

1-1 By: Huffman S.B. No. 156
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; February 22, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 February 22, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 156 By: Huffman

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to health care data collected by the Department of State
1-11 Health Services and access to certain confidential patient
1-12 information within the department.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 108.002, Health and Safety Code, is
1-15 amended by amending Subdivision (7) and adding Subdivision (8-a) to
1-16 read as follows:

1-17 (7) "Department" means the ~~[Texas]~~ Department of State
1-18 Health Services.

1-19 (8-a) "Executive commissioner" means the executive
1-20 commissioner of the Health and Human Services Commission.

1-21 SECTION 2. Chapter 108, Health and Safety Code, is amended
1-22 by adding Section 108.0026 to read as follows:

1-23 Sec. 108.0026. TRANSFER OF DUTIES; REFERENCE TO COUNCIL.

1-24 (a) The powers and duties of the Texas Health Care Information
1-25 Council under this chapter were transferred to the Department of
1-26 State Health Services in accordance with Section 1.19, Chapter 198
1-27 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003.

1-28 (b) In this chapter or other law, a reference to the Texas
1-29 Health Care Information Council means the Department of State
1-30 Health Services.

1-31 SECTION 3. Subsection (h), Section 108.009, Health and
1-32 Safety Code, is amended to read as follows:

1-33 (h) The department ~~[council]~~ shall coordinate data
1-34 collection with the data submission formats used by hospitals and
1-35 other providers. The department ~~[council]~~ shall accept data in the
1-36 format developed by the American National Standards Institute
1-37 [National Uniform Billing Committee (Uniform Hospital Billing Form
1-38 UB 92) and HCFA-1500] or its successor ~~[their successors]~~ or other
1-39 nationally ~~[universally]~~ accepted standardized forms that
1-40 hospitals and other providers use for other complementary purposes.

1-41 SECTION 4. Section 108.013, Health and Safety Code, is
1-42 amended by amending Subsections (a), (b), (c), (d), (g), (i), and
1-43 (j) and adding Subsections (k), (l), (m), and (n) to read as
1-44 follows:

1-45 (a) The data received by the department under this chapter
1-46 ~~[council]~~ shall be used by the department ~~[council]~~ for the benefit
1-47 of the public. Subject to specific limitations established by this
1-48 chapter and executive commissioner ~~[council]~~ rule, the department
1-49 ~~[council]~~ shall make determinations on requests for information in
1-50 favor of access.

1-51 (b) The executive commissioner ~~[council]~~ by rule shall
1-52 designate the characters to be used as uniform patient identifiers.
1-53 The basis for assignment of the characters and the manner in which
1-54 the characters are assigned are confidential.

1-55 (c) Unless specifically authorized by this chapter, the
1-56 department ~~[council]~~ may not release and a person or entity may not
1-57 gain access to any data obtained under this chapter:

1-58 (1) that could reasonably be expected to reveal the
1-59 identity of a patient;

1-60 (2) that could reasonably be expected to reveal the
1-61 identity of a physician;

1-62 (3) disclosing provider discounts or differentials
1-63 between payments and billed charges;

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

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

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

(1) Section 311.037;

(2) Section 81.103; and

(3) Section 159.002, Occupations Code.

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

(1) a patient; or

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

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

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

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

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

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

(1) Section 81.103;

(2) Sections 108.010(g) and (h);

(3) Sections 108.011(e) and (f);

(4) Section 311.037; and

(5) Section 159.002, Occupations Code.

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

SECTION 5. Section 108.0135, Health and Safety Code, is amended to read as follows:

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

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

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

(d) Any approval to release information under this section

3-1 must require that the confidentiality provisions of this chapter be
3-2 maintained and that any subsequent use of the information conform
3-3 to the confidentiality provisions of this chapter.

3-4 SECTION 6. Subdivision (5), Section 108.002, Health and
3-5 Safety Code, is repealed.

3-6 SECTION 7. This Act takes effect immediately if it receives
3-7 a vote of two-thirds of all the members elected to each house, as
3-8 provided by Section 39, Article III, Texas Constitution. If this
3-9 Act does not receive the vote necessary for immediate effect, this
3-10 Act takes effect September 1, 2011.

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