

BILL ANALYSIS

Senate Research Center
88R12309 KBB-F

S.B. 2045
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The all payor claims database (APCD) is a database of health care claims files created by H.B. 2090 during the 87th Legislature, Regular Session, 2021. All "payers" (mostly insurance companies) that are subject to Texas law must submit claims forms to APCD. The APCD is administered by The University of Texas School of Public Health and overseen by the Texas Department of Insurance. The data within it is fully de-identified, meaning that patient privacy is always fully protected.

The data that is being collected is excellent, but researchers face severe restrictions on what they can publish, which limits the APCD from reaching its full potential. Specifically, current law prohibits the reporting of any information from the APCD that might identify a medical provider or insurer by name.

Because of these restrictions, the database is not a useable source of information for many researchers, like the RAND Corporation, which has been producing periodic reports on the value and effectiveness of employer-sponsored health plans. At least 11 other states have APCDs that RAND has been able to utilize in producing these reports.

Ensuring the usefulness of the APCD can improve the integrity of research around the quality and cost of medical care.

S.B. 2045 allows three types of entities to access the data, with different restrictions on what each group can access and report on. These access and reporting rights are tailored to balance the public's interest in having access to the information while protecting competitive interests within the market and reducing both conflicts of interests and improper use of the data by market participants.

As proposed, S.B. 2045 amends current law relating to data or information collected by the statewide all payor claims database and the composition of the stakeholder advisory group.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 38.402, Insurance Code, by amending Subdivision (9) and adding Subdivisions (9-a) and (9-b) to redefine "qualified research entity" and define "qualified market consultant entity" and "qualified market participant entity."

SECTION 2. Amends Section 38.403(b), Insurance Code, as follows:

(b) Requires that the advisory group created under Section 38.403 (Stakeholder Advisory Group) be composed of certain persons, including 12 members designated by the governor, rather than by the Center for Healthcare Data at The University of Texas Health Science Center at Houston (center), including persons meeting certain criteria.

SECTION 3. Amends Section 38.404, Insurance Code, by adding Subsection (c-1) to prohibit the center, notwithstanding Subsection (c) (relating to requiring the center, in determining the information the payor is required to submit to the center under Subchapter I (Texas All Payor Claims Database), to consider requiring inclusion of information useful to certain entities for certain purposes), from requiring the submission of data that is not included in a standard claim form.

SECTION 4. Amends Section 38.405(c), Insurance Code, as follows:

(c) Provides that any information or data that is accessible through the portal created under Section 38.405 (Public Access Portal):

(1) makes no changes to this subdivision;

(2) is authorized, rather than required, to be aggregated by like Current Procedural Terminology codes and health care services in a statewide, regional, local, metropolitan, zip-code, or geozip area; and

(3) makes no changes to this subdivision.

SECTION 5. Amends Subchapter I, Chapter 38, Insurance Code, by adding Section 38.4055, as follows:

Sec. 38.4055. APPLICATION FOR ACCESS TO CERTAIN DATA OR INFORMATION IN DATABASE. (a) Requires an entity seeking to access data or information that is contained in the database but not accessible through the portal described by Section 38.405 to submit an application to the center for access to that data or information. Requires that the application include:

(1) the sources and identity of all funding and funders of the research the entity will perform;

(2) the names of all individuals who are authorized to have access to the data or information that is contained in the database but not accessible through the portal described by Section 38.405, and any affiliations those individuals have with entities other than the entity submitting the application;

(3) the proposed study, research, or project that the entity plans to undertake, including any anticipated final product from the research;

(4) how the proposed research will further the purposes of this subchapter, improve the quality of care, or reduce the cost of care; and

(5) a statement of whether access is sought as a qualified research entity, qualified market participant entity, or qualified market consultant entity.

(b) Requires the center to review all applications in a timely manner and approve applications under the applicable terms of Sections 38.406(b), (b-1), and (b-2) unless the application is incomplete, the application fails to establish that access to the data or information would be likely to improve the quality of care or reduce the cost of care in this state, or the applicant does not qualify as the type of entity identified in the application.

(c) Requires the center, if the center denies an application, to identify with particularity the deficiencies in the application.

(d) Provides that the application, if the center does not affirmatively approve or deny an application before the 31st day after the date the application is submitted, is considered approved.

SECTION 6. Amends Section 38.406, Insurance Code, by amending Subsections (a), (b), (c), and (d) and adding Subsections (b-1) and (b-2), as follows:

(a) Creates exceptions under Subsections (b), (b-1), and (b-2). Makes a nonsubstantive change.

(b) Authorizes a qualified research entity to access data or information that is contained in the database but not accessible through the portal described in Section 38.405, and provides that the qualified research entity:

(1) is authorized to use the data or information contained in the database only for purposes consistent with the purposes of this subchapter and is required to use the data or information in accordance with standards, requirements, policies, and procedures established by the center in consultation with the stakeholder advisory group;

(2) makes a conforming change to this subdivision; and

(3) is authorized to report or publish data or information that identifies one or more health care providers, health benefit plans, health benefit plan issuers, or other payors only if reporting or publishing furthers the purposes of this subchapter, rather than is prohibited from using the information contained in the database for a commercial purpose.

Makes nonsubstantive changes.

(b-1) Provides that a qualified market participant entity is authorized to access data or information that is contained in the database but not accessible through the portal described by Section 38.405 only to the extent that the data or information regards a patient who was at one time treated by or whose care was at one time paid for by the qualified market participant entity, and the qualified market participant entity:

(1) is authorized to use the data or information contained in the database only for purposes consistent with the purposes of this subchapter and is required to use the data or information in accordance with standards, requirements, policies, and procedures established by the center in consultation with the stakeholder advisory group;

(2) is prohibited from selling or sharing any data or information contained in the database; and

(3) is prohibited from publicly reporting or publishing data or information that identifies a health care provider, health benefit plan, health benefit plan issuer, or other payor.

(b-2) Authorizes a qualified market consultant entity to access data or information that is contained in the database but not accessible through the portal described by Section 38.405, and provides that the qualified market consultant entity:

(1) is authorized to use the data or information contained in the database only for purposes consistent with the purposes of this subchapter and is required to use the data or information in accordance with standards, requirements, policies, and procedures established by the center in consultation with the stakeholder advisory group;

(2) is prohibited from selling or sharing any data or information contained in the database; and

(3) is prohibited from publicly reporting or publishing data or information that identifies a health care provider, health benefit plan, health benefit plan issuer, or other payor.

(c) Requires a qualified research entity, qualified market participant entity, or qualified market consultant entity with access to data or information that is contained in the database but not accessible through the portal to execute an agreement with the center relating to the entity's, rather than the qualified research entity's, compliance with the requirements of certain subsections, including Subsections (b-1), and (b-2), as applicable, rather than certain subsections, including the confidentiality of information contained in the database but not accessible through the portal.

(d) Makes a nonsubstantive change to this subsection.

SECTION 7. Authorizes a member of the advisory group serving under Section 38.403(b), Insurance Code, immediately before the effective date of this Act, notwithstanding the amendment by this Act of that section, to continue to serve until the end of the member's term. Requires the governor to designate advisory group members under that section to fill vacancies that arise on or after the effective date of this Act.

SECTION 8. Effective date: upon passage or September 1, 2023.