

By: Zerwas

H.B. No. 2641

Substitute the following for H.B. No. 2641:

By: Crownover

C.S.H.B. No. 2641

A BILL TO BE ENTITLED

AN ACT

relating to the exchange of health information in this state;
creating a criminal offense.

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

SECTION 1. Section 531.0162, Government Code, is amended by
adding Subsections (e), (f), and (g) to read as follows:

(e) The executive commissioner shall ensure that:

(1) all information systems available for use by the
commission or a health and human services agency in sending
protected health information to a health care provider or receiving
protected health information from a health care provider, and for
which planning or procurement begins on or after September 1, 2015,
are capable of sending or receiving that information in accordance
with the applicable data exchange standards developed by the
appropriate standards development organization accredited by the
American National Standards Institute;

(2) if national data exchange standards do not exist
for a system described by Subdivision (1), the commission makes
every effort to ensure the system is interoperable with the
national standards for electronic health record systems; and

(3) the commission and each health and human services
agency establish an interoperability standards plan for all
information systems that exchange protected health information
with health care providers.

1 (f) Not later than December 1 of each even-numbered year,
2 the executive commissioner shall report to the governor and the
3 Legislative Budget Board on the commission's and the health and
4 human services agencies' measurable progress in ensuring that the
5 information systems described in Subsection (e) are interoperable
6 with one another and meet the appropriate standards specified by
7 that subsection. The report must include an assessment of the
8 progress made in achieving commission goals related to the exchange
9 of health information, including facilitating care coordination
10 among the agencies, ensuring quality improvement, and realizing
11 cost savings.

12 (g) The executive commissioner by rule may develop and the
13 commission may implement a system to reimburse providers of health
14 care services under the state Medicaid program for review and
15 transmission of electronic health information if feasible and
16 cost-effective.

17 SECTION 2. Section 81.044(a), Health and Safety Code, as
18 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
19 2015, is amended to read as follows:

20 (a) The executive commissioner shall prescribe the form and
21 method of reporting under this chapter, which may be in writing, by
22 telephone, by electronic data transmission, through a health
23 information exchange as defined by Section 182.151 if requested and
24 authorized by the person required to report, or by other means.

25 SECTION 3. Section 82.008(a), Health and Safety Code, as
26 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
27 2015, is amended to read as follows:

1 (a) To ensure an accurate and continuing source of data
2 concerning cancer, each health care facility, clinical laboratory,
3 and health care practitioner shall furnish to the department, on
4 request, data the executive commissioner considers necessary and
5 appropriate that is derived from each medical record pertaining to
6 a case of cancer that is in the custody or under the control of the
7 health care facility, clinical laboratory, or health care
8 practitioner. The department may not request data that is more than
9 three years old unless the department is investigating a possible
10 cancer cluster. At the request and with the authorization of the
11 applicable health care facility, clinical laboratory, or health
12 care practitioner, data may be furnished to the department through
13 a health information exchange as defined by Section 182.151.

14 SECTION 4. Section 161.007(d), Health and Safety Code, is
15 amended to read as follows:

16 (d) A health care provider who administers an immunization
17 to an individual younger than 18 years of age shall provide data
18 elements regarding an immunization to the department. A health
19 care provider who administers an immunization to an individual 18
20 years of age or older may submit data elements regarding an
21 immunization to the department. At the request and with the
22 authorization of the health care provider, the data elements may be
23 submitted through a health information exchange as defined by
24 Section 182.151. The data elements shall be submitted in a format
25 prescribed by the department. The department shall verify consent
26 before including the information in the immunization registry. The
27 department may not retain individually identifiable information

1 about an individual for whom consent cannot be verified.

2 SECTION 5. Section 161.00705(a), Health and Safety Code, is
3 amended to read as follows:

4 (a) The department shall maintain a registry of persons who
5 receive an immunization, antiviral, and other medication
6 administered to prepare for a potential disaster, public health
7 emergency, terrorist attack, hostile military or paramilitary
8 action, or extraordinary law enforcement emergency or in response
9 to a declared disaster, public health emergency, terrorist attack,
10 hostile military or paramilitary action, or extraordinary law
11 enforcement emergency. A health care provider who administers an
12 immunization, antiviral, or other medication shall provide the data
13 elements to the department. At the request and with the
14 authorization of the health care provider, the data elements may be
15 provided through a health information exchange as defined by
16 Section 182.151.

17 SECTION 6. Section 161.00706(b), Health and Safety Code, is
18 amended to read as follows:

19 (b) A health care provider, on receipt of a request under
20 Subsection (a)(1), shall submit the data elements to the department
21 in a format prescribed by the department. At the request and with
22 the authorization of the health care provider, the data elements
23 may be submitted through a health information exchange as defined
24 by Section 182.151. The department shall verify the person's
25 request before including the information in the immunization
26 registry.

27 SECTION 7. Chapter 182, Health and Safety Code, is amended

by adding Subchapter D to read as follows:

SUBCHAPTER D. HEALTH INFORMATION EXCHANGES

Sec. 182.151. DEFINITION. In this subchapter, "health information exchange" means an organization that:

(1) assists in the transmission or receipt of health-related information among organizations transmitting or receiving the information according to nationally recognized standards and under an express written agreement with the organizations;

(2) as a primary business function, compiles or organizes health-related information designed to be securely transmitted by the organization among physicians, other health care providers, or entities within a region, state, community, or hospital system; or

(3) assists in the transmission or receipt of electronic health-related information among physicians, other health care providers, or entities within:

(A) a hospital system;

(B) a physician organization;

(C) a health care collaborative, as defined by Section 848.001, Insurance Code;

(D) an accountable care organization participating in the Pioneer Model under the initiative by the Innovation Center of the Centers for Medicare and Medicaid Services; or

(E) an accountable care organization participating in the Medicare Shared Savings Program under 42

U.S.C. Section 1395jjj.

Sec. 182.152. AUTHORITY OF HEALTH INFORMATION EXCHANGE.

(a) Notwithstanding Sections 81.046, 82.009, 161.0073, and 161.008, a health information exchange may access and transmit health-related information under Sections 81.044(a), 82.008(a), 161.007(d), 161.00705(a), 161.00706(b), and 161.008 if the access or transmittal is:

(1) made for the purpose of assisting in the reporting of health-related information to the appropriate agency;

(2) requested and authorized by the appropriate health care provider, practitioner, physician, facility, clinical laboratory, or other person who is required to report health-related information; and

(3) made in accordance with the requirements of this subchapter and all other state and federal law.

(b) A health information exchange may only use and disclose the information that it accesses or transmits under Subsection (a) in compliance with this subchapter and all applicable state and federal law, and may not exchange, sell, trade, or otherwise make any prohibited use or disclosure of the information.

Sec. 182.153. COMPLIANCE WITH LAW; SECURITY. A health information exchange that collects, transmits, disseminates, accesses, or reports health-related information under this subchapter shall comply with all applicable state and federal law, including secure electronic data submission requirements.

Sec. 182.154. CRIMINAL PENALTY. (a) A person who collects, transmits, disseminates, accesses, or reports information under

1 this subchapter on behalf of or as a health information exchange
2 commits an offense if the person, with the intent to violate this
3 subchapter, allows health-related information in the possession of
4 a health information exchange to be used or disclosed in a manner
5 that violates this subchapter.

6 (b) An offense under this section is a Class A misdemeanor.

7 SECTION 8. Section [531.02176](#), Government Code, is repealed.

8 SECTION 9. This Act takes effect September 1, 2015.