

## **BILL ANALYSIS**

Senate Research Center  
85R23635 SMT-F

H.B. 3124  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The health care marketplace is continuing to change and drive medical practice consolidation. This is a concern for individual and small group physician practices who want to remain independent and run their own practices. To foster the continued viability of local physician practices it is important to permit collaborations and information sharing between insurers and physician-led accountable care organizations (ACOs). Doctors who participate in an ACO have agreed to be paid based on outcomes rather than the number of services they perform and could benefit from having access to cost comparison data to make informed treatment decisions.

Current law limits how insurers may disclose information to physicians and the public about the total cost of care physicians provide. An evaluation period prior to disclosing information to physicians and others can delay feedback to physicians about their practice patterns for several months.

Small physician practices, and some large practices, do not have the basic cost data they need to ensure they are providing the best care in the most efficient manner. Insurers have that data and should be permitted to provide it to doctors quickly. H.B. 3124 seeks to facilitate this information sharing by authorizing a health benefit plan issuer to provide cost comparison data to physicians who participate in ACOs and to companies controlled by long established professional medical societies.

H.B. 3124 amends current law relating to certain physician-specific comparison data compiled by a health benefit plan issuer, including the release of that data to physicians participating in certain physician-led organizations.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance (commissioner) in SECTION 8 (Section 1460.061, Insurance Code) of this bill.

Rulemaking authority previously granted to the commissioner is modified in SECTION 6 (1460.005, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Chapter 1460, Insurance Code, to read as follows:

CHAPTER 1460. CERTAIN PHYSICIAN RANKINGS AND COST COMPARISONS BY  
HEALTH BENEFIT PLANS

SECTION 2. Amends Chapter 1460, Insurance Code, by designating Sections 1460.001 and 1460.002 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 3. Amends Section 1460.001, Insurance Code, to define "accountable care organization," "cost comparison data," "designated entity," and "participating physician," and to make nonsubstantive changes.

SECTION 4. Amends Chapter 1460, Insurance Code, by designating Sections 1460.003 through 1460.007 as Subchapter B and adding a subchapter heading to read as follows:

#### SUBCHAPTER B. PHYSICIAN RANKINGS

SECTION 5. Amends Section 1460.003(a), Insurance Code, to create an exception to the prohibition on certain rankings or classifications of physicians as provided by Subchapter C.

SECTION 6. Amends Section 1460.005(a), Insurance Code, to require the commissioner of insurance (commissioner) to adopt rules as necessary to implement this subchapter, rather than this chapter (Standards Required Regarding Certain Physician Rankings by Health Benefit Plans).

SECTION 7. Amends Sections 1460.006 and 1460.007, Insurance Code, to make conforming changes.

SECTION 8. Amends Chapter 1460, Insurance Code, by adding Subchapter C, as follows:

#### SUBCHAPTER C. COST COMPARISON DATA

Sec. 1460.051. PROVISION OF COST COMPARISON DATA AUTHORIZED. Authorizes a health benefit plan issuer (HBPI), notwithstanding Section 1460.003, to provide cost comparison data to a participating physician or a designated entity.

Sec. 1460.052. PROVISION OF CERTAIN COST COMPARISON DATA REQUIRED. Requires the HBPI, if cost comparison data associated with health care providers other than physicians is available to an HBPI that provides cost comparison data under Section 1460.051, to provide the cost comparison data associated with the other health care providers.

Sec. 1460.053. REQUIRED DISCLOSURES. Requires the HBPI, not later than the 15th business day after the date that an HBPI receives a request from a participating physician, to disclose certain information to the physician.

Sec. 1460.054. RIGHT TO DISPUTE. (a) Requires an HBPI to give a physician, regardless of whether the physician is a participating physician, a fair opportunity to dispute the cost comparison data associated with the physician at least once each calendar quarter and when the HBPI changes the measures and methodology described by Section 1460.053.

(b) Authorizes a physician to initiate a dispute by sending to the HBPI a written statement of the dispute.

Sec. 1460.055. DISPUTE PROCEEDING. (a) Requires an HBPI, not later than the 15th business day after the date the HBPI receives a statement of the dispute under Section 1460.054, to provide the cost comparison data associated with the physician, the measures and methodology used to compare costs, and any other information considered in making the cost comparison, unless the information was already provided under Section 1460.052.

(b) Requires the HBPI, in addition to any written fair reconsideration process, to provide a cost comparison data dispute proceeding, at the physician's option, by teleconference, at an agreed upon time, or in person, at an agreed upon time.

(c) Provides that at the proceeding described by Subsection (b), the physician has the right to provide information to a decision-maker, have a representative participate in the proceeding, and submit a written statement at the conclusion of the proceeding.

(d) Requires the HBPI to provide to the physician who initiated the dispute process under Section 1460.054 a written communication of the outcome of the proceeding not later than the 60th day after the date the physician initiated the dispute process. Requires that the written communication include the specific reasons for the final decision.

Sec. 1460.056. CORRECTIONS REQUIRED. Requires the HBPI, if in a dispute process initiated under Section 1460.054 the HBPI determines that the physician's cost comparison data is inaccurate or the measures and methodology used to compare costs are invalid, to promptly correct the data or update the measures and methodology and associated data, as applicable.

Sec. 1460.057. MEASURES AND METHODOLOGY. Requires that the measures and methodology used to compare costs under this subchapter use risk and severity adjustments to account for health status differences among different patient populations.

Sec. 1460.058. NOTICE REQUIRED. Requires an HBPI to provide written notice to a physician who contracts with the HBPI that explains certain information relating to cost comparison data and informs the physician of the physician's rights and duties under this subchapter.

Sec. 1460.059. CONFIDENTIALITY. Prohibits a physician who receives cost comparison data about another physician under this subchapter from disclosing the data to any other person, except for certain purposes.

Sec. 1460.060. CONSTRUCTION OF SUBCHAPTER. Provides that nothing in this subchapter may be construed to authorize the disclosure of a contract rate or the publication of cost comparison data to a person other than a participating physician or a designated entity.

Sec. 1460.061. RULES. Requires the commissioner to adopt rules as necessary to implement this subchapter.

Sec. 1460.062. DUTIES OF HEALTH BENEFIT PLAN ISSUER. Requires an HBPI to ensure that physicians currently in clinical practice are actively involved in the development of the standards used under this subchapter and that the measures and methodology used in the development of cost comparison data described by this subchapter are transparent and valid.

Sec. 1460.063. SANCTIONS; DISCIPLINARY ACTIONS. (a) Provides that an HBPI that violates this subchapter or a rule adopted under this subchapter is subject to sanctions and disciplinary actions under Chapters 82 (Sanctions) and 84 (Administrative Penalties).

(b) Provides that a violation of this subchapter by a physician constitutes ground for disciplinary action by the Texas Medical Board, including imposition of an administrative penalty.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2017.