

AN ACT

relating to health care data collected by the Department of State Health Services and access to certain confidential patient information within the department, including data and confidential patient information concerning bleeding and clotting disorders, and other issues related to bleeding and clotting disorders.

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

SECTION 1. Subtitle E, Title 2, Health and Safety Code, is amended by adding Chapter 103A to read as follows:

CHAPTER 103A. TEXAS BLEEDING DISORDERS ADVISORY COUNCIL

Sec. 103A.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of state health services.

(2) "Council" means the Texas Bleeding Disorders Advisory Council.

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

(4) "Hemophilia" has the meaning assigned by Section 41.001.

Sec. 103A.002. COMPOSITION OF COUNCIL. (a) The council is composed of:

(1) the commissioner and the commissioner of insurance, or their designees, serving as nonvoting members; and

(2) 10 voting members jointly appointed by the

1 commissioner and the commissioner of insurance as follows:

2 (A) one member who is a physician licensed to
3 practice medicine in this state under Subtitle B, Title 3,
4 Occupations Code, who at the time of appointment treats individuals
5 with hemophilia or other bleeding or clotting disorders;

6 (B) one member who is a nurse licensed under
7 Chapter 301, Occupations Code, who at the time of appointment
8 treats individuals with hemophilia or other bleeding or clotting
9 disorders;

10 (C) one member who is a social worker licensed
11 under Chapter 505, Occupations Code, who at the time of appointment
12 treats individuals with hemophilia or other bleeding or clotting
13 disorders;

14 (D) one member who is a representative of a
15 hemophilia treatment center in this state that is federally funded;

16 (E) one member who is a representative of a
17 health insurer or other health benefit plan issuer that holds a
18 certificate of authority issued by the Texas Department of
19 Insurance;

20 (F) one member who is a representative of a
21 volunteer or nonprofit health organization that serves residents of
22 this state who have hemophilia or another bleeding or clotting
23 disorder;

24 (G) one member who has hemophilia or is a
25 caregiver of a person with hemophilia;

26 (H) one member who has a bleeding disorder other
27 than hemophilia or is a caregiver of a person with a bleeding

1 disorder other than hemophilia;

2 (I) one member who has a clotting disorder or is a
3 caregiver of a person with a clotting disorder; and

4 (J) one member who is a pharmacist licensed under
5 Subtitle J, Title 3, Occupations Code, with hemophilia therapy
6 experience, who at the time of appointment represents a pharmacy
7 provider that is not a specialty pharmacy provider participating in
8 the Drug Pricing Program under Section 340B, Public Health Service
9 Act (42 U.S.C. Section 256b).

10 (b) In addition to council members appointed under
11 Subsection (a), the commissioner and the commissioner of insurance
12 may jointly appoint up to five nonvoting members, including:

13 (1) persons with hemophilia or other bleeding or
14 clotting disorders or caregivers of persons with hemophilia or
15 other bleeding or clotting disorders; and

16 (2) persons experienced in the diagnosis, treatment,
17 care, and support of persons with hemophilia or other bleeding or
18 clotting disorders.

19 Sec. 103A.003. VACANCY. If a vacancy occurs on the council,
20 the commissioner and the commissioner of insurance shall jointly
21 appoint a person to serve for the remainder of the unexpired term.

22 Sec. 103A.004. PRESIDING OFFICER. Council members shall
23 elect from among the voting council members a presiding officer.
24 The presiding officer retains all voting rights.

25 Sec. 103A.005. COMPENSATION AND REIMBURSEMENT. A council
26 member may not:

27 (1) receive compensation for service on the council;

1 and

2 (2) be reimbursed for actual and necessary expenses
3 incurred while performing council business except to the extent
4 that money available under Section 103A.009 is designated for that
5 purpose.

6 Sec. 103A.006. MEETINGS. The council shall meet at least
7 quarterly and at the call of the commissioner or presiding officer.

8 Sec. 103A.007. DUTIES OF COUNCIL. The council using
9 existing resources may conduct studies and advise the department,
10 the Health and Human Services Commission, and the Texas Department
11 of Insurance on:

12 (1) public use data, outcome data, and other
13 information submitted to or collected by the department under
14 Chapter 108 or other law related to hemophilia or other bleeding or
15 clotting disorders and the department's disclosure and
16 dissemination of that information within and outside the
17 department; and

18 (2) other issues that affect the health and wellness
19 of persons living with hemophilia or other bleeding or clotting
20 disorders.

21 Sec. 103A.008. ANNUAL REPORTS BY COUNCIL AND COMMISSIONER.

22 (a) Not later than December 1 of each even-numbered year, the
23 council using existing resources shall submit a report of its
24 findings and recommendations to the governor, the lieutenant
25 governor, and the speaker of the house of representatives. The
26 council's report must be made public and is subject to public review
27 and comment before adoption by the council.

1 (b) Not later than six months after the date the council's
2 annual report is issued, the commissioner shall report on efforts
3 to implement the recommendations in the report. The commissioner's
4 annual report must:

5 (1) be made available to the public; and

6 (2) include any related state or national activities
7 in which the council participates.

8 Sec. 103A.009. GIFTS, GRANTS, AND DONATIONS. The
9 commissioner may accept for the council gifts, grants, and
10 donations to fulfill the council's purposes and duties under this
11 chapter. The department is not required to perform any
12 fund-raising activities or to solicit donations for the council.

13 Sec. 103A.010. CERTAIN FUNDING PROHIBITED. The council may
14 not accept any funds that are appropriated by the legislature for
15 the state fiscal biennium beginning September 1, 2011. This
16 section expires September 1, 2013.

17 Sec. 103A.011. EXPIRATION. This chapter expires and the
18 council is abolished September 1, 2015.

19 SECTION 2. Section 108.002, Health and Safety Code, is
20 amended by amending Subdivision (7) and adding Subdivision (8-a) to
21 read as follows:

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

24 (8-a) "Executive commissioner" means the executive
25 commissioner of the Health and Human Services Commission.

26 SECTION 3. Chapter 108, Health and Safety Code, is amended
27 by adding Section 108.0026 to read as follows:

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

2 (a) The powers and duties of the Texas Health Care Information
3 Council under this chapter were transferred to the Department of
4 State Health Services in accordance with Section 1.19, Chapter 198
5 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

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

9 SECTION 4. Subsection (h), Section 108.009, Health and
10 Safety Code, is amended to read as follows:

11 (h) The department [~~council~~] shall coordinate data
12 collection with the data submission formats used by hospitals and
13 other providers. The department [~~council~~] shall accept data in the
14 format developed by the American National Standards Institute
15 [~~National Uniform Billing Committee (Uniform Hospital Billing Form~~
16 ~~UB 92) and HCFA-1500~~] or its successor [~~their successors~~] or other
17 nationally [~~universally~~] accepted standardized forms that
18 hospitals and other providers use for other complementary purposes.

19 SECTION 5. Section 108.013, Health and Safety Code, is
20 amended by amending Subsections (a), (b), (c), (d), (g), (i), and
21 (j) and adding Subsections (k), (l), (m), and (n) to read as
22 follows:

23 (a) The data received by the department under this chapter
24 [~~council~~] shall be used by the department [~~council~~] for the benefit
25 of the public. Subject to specific limitations established by this
26 chapter and executive commissioner [~~council~~] rule, the department
27 [~~council~~] shall make determinations on requests for information in

1 favor of access.

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

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

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

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

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

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

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

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

25 (1) Section 311.037;

26 (2) Section 81.103; and

27 (3) Section 159.002, Occupations Code.

1 (g) Except as provided by Subsection (i), the department
2 ~~[The council]~~ may not release data elements in a manner that will
3 reveal the identity of:

4 (1) a patient; or

5 (2) ~~[. The council may not release data elements in a~~
6 ~~manner that will reveal the identity of]~~ a physician.

7 (i) Notwithstanding any other law, the ~~[council and the]~~
8 department may ~~[not]~~ provide information made confidential by this
9 section to the Health and Human Services Commission or a health and
10 human services agency as defined by Section 531.001(4), Government
11 Code, provided that the receiving agency has appropriate controls
12 in place to ensure the confidentiality of any personal information
13 contained in the information shared by the department under this
14 subsection is subject to the limits on further disclosure described
15 by Subsection (d) [any other agency of this state].

16 (j) The executive commissioner ~~[council]~~ shall by rule~~[,~~
17 ~~with the assistance of the advisory committee under Section~~
18 ~~108.003(g)(5),]~~ develop and implement a mechanism to comply with
19 Subsections (c)(1) and (2).

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

24 (l) Confidential data collected under this chapter that is
25 disclosed to a program within the department remains subject to the
26 confidentiality provisions of this chapter and other applicable
27 law. The department shall identify the confidential data that is

1 disclosed to a program under Subsection (k). The program shall
2 maintain the confidentiality of the disclosed confidential data.

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

- 5 (1) Section 81.103;
- 6 (2) Sections 108.010(g) and (h);
- 7 (3) Sections 108.011(e) and (f);
- 8 (4) Section 311.037; and
- 9 (5) Section 159.002, Occupations Code.

10 (n) Nothing in this section authorizes the disclosure of
11 physician identifying data.

12 SECTION 6. Section 108.0135, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 108.0135. INSTITUTIONAL [~~SCIENTIFIC~~] REVIEW BOARD
15 [~~PANEL~~]. (a) The department [~~council~~] shall establish an
16 institutional [~~a scientific~~] review board [~~panel~~] to review and
17 approve requests for access to data not contained in [~~information~~
18 ~~other than~~] public use data. The members of the institutional
19 review board must [~~panel shall~~] have experience and expertise in
20 ethics, patient confidentiality, and health care data.

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

26 (c) A request for information other than public use data
27 must be made on the form prescribed [~~created~~] by the department

1 [~~council~~].

2 (d) Any approval to release information under this section
3 must require that the confidentiality provisions of this chapter be
4 maintained and that any subsequent use of the information conform
5 to the confidentiality provisions of this chapter.

6 SECTION 7. Subdivision (5), Section 108.002, Health and
7 Safety Code, is repealed.

8 SECTION 8. As soon as practicable after the effective date
9 of this Act and not later than December 1, 2011, the commissioner of
10 state health services and the commissioner of insurance shall
11 jointly appoint members to the Texas Bleeding Disorders Advisory
12 Council as required by Section 103A.002, Health and Safety Code, as
13 added by this Act.

14 SECTION 9. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 156 passed the Senate on March 17, 2011, by the following vote: Yeas 31, Nays 0; May 24, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 2011, House granted request of the Senate; May 28, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 156 passed the House, with amendments, on May 17, 2011, by the following vote: Yeas 112, Nays 34, one present not voting; May 26, 2011, House granted request of the Senate for appointment of Conference Committee; May 28, 2011, House adopted Conference Committee Report by the following vote: Yeas 97, Nays 45, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor