# SENATE AMENDMENTS

## 2nd Printing

By: Zerwas, Guillen, Shaheen 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), (g), and (h) 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.

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

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

(h) In this section, "health care provider" and "provider of health care services" includes a physician.

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

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

SECTION 3. Section 82.008(a), Health and Safety Code, as

amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

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

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

(d) A health care provider who administers an immunization to an individual younger than 18 years of age shall provide data elements regarding an immunization to the department. A health care provider who administers an immunization to an individual 18 years of age or older may submit data elements regarding an immunization to the department. At the request and with the authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151. The data elements shall be submitted in a format prescribed by the department. The department shall verify consent

before including the information in the immunization registry. The department may not retain individually identifiable information about an individual for whom consent cannot be verified.

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

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

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

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

registry.

SECTION 7. Section 161.0073(c), Health and Safety Code, is amended to read as follows:

(c) A person required to report information to the department for registry purposes or authorized to receive information from the registry may not disclose the individually identifiable information of an individual to any other person without the written or electronic consent of the individual or the individual's legally authorized representative, except as provided by Sections 161.007, 161.00705, 161.00706, and 161.008, of this code, Chapter 159, Occupations Code, or Section 602.053, Insurance Code.

SECTION 8. Section 161.008, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) At the request and with the authorization of the applicable health care provider, immunization history or data may be submitted to or obtained by the department through a health information exchange as defined by Section 182.151.

SECTION 9. 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(i) 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;

(3) made in accordance with the applicable consent requirements for the immunization registry under Subchapter A, Chapter 161, if the information being accessed or transmitted relates to the immunization registry; and

(4) 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 this subchapter on behalf of or as a health information exchange commits an offense if the person, with the intent to violate this subchapter, allows health-related information in the possession of a health information exchange to be used or disclosed in a manner

that violates this subchapter.

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

Sec. 182.155. IMMUNITIES AND DEFENSES CONTINUED. Collecting, transmitting, disseminating, accessing or reporting information through a health information exchange does not alone deprive a physician or health care provider of an otherwise applicable immunity or defense.

SECTION 10. Section 531.02176, Government Code, is repealed.

SECTION 11. This Act takes effect September 1, 2015.

ADOPTED

MAY 25 2015

Secretary of the Senate

By: _____ H.B. No. 2641

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

By: _____ 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. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 74A to read as follows:

CHAPTER 74A. LIMITATION OF LIABILITY RELATING TO HEALTH INFORMATION EXCHANGES

Sec. 74A.001. DEFINITIONS. In this chapter:

(1) "Gross negligence" has the meaning assigned by Section 41.001.

(2) "Health care provider" means any individual, partnership, professional association, corporation, facility, or institution duly licensed, certified, registered, or chartered by this state to provide health care or medical care, including a physician. The term includes:

(A) an officer, director, shareholder, member, partner, manager, owner, or affiliate of a physician or other health care provider; and

(B) an employee, independent contractor, or agent of a physician or other health care provider acting in the course and scope of the employment or contractual relationship.

(3) "Health information exchange" has the meaning assigned by Section 182.151, Health and Safety Code. The term

includes:

(A) an officer, director, shareholder, member, partner, manager, owner, or affiliate of the health information exchange; and

(B) an employee, independent contractor, or agent of the health information exchange acting in the course and scope of the employment or contractual relationship.

(4) "Physician" means:

(A) an individual licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code;

(B) a professional association organized by an individual physician or a group of physicians;

(C) a partnership or limited liability partnership formed by a group of physicians;

(D) a limited liability company formed by a group of physicians;

(E) a nonprofit health corporation certified by the Texas Medical Board under Chapter 162, Occupations Code; or

(F) a single legal entity authorized to practice medicine in this state owned by a group of physicians.

Sec. 74A.002. LIMITATION ON LIABILITY OF HEALTH CARE PROVIDERS RELATING TO HEALTH INFORMATION EXCHANGES. (a) In this section, "health care liability claim" has the meaning assigned by Section 74.001.

(b) Notwithstanding any other law, the use of, failure to use, or existence of a health information exchange does not establish a standard of care, duty, or obligation that forms the

basis for a cause of action applicable to a health care provider for obtaining, using, or disclosing patient information.

(c) Notwithstanding any other law, information or evidence relating to a health information exchange is not admissible in a civil or administrative proceeding for the purpose of establishing a standard of care, duty, or obligation that forms the basis for a cause of action in a proceeding, including a health care liability claim, involving a health care provider.

(d) Unless a health care provider acts with intent or gross negligence, the health care provider is not liable for any damages, penalties, or other relief related to:

(1) the health care provider's or another health care provider's obtainment of or failure to obtain patient information from a health information exchange;

(2) the health care provider's or another health care provider's disclosure of or failure to disclose patient information to a health information exchange;

(3) the health care provider's or another health care provider's reliance on inaccurate patient information obtained from or disclosed by a health information exchange; or

(4) the obtainment, use, or disclosure by a health information exchange, another health care provider, or any other person, in violation of federal or state law, of any patient information that the health care provider provided to a health information exchange or to another health care provider in compliance with the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and

other applicable federal and state law.

(e) Nothing in this section may be construed to create a cause of action or to create a standard of care, obligation, or duty that forms the basis for a cause of action.

Sec. 74A.003. LIMITATION ON LIABILITY OF HEALTH INFORMATION EXCHANGES. (a) Unless a health information exchange acts with intent or gross negligence, the health information exchange is not liable for any damages, penalties, or other relief related to:

(1) a health care provider's obtainment of or failure to obtain patient information from the health information exchange;

(2) a health care provider's disclosure of or failure to disclose patient information to the health information exchange;

(3) a health care provider's reliance on inaccurate patient information obtained from or disclosed by the health information exchange; or

(4) the obtainment, use, or disclosure by a health care provider or any other person, in violation of federal or state law, of any patient information that was provided to the person by the health information exchange in compliance with:

(A) the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and other applicable federal and state law; and

(B) the health information exchange's policies.

(b) Nothing in this section may be construed to create a cause of action or to create a standard of care, obligation, or duty that forms the basis for a cause of action.

Sec. 74A.004. APPLICABILITY OF OTHER LAW. The protections,

immunities, and limitations of liability provided by this chapter are in addition to any other protections, immunities, and limitations of liability provided by other law.

SECTION 2. Section 531.0162, Government Code, is amended by adding Subsections (e), (f), (g), and (h) 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.

(f) Not later than December 1 of each even-numbered year, the executive commissioner shall report to the governor and the Legislative Budget Board on the commission's and the health and human services agencies' measurable progress in ensuring that the

information systems described in Subsection (e) are interoperable with one another and meet the appropriate standards specified by that subsection. The report must include an assessment of the progress made in achieving commission goals related to the exchange of health information, including facilitating care coordination among the agencies, ensuring quality improvement, and realizing cost savings.

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

(h) In this section, "health care provider" and "provider of health care services" include a physician.

SECTION 3. Section 531.02176, Government Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 531.02176. EXPIRATION OF MEDICAID REIMBURSEMENT FOR PROVISION OF HOME TELEMONITORING SERVICES. Notwithstanding any other law, the commission may not reimburse providers under Medicaid for the provision of home telemonitoring services on or after September 1, 2019 [~~2015~~].

SECTION 4. Section 81.044(a), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The executive commissioner shall prescribe the form and method of reporting under this chapter, which may be in writing, by

telephone, by electronic data transmission, through a health information exchange as defined by Section 182.151 if requested and authorized by the person required to report, or by other means.

SECTION 5. Section 82.008(a), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

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

SECTION 6. Section 161.007(d), Health and Safety Code, is amended to read as follows:

(d) A health care provider who administers an immunization to an individual younger than 18 years of age shall provide data elements regarding an immunization to the department. A health care provider who administers an immunization to an individual 18 years of age or older may submit data elements regarding an immunization to the department. At the request and with the

authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151. The data elements shall be submitted in a format prescribed by the department. The department shall verify consent before including the information in the immunization registry. The department may not retain individually identifiable information about an individual for whom consent cannot be verified.

SECTION 7. Section 161.00705(a), Health and Safety Code, is amended to read as follows:

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

SECTION 8. Section 161.00706(b), Health and Safety Code, is amended to read as follows:

(b) A health care provider, on receipt of a request under Subsection (a)(1), shall submit the data elements to the department in a format prescribed by the department. At the request and with

the authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151. The department shall verify the person's request before including the information in the immunization registry.

SECTION 9. Section 161.0073(c), Health and Safety Code, is amended to read as follows:

(c) A person required to report information to the department for registry purposes or authorized to receive information from the registry may not disclose the individually identifiable information of an individual to any other person without the written or electronic consent of the individual or the individual's legally authorized representative, except as provided by Sections 161.007, 161.00705, 161.00706, and 161.008 of this code, Chapter 159, Occupations Code, or Section 602.053, Insurance Code.

SECTION 10. Section 161.008, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) At the request and with the authorization of the applicable health care provider, immunization history or data may be submitted to or obtained by the department through a health information exchange as defined by Section 182.151.

SECTION 11. 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(i) 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;

(3) made in accordance with the applicable consent requirements for the immunization registry under Subchapter A, Chapter 161, if the information being accessed or transmitted relates to the immunization registry; and

(4) 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

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

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

Sec. 182.155. IMMUNITIES AND DEFENSES CONTINUED. Collecting, transmitting, disseminating, accessing, or reporting information through a health information exchange does not alone deprive a physician or health care provider of an otherwise applicable immunity or defense.

SECTION 12. Chapter 74A, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 13. This Act takes effect September 1, 2015.

ADOPTED

MAY 25 2015

Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: _____

Amend C.S.H.B. No. 2641 (senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 74A.001, Civil Practice and Remedies Code (page 1, between lines 51 and 52), add the following appropriately numbered subdivision and renumber subsequent subdivisions of that section and any cross-references to those subdivisions accordingly:

( ) "Malice" has the meaning assigned by Section 41.001.

(2) Strike added Section 74A.002(c), Civil Practice and Remedies Code (page 2, lines 14-19), and substitute the following:

(c) Notwithstanding any other law, information or evidence regarding the existence of a health information exchange or a health care provider's use of or failure to use the exchange is not admissible in a civil, judicial, or administrative proceeding for the purpose of creating or establishing a standard of care, duty, or obligation that forms the basis for a cause of action or proceeding applicable to a health care provider, including in a suit involving or based on a health care liability claim.

(3) In added Section 74A.002(d), Civil Practice and Remedies Code (page 2, line 20), strike "intent" and substitute "malice".

(4) In added Section 74A.003(a), Civil Practice and Remedies Code (page 2, line 45), strike "intent" and substitute "malice".

**LEGISLATIVE BUDGET BOARD**
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 26, 2015**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB2641** by Zerwas (Relating to the exchange of health information in this state; creating a criminal offense. ), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 531 of the Government Code to require the Health and Human Services Commission (HHSC) to ensure that all information systems available for use by health and human services agencies are compliant with the applicable data exchange standards developed by an organization accredited by the American National Standards Institute. The bill gives HHSC the authority to develop rules and implement a system to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information if feasible and cost-effective. The bill amends the Health and Safety Code to add reporting of certain provided immunizations and related health related conditions by health care providers, allow the Department of State Health Services (DSHS)to submit or obtain immunization history, and creates a certain offense. The bill extends Medicaid reimbursement for home telemonitoring services to September 1, 2019. The bill also amends the Civil Practice and Remedies Code to create certain limitations on liability relating to Health Information Exchanges, which would take effect on or after the effective date of the act.

HHSC has indicated that the Enterprise Health Information Exchange Policy would need to be updated to ensure compliance with the requirements of the bill. The costs to update the policy are immaterial and would be absorbed within existing resources.

HHSC has indicated that, while implementation of the bill could result in a fiscal impact to HHSC a specific estimate is not available. The number of exchanges out of compliance with national standards is unknown and HHSC does not have the information necessary to make appropriate assumptions to determine the fiscal impact.

HHSC would implement a reimbursement system by rule to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information. Costs related are immaterial and would be absorbed within existing resources. The fiscal impact of reimbursing providers of health care services can not be determined due to the unknown number of providers seeking reimbursement. HHSC has indicated that there may be some fiscal impact for receiving data through health information exchanges. This analysis assumes that these costs will be absorbed within existing resources.

HHSC has authority to stop reimbursing for home telemonitoring services if the agency determines that it is no longer cost effective, therefore it is assumed the services will only

continue if cost effective and therefore no significant fiscal impact to the state is anticipated.

HHSC must amend contracts to change the expiration date of the home telemonitoring benefit from September 1, 2015 to September 1, 2019. HHSC has indicated that any associated cost could be absorbed within the agency's existing resources.

DSHS has indicated that there is no fiscal impact for receiving data through health information exchanges and that any cost to implement systems that meet the standards of the bill will be factored into future information technology projects.

It is anticipated that there would be no significant fiscal impact to the Texas Medical Board, the Department of Family and Protective Services, the Department of Assistive and Rehabilitative Services, and the Department of Aging and Disability Services as a result of this bill.

The bill would go into effect on September 1, 2015.

**Local Government Impact**

There may be a cost to local governments depending on the systems used to exchange or report data. Fiscal impact will vary depending on the local health department's available resources.

**Source Agencies:** 503 Texas Medical Board, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 537 State Health Services, Department of, 538 Assistive and Rehabilitative Services, Department of, 539 Aging and Disability Services, Department of

**LBB Staff:** UP, NB, ACI, MH, CG, KVe

# LEGISLATIVE BUDGET BOARD
## Austin, Texas

## FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

**May 22, 2015**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB2641** by Zerwas (Relating to the exchange of health information in this state; creating a criminal offense.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 531 of the Government Code to require the Health and Human Services Commission (HHSC) to ensure that all information systems available for use by health and human services agencies are compliant with the applicable data exchange standards developed by an organization accredited by the American National Standards Institute. The bill gives HHSC the authority to develop rules and implement a system to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information if feasible and cost-effective. The bill amends the Health and Safety Code to add reporting of certain provided immunizations and related health related conditions by health care providers, allow the Department of State Health Services (DSHS)to submit or obtain immunization history, and creates a certain offense. The bill extends Medicaid reimbursement for home telemonitoring services to September 1, 2019. The bill also amends the Civil Practice and Remedies Code to create certain limitations on liability relating to Health Information Exchanges, which would take effect on or after the effective date of the act.

HHSC has indicated that the Enterprise Health Information Exchange Policy would need to be updated to ensure compliance with the requirements of the bill. The costs to update the policy are immaterial and would be absorbed within existing resources.

HHSC has indicated that, while implementation of the bill could result in a fiscal impact to HHSC a specific estimate is not available. The number of exchanges out of compliance with national standards is unknown and HHSC does not have the information necessary to make appropriate assumptions to determine the fiscal impact.

HHSC would implement a reimbursement system by rule to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information. Costs related are immaterial and would be absorbed within existing resources. The fiscal impact of reimbursing providers of health care services can not be determined due to the unknown number of providers seeking reimbursement. HHSC has indicated that there may be some fiscal impact for receiving data through health information exchanges. This analysis assumes that these costs will be absorbed within existing resources.

HHSC has authority to stop reimbursing for home telemonitoring services if the agency determines that it is no longer cost effective, therefore it is assumed the services will only

continue if cost effective and therefore no significant fiscal impact to the state is anticipated.

HHSC must amend contracts to change the expiration date of the home telemonitoring benefit from September 1, 2015 to September 1, 2019. HHSC has indicated that any associated cost could be absorbed within the agency's existing resources.

DSHS has indicated that there is no fiscal impact for receiving data through health information exchanges and that any cost to implement systems that meet the standards of the bill will be factored into future information technology projects.

It is anticipated that there would be no significant fiscal impact to the Texas Medical Board, the Department of Family and Protective Services, the Department of Assistive and Rehabilitative Services, and the Department of Aging and Disability Services as a result of this bill.

The bill would go into effect on September 1, 2015.

**Local Government Impact**

There may be a cost to local governments depending on the systems used to exchange or report data. Fiscal impact will vary depending on the local health department's available resources.

**Source Agencies:** 503 Texas Medical Board, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 537 State Health Services, Department of, 538 Assistive and Rehabilitative Services, Department of, 539 Aging and Disability Services, Department of

**LBB Staff:** UP, NB, MH, CG, KVe

**LEGISLATIVE BUDGET BOARD**
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 20, 2015**

**TO:** Honorable Charles Schwertner, Chair, Senate Committee on Health & Human Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB2641** by Zerwas (Relating to the exchange of health information in this state; creating a criminal offense.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 531 of the Government Code to require the Health and Human Services Commission (HHSC) to ensure that all information systems available for use by health and human services agencies are compliant with the applicable data exchange standards developed by an organization accredited by the American National Standards Institute. The bill gives HHSC the authority to develop rules and implement a system to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information if feasible and cost-effective. The bill amends the Health and Safety Code to add reporting of certain provided immunizations and related health related conditions by health care providers, allow the Department of State Health Services (DSHS)to submit or obtain immunization history, and creates a certain offense. The bill repeals the expiration on Medicaid reimbursement for home telemonitoring services of September 1, 2015.

HHSC has indicated that the Enterprise Health Information Exchange Policy would need to be updated to ensure compliance with the requirements of the bill. The costs to update the policy are immaterial and would be absorbed within existing resources.

HHSC has indicated that, while implementation of the bill could result in a fiscal impact to HHSC a specific estimate is not available. The number of exchanges out of compliance with national standards is unknown and HHSC does not have the information necessary to make appropriate assumptions to determine the fiscal impact.

HHSC would implement a reimbursement system by rule to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information. Costs related are immaterial and would be absorbed within existing resources. The fiscal impact of reimbursing providers of health care services can not be determined due to the unknown number of providers seeking reimbursement. HHSC has indicated that there may be some fiscal impact for receiving data through health information exchanges. This analysis assumes that these costs will be absorbed within existing resources.

HHSC has authority to stop reimbursing for home telemonitoring services if the agency determines that it is no longer cost effective, therefore it is assumed the services will only continue if cost effective and therefore no significant fiscal impact to the state is anticipated.

This analysis assumes that the costs associated with obtaining and submitting immunization and health information at the request of health care providers would be minimal, and could be absorbed within DSHS' existing resources.

It is anticipated that there would be no significant fiscal impact to the Texas Medical Board, the Department of Family and Protective Services, the Department of Assistive and Rehabilitative Services, and the Department of Aging and Disability Services as a result of this bill.

The bill would go into effect on September 1, 2015.

**Local Government Impact**

There may be a cost to local governments depending on the systems used to exchange or report data. Fiscal impact will vary depending on the local health department's available resources.

**Source Agencies:** 503 Texas Medical Board, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 537 State Health Services, Department of, 538 Assistive and Rehabilitative Services, Department of, 539 Aging and Disability Services, Department of

**LBB Staff:** UP, NB, MH, CG, KVe

**LEGISLATIVE BUDGET BOARD**
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 22, 2015**

**TO:** Honorable Myra Crownover, Chair, House Committee on Public Health

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB2641** by Zerwas (Relating to the exchange of health information in this state; creating a criminal offense.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 531 of the Government Code to require the Health and Human Services Commission (HHSC) to ensure that all information systems available for use by health and human services agencies are compliant with the applicable data exchange standards developed by an organization accredited by the American National Standards Institute. The bill gives HHSC the authority to develop rules and implement a system to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information if feasible and cost-effective. The bill amends the Health and Safety Code to add reporting of certain provided immunizations and health related conditions by health care providers to HHSC and creates a certain offense. The bill repeals the expiration on Medicaid reimbursement for home telemonitoring services of September 1, 2015.

HHSC has indicated that the Enterprise Health Information Exchange Policy would need to be updated to ensure compliance with the requirements of the bill. The costs to update the policy are immaterial and would be absorbed within existing resources.

HHSC has indicated that, while implementation of the bill could result in a fiscal impact to HHSC a specific estimate is not available. The number of exchanges out of compliance with national standards is unknown and HHSC does not have the information necessary to make appropriate assumptions to determine the fiscal impact.

HHSC would implement a reimbursement system by rule to reimburse providers of health care services under the state Medicaid program for review and transmission of electronic health information. Costs related are immaterial and would be absorbed within existing resources. The fiscal impact of reimbursing providers of health care services can not be determined due to the unknown number of providers seeking reimbursement. HHSC has indicated that there may be some fiscal impact for receiving data through health information exchanges. This analysis assumes that these costs will be absorbed within existing resources.

HHSC has authority to stop reimbursing for home telemonitoring services if the agency determines that it is no longer cost effective, therefore it is assumed the services will only continue if cost effective and therefore no significant fiscal impact to the state is anticipated.

It is anticipated that there would be no significant fiscal impact to the Texas Medical Board, the

Department of Family and Protective Services, the Department of Assistive and Rehabilitative Services, and the Department of Aging and Disability Services as a result of this bill.

The bill would go into effect on September 1, 2015.

**Local Government Impact**

There may be a cost to local governments depending on the systems used to exchange or report data. Fiscal impact will vary depending on the local health department's available resources.

**Source Agencies:** 503 Texas Medical Board, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 537 State Health Services, Department of, 538 Assistive and Rehabilitative Services, Department of, 539 Aging and Disability Services, Department of

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**LEGISLATIVE BUDGET BOARD**
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 13, 2015**

**TO:** Honorable Myra Crownover, Chair, House Committee on Public Health

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB2641** by Zerwas (Relating to the exchange of electronic health information in this state.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 531 of the Government Code to require the Health and Human Services Commission (HHSC) to ensure that all information systems available for use by health and human services agencies are compliant with the applicable data exchange standards developed by an organization accredited by the American National Standards Institute. The bill also amends the Health and Safety Code to add reporting of certain provided immunizations and health related conditions by health care providers to the Department of State Health Services (DSHS).

HHSC has indicated that the Enterprise Health Information Exchange Policy would need to be updated to ensure compliance with the requirements of the bill. The costs to update the policy are immaterial and would be absorbed within existing resources.

HHSC has indicated that, while implementation of the bill could result in a fiscal impact to HHSC a specific estimate is not available. The number of exchanges out of compliance with national standards is unknown and HHSC does not have the information necessary to make appropriate assumptions to determine the fiscal impact.

DSHS has indicated that there is no fiscal impact for receiving data through health information exchanges and that any cost to implement systems that meet the standards of the bill will be factored into future information technology projects.

It is anticipated that there would be no significant fiscal impact to the Texas Medical Board, the Department of Family and Protective Services, the Department of Assistive and Rehabilitative Services, and the Department of Aging and Disability Services as a result of this bill.

The bill would go into effect on September 1, 2015.

**Local Government Impact**

There may be a cost to local governments depending on the systems used to exchange or report data. Fiscal impact will vary depending on the local health department's available resources.

**Source Agencies:** 503 Texas Medical Board, 529 Health and Human Services Commission, 530 Family and Protective Services, Department of, 537 State Health Services, Department of, 538 Assistive and Rehabilitative Services, Department of, 539 Aging and Disability Services, Department of

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