

By: Hancock

S.B. No. 2045

A BILL TO BE ENTITLED

AN ACT

1
2 relating to data or information collected by the statewide all
3 payor claims database and the composition of the stakeholder
4 advisory group.

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

6 SECTION 1. Section 38.402, Insurance Code, is amended by
7 amending Subdivision (9) and adding Subdivisions (9-a) and (9-b) to
8 read as follows:

9 (9) "Qualified research entity" means:

10 (A) an organization engaging in public interest
11 research for the purpose of analyzing the delivery of health care in
12 this state that is exempt from federal income tax under Section
13 501(a), Internal Revenue Code of 1986, by being listed as an exempt
14 organization in Section 501(c)(3) of that code; or

15 (B) an institution of higher education engaged in
16 public interest research related to the delivery of health care in
17 this state [~~, or~~

18 [~~(C) a health care provider in this state
19 engaging in efforts to improve the quality and cost of health care]~~].

20 (9-a) "Qualified market consultant entity" means a
21 commercial entity that consults regarding the design of health
22 benefit plans in this state and is engaging in efforts to improve
23 the quality and cost of health care.

24 (9-b) "Qualified market participant entity" means a

1 health care provider or payor engaging in efforts to improve the
2 quality and cost of health care in this state.

3 SECTION 2. Section 38.403(b), Insurance Code, is amended to
4 read as follows:

5 (b) The advisory group created under this section must be
6 composed of:

7 (1) the state Medicaid director or the director's
8 designee;

9 (2) a member designated by the Teacher Retirement
10 System of Texas;

11 (3) a member designated by the Employees Retirement
12 System of Texas; and

13 (4) 12 members designated by the governor ~~[center]~~,
14 including:

15 (A) two members representing the business
16 community, with at least one of those members representing small
17 businesses that purchase health benefits but are not involved in
18 the provision of health care services, supplies, or devices or
19 health benefit plans;

20 (B) two members who represent consumers and who
21 are not professionally involved in the purchase, provision,
22 administration, or review of health care services, supplies, or
23 devices or health benefit plans, with at least one member
24 representing the behavioral health community;

25 (C) two members representing hospitals that are
26 licensed in this state;

27 (D) two members representing health benefit plan

1 issuers that are regulated by the department;

2 (E) two members who are physicians licensed to
3 practice medicine in this state, one of whom is a primary care
4 physician; and

5 (F) two members who are not professionally
6 involved in the purchase, provision, administration, or review of
7 health care services, supplies, or devices or health benefit plans
8 and who have expertise in:

9 (i) health planning;

10 (ii) health economics;

11 (iii) provider quality assurance;

12 (iv) statistics or health data management;

13 or

14 (v) medical privacy laws.

15 SECTION 3. Section 38.404, Insurance Code, is amended by
16 adding Subsection (c-1) to read as follows:

17 (c-1) Notwithstanding Subsection (c), the center may not
18 require the submission of data that is not included in a standard
19 claim form.

20 SECTION 4. Section 38.405(c), Insurance Code, is amended to
21 read as follows:

22 (c) Any information or data that is accessible through the
23 portal created under this section:

24 (1) must be segmented by type of insurance or health
25 benefit plan in a manner that does not combine payment rates
26 relating to different types of insurance or health benefit plans;

27 (2) may [~~must~~] be aggregated by like Current

1 Procedural Terminology codes and health care services in a
2 statewide, regional, local, metropolitan, zip-code, or geozip
3 area; and

4 (3) may not identify a specific patient, health care
5 provider, health benefit plan, health benefit plan issuer, or other
6 payor.

7 SECTION 5. Subchapter I, Chapter 38, Insurance Code, is
8 amended by adding Section 38.4055 to read as follows:

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

15 (1) the sources and identity of all funding and
16 fundors of the research the entity will perform;

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

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

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

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

4 (b) The center shall review all applications in a timely
5 manner and approve applications under the applicable terms of
6 Sections 38.406(b), (b-1), and (b-2) unless:

7 (1) the application is incomplete;

8 (2) the application fails to establish that access to
9 the data or information would be likely to improve the quality of
10 care or reduce the cost of care in this state; or

11 (3) the applicant does not qualify as the type of
12 entity identified in the application.

13 (c) If the center denies an application, the center must
14 identify with particularity the deficiencies in the application.

15 (d) If the center does not affirmatively approve or deny an
16 application before the 31st day after the date the application is
17 submitted, the application is considered approved.

18 SECTION 6. Section 38.406, Insurance Code, is amended by
19 amending Subsections (a), (b), (c), and (d) and adding Subsections
20 (b-1) and (b-2) to read as follows:

21 (a) Except as provided by Subsections (b), (b-1), and (b-2),
22 any [Any] information that may identify a patient, health care
23 provider, health benefit plan, health benefit plan issuer, or other
24 payor is confidential and subject to applicable state and federal
25 law relating to records privacy and protected health information,
26 including Chapter 181, Health and Safety Code, and is not subject to
27 disclosure under Chapter 552, Government Code.

1 (b) A qualified research entity may ~~[with]~~ access ~~[to]~~ data
2 or information that is contained in the database but not accessible
3 through the portal described in Section 38.405, and the qualified
4 research entity:

5 (1) may use the data or information contained in the
6 database only for purposes consistent with the purposes of this
7 subchapter and must use the data or information in accordance with
8 standards, requirements, policies, and procedures established by
9 the center in consultation with the stakeholder advisory group;

10 (2) may not sell or share any data or information
11 contained in the database; and

12 (3) may report or publish data or information that
13 identifies one or more health care providers, health benefit plans,
14 health benefit plan issuers, or other payors only if reporting or
15 publishing furthers the purposes of this subchapter ~~[not use the~~
16 ~~information contained in the database for a commercial purpose]~~.

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

24 (1) may use the data or information contained in the
25 database only for purposes consistent with the purposes of this
26 subchapter and must use the data or information in accordance with
27 standards, requirements, policies, and procedures established by

1 the center in consultation with the stakeholder advisory group;

2 (2) may not sell or share any data or information
3 contained in the database; and

4 (3) may not publicly report or publish data or
5 information that identifies a health care provider, health benefit
6 plan, health benefit plan issuer, or other payor.

7 (b-2) A qualified market consultant entity may access data
8 or information that is contained in the database but not accessible
9 through the portal described by Section 38.405, and the qualified
10 market consultant entity:

11 (1) may use the data or information contained in the
12 database only for purposes consistent with the purposes of this
13 subchapter and must use the data or information in accordance with
14 standards, requirements, policies, and procedures established by
15 the center in consultation with the stakeholder advisory group;

16 (2) may not sell or share any data or information
17 contained in the database; and

18 (3) may not publicly report or publish data or
19 information that identifies a health care provider, health benefit
20 plan, health benefit plan issuer, or other payor.

21 (c) A qualified research entity, qualified market
22 participant entity, or qualified market consultant entity with
23 access to data or information that is contained in the database but
24 not accessible through the portal must execute an agreement with
25 the center relating to the [qualified research] entity's compliance
26 with the requirements of Subsections (a), [and] (b), (b-1), and
27 (b-2), as applicable [including the confidentiality of information

1 ~~contained in the database but not accessible through the portal].~~

2 (d) Notwithstanding any provision of this subchapter, the
3 department and the center may not disclose an individual's
4 protected health information in violation of any other state or
5 federal law.

6 SECTION 7. Notwithstanding the amendment by this Act of
7 Section 38.403(b), Insurance Code, a member of the advisory group
8 serving under that section immediately before the effective date of
9 this Act may continue to serve until the end of the member's term.
10 The governor shall designate advisory group members under that
11 section to fill vacancies that arise on or after the effective date
12 of this Act.

13 SECTION 8. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2023.