

## **Senate Bill 8 – Summary of Key Provisions**

(Filed Feb. 16, 2011, by Sen. Jane Nelson)

### ARTICLE 1. LEGISLATIVE FINDINGS AND INTENT

- The state should explore innovative, collaborative health care delivery and payment models to improve quality and efficiency of health care.
- The Legislature intends to exempt a health care collaborative certified under a new Chapter 848 of the Insurance Code from state antitrust laws and provide immunity from federal antitrust laws through the state action doctrine.

### ARTICLE 2. TEXAS INSTITUTE OF HEALTH CARE QUALITY AND EFFICIENCY

- The Texas Institute of Health Care Quality and Efficiency is established to improve health care quality, accountability and cost containment by encouraging health care provider collaboration, effective health care delivery models and coordination of health care services.
- The Institute is governed by a 15-member Board of Directors (10 members appointed by the governor and five members appointed by the lieutenant governor).
- The Institute's general powers and duties include:
  - providing a forum for payers and providers to discuss initiatives that promote the use of best practices, increase health care provider collaboration, improve health care outcomes and contain health care costs;
  - researching and promoting strategies to improve the quality and efficiency of health care;
  - determining outcome measures that are the most effective measures of quality and efficiency, such as the incidence of potentially preventable events;
  - creating a state plan for improving quality and efficiency of health care services;
  - improving the reporting, consolidation and transparency of health care information;
  - making recommendations for and providing support for innovative health care collaborative payment and delivery systems;
  - reviewing alternative payment and delivery systems and determining which models are appropriate for certification as health care collaborative;
  - making recommendations for the eligibility requirements for initial and continuing certification as a health care collaborative, such as recommendations concerning how a collaborative will: (1) improve health care provider collaboration and coordination of services; (2) improve quality of care; and (3) contain health care costs; and
  - making recommendations on how to evaluate a health care collaborative's effectiveness, including methods to evaluate: (1) the efficiency and effectiveness of cost-containment methods used by the collaborative; (2) the quality of care; (3) health care provider collaboration and coordination; (4) the protection of patients; and (5) patient satisfaction.

### ARTICLE 3. HEALTH CARE COLLABORATIVES

- The bill establishes a certification process and requirements for health care collaboratives under a new Chapter 848, Texas Insurance Code.

- A health care collaborative is defined as an organization consisting of participating physicians or health care providers, or entities contracting on behalf of participating physicians or health care providers, that is established within a formal legal structure to provide or arrange to provide health care services; and is capable of receiving and distributing payments to participating physicians or health care providers.
- An organization may not organize or operate as a health care collaborative unless the organization holds a certificate of authority. An organization is not required to obtain a certificate of authority if the organization: (1) holds an certificate of authority issued under another chapter of the Insurance Code; or (2) provides health care services only under a contract with the Centers for Medicare & Medicaid Services under the Medicare shared savings program or the Texas Health and Human Services Commission under the state Medicaid program.
- An organization may not arrange for or provide health care services to enrollees on a prepaid or indemnity basis through health insurance or a health benefit plan, including a health care plan, unless the organization holds a certificate of authority as a health maintenance organization or insurer.
- To be certified, an organization must submit an application for certification to the Texas Department of Insurance. The application must include information that demonstrates that the organization:
  - will provide health care services in a manner that will increase collaboration among health care providers and integrate health care services; promote quality-based health care outcomes, patient engagement and coordination of services; reduce the occurrence of potentially preventable events; and contain health care costs;
  - has processes to develop, compile, evaluate and report statistics relating to the quality and cost of health care services; and
  - has processes to address complaints by patients.
- An applicant for certification as a health care collaborative must pay an application fee of \$750. A fee of \$750 is required for annual renewal of the certificate of authority.
- The department may not issue a certificate of authority if the commissioner determines that:
  - the applicant's proposed plan of operation does not meet the certification requirements; or
  - the applicant's proposed health care collaborative is likely to reduce competition in any market for physician, hospital or ancillary health care services due to:
    - the size of the collaborative;
    - the composition of the collaborative, including the distribution of physicians by specialty within the collaborative in relation to the number of competing health care providers in the collaborative's geographic market; or
    - the applicant's proposed collaborative is likely to possess market power sufficient to raise rates above competitive levels.
- The department may revoke a health care collaborative's certificate of authority if the commissioner determines that a change in the collaborative's market, or a change in the size or composition of the collaborative, has occurred that is likely to result in reduced competition or market power sufficient to raise rates above competitive levels.

- A health care collaborative is authorized to:
  - provide or arrange for health care services through contracts with physicians and health care providers or with entities contracting on behalf of participating physicians and health care providers;
  - contract for and accept payments from a governmental or private entity for all or part of the cost of services provided or arranged for by the collaborative; and distribute payments to participating physicians and health care providers;
  - contract with any person, including an affiliated entity, to perform administrative, management or any other required functions on behalf of the collaborative;
  - contract with an insurer to provide insurance, reinsurance, indemnification or reimbursement against the cost of health care and medical care services provided by the collaborative; and
  - establish policies to improve the quality and control the cost of health care services provided by participating physicians and health care providers that are consistent with prevailing professionally recognized standards of medical practice. The policies must include procedures relating to:
    - selection and credentialing of participating physicians and health care providers;
    - development, implementation and monitoring of evidence-based best practices and other processes to improve the quality and control the cost of health care services provided by participating physicians and health care providers, including practices or processes to reduce the occurrence of potentially preventable events; and
    - development, implementation and monitoring of processes to improve patient engagement and coordination of health care services provided by participating physicians and health care providers.
- A health care collaborative may receive and distribute payments to participating physicians and health care providers, and the receipt and distribution of payments does not violate the prohibition on fee-splitting between physicians and non-physician organizations.
- The governing body of a health care collaborative must establish a procedure for the periodic review of quality improvement and cost control measures.
- A health care collaborative must implement and maintain a complaint system that provides reasonable procedures to resolve an oral or written complaint concerning health care services provided by participating physicians or health care providers.
- A health care collaborative must maintain reserves in an amount determined to be adequate for the liabilities and risks assumed by the collaborative, as computed in accordance with accepted standards, practices and procedures relating to the liabilities and risks for which the reserves are maintained, including known and unknown components and anticipated expenses of providing health care services.
- The operations and trade practices of a health care collaborative that are consistent with the provisions of this chapter, the rules adopted under this chapter and applicable federal antitrust laws are presumed to be consistent with Chapter 15, Business & Commerce Code, or any other applicable provision of law.
- Not later than March 1 of each year, a health care collaborative must file a report covering the preceding calendar year with TDI. The report must include:
  - a financial statement of the collaborative, including its balance sheet and receipts and disbursements for the preceding calendar year, certified by an independent public accountant; and

- a statement of the service area of the collaborative; the number and types of participating physicians and health care providers; an evaluation of the quality and cost of health care services provided; and an evaluation of the collaborative's processes to promote evidence-based medicine, patient engagement and coordination of health care services provided.
- The department may examine the financial affairs and operations of any health care collaborative and may require the collaborative to make its books and records available for an examination.
- The department may take enforcement action against a health care collaborative for failure to comply with the certification requirements and has the authority to suspend or revoke a certificate of authority issued to a collaborative or impose sanctions or administrative penalties.
- A health care collaborative is considered a health care provider for purposes of the state professional liability and peer review confidentiality statutes.
- A health care collaborative is exempt from application of the state anti-kickback statute.
- A hospital district may establish a health care collaborative.

#### ARTICLE 4. PATIENT RISK IDENTIFICATION SYSTEM

- The Texas Department of State Health Services must develop a statewide standardized patient risk identification system under which a patient with a specific medical risk may be readily identified through the use of a system that communicates to hospital personnel the existence of that risk.

#### ARTICLE 5. REPORTING OF HEALTH CARE-ASSOCIATED INFECTIONS

- The Texas Health and Human Services Commission may designate the Centers for Disease Control and Prevention's National Healthcare Safety Network to receive reports of health care-associated infections from health care facilities. Health care facilities must file reports in accordance with the National Healthcare Safety Network's definitions, methods, requirements and procedures.
- The Texas Health and Human Services Commission may designate a federal agency to receive reports of preventable adverse events by health care facilities on behalf of TDSHS.
- TDSHS must publicly report outcomes for potentially preventable complications and potentially preventable readmissions for hospitals.
- TDSHS must study adverse health conditions and potentially preventable conditions occurring in long-term care facilities and develop recommendations for reporting.
- TDSHS and the Texas Institute of Health Care Quality and Efficiency are required to develop a recognition program to recognize exemplary health care providers and health care facilities for superior quality of health care.