2 review board must [~~panel shall~~] have experience and expertise in
3 ethics, patient confidentiality, and health care data.

4 (b) To assist the institutional review board [~~panel~~] in
5 determining whether to approve a request for information, the
6 executive commissioner [~~council~~] shall adopt rules similar to the
7 federal Centers for Medicare and Medicaid Services' [~~Health Care~~
8 ~~Financing Administration's~~] guidelines on releasing data.

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

12 (d) Any approval to release information under this section
13 must require that the confidentiality provisions of this chapter be
14 maintained and that any subsequent use of the information conform
15 to the confidentiality provisions of this chapter.

16 SECTION 6.06. Sections 108.002(5) and (18), 108.0025, and
17 108.009(c), Health and Safety Code, are repealed.

18 ARTICLE 7. EFFECTIVE DATE

19 SECTION 7.01. This Act takes effect September 1, 2011.