

July 6, 2009

## Health Care Legislation Update – Texas Legislature 81st Regular Session

The 81st Regular Session of the Texas Legislature passed several laws affecting hospitals, physicians, other health care providers, pharmaceutical companies, and medical device companies. The Health Care Practice Group of Haynes and Boone, LLP has compiled this quick reference tool on topics we believe will interest our clients.

Governor Rick Perry vetoed HB 3485. This bill would have allowed hospitals located in counties with a population of less than 50,000 and operated by a governmental entity to directly employ a physician and retain all or part of the professional income generated by the physician for medical services provided at the hospital. The vetoed bill contained a provision that would increase the potential liability damages for doctors employed directly by hospital districts. The Governor believed the liability damages increase would undermine gains made in medical liability reform.

We have referenced legislation in this Update by bill number and subject with short summaries and effective dates. The summaries are not intended to be a comprehensive report on the legislation or to offer legal advice or opinions regarding the new laws but rather to offer a brief description of the subject matter and nature of the legislation. If you are interested in a particular piece of legislation, you may access the full text of the new law by clicking on the bill number in this Update. Not all health care legislation is summarized in this Update. Administrative agency rules or interpretations of new laws will be promulgated over the upcoming months.

If you have questions about any of the new laws or agencies' proposed or final rules, please contact one of the Haynes and Boone attorneys listed at the end of this update. We welcome the opportunity to work with you in obtaining information about current legislation as well as determining the impact these new healthcare laws have on your business.

Additional health care legislation may be considered in the Special Session that convened on July 1, 2009.

**INDEX** (*hyperlinked*)

- [Emergency Medical Services](#)
- [Hospitals and Other Health Care Facilities](#)
- [Managed Care / Health Plans](#)
- [Medicaid / CHIP](#)
- [Medical Liability](#)
- [Miscellaneous Healthcare and Business Issues](#)
- [Nurses and Other Health Care Personnel](#)
- [Pharmacies and Pharmacists](#)
- [Physicians](#)
- [Privacy / Confidentiality / Disclosure of Health Information](#)
- [Public Health](#)

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<b>EMERGENCY MEDICAL SERVICES</b>			
<a href="#">HB 1357</a>	Regulation of Freestanding Emergency Medical Care Facilities	Generally September 1st; Sections 245.201-.203, 254.205-.206 of the Health and Safety Code, and 843.002, 1271.155, 1301.001 and 1301.155 of the Insurance Code take effect March 1, 2010; Section 254.204 of the Health and Safety Code takes effect September 1, 2010.	<ul style="list-style-type: none"> <li>Establishes a licensure requirement for freestanding emergency rooms and creates different licensure classifications for facilities that are open around the clock and those with limited hours.</li> <li>Sets standards for freestanding emergency rooms, including requiring facilities with limited hours to clearly display a sign showing whether they are open.</li> </ul>
<a href="#">HB 2845</a>	Certification and Disciplinary Actions Against EMS Personnel	September 1st	Amends current law relating to the certification of and disciplinary actions against emergency medical services personnel.

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<b>HOSPITALS AND OTHER HEALTH CARE FACILITIES</b>			
<a href="#">HB 1362</a>	Reporting of Methicillin-Resistant Staphylococcus Aureus ("MRSA") Infections	September 1st	Extends the electronic MRSA registry pilot program to September 1, 2011.
<a href="#">HB 2963</a>	Authority of a County, Hospital District or Public Hospital to Provide Health Care Services to an Indigent Patient	September 1st	<ul style="list-style-type: none"> <li>Requires a county, hospital district or public hospital to pay the claims of any provider for services provided to an eligible indigent resident of the county, hospital district or public hospital to the extent liable for such health care services.</li> <li>Allows a county, public hospital or hospital district to provide or arrange to provide health care services for eligible indigent residents through the purchase of health coverage or other health benefits.</li> </ul>
<a href="#">HB 2972</a>	Licensing of Nursing Homes and Assisted Living Facilities	September 1st	<ul style="list-style-type: none"> <li>Directs the Health and Human Services Commission ("HHSC") to adopt expedited inspection rules that allow an applicant for an initial or renewal of a convalescent or nursing home license or assisted living facility license to obtain a life safety code and physical plant inspection not later than the 15th day after the date the request is made.</li> <li>Modifies the term of assisted living facility provisional licenses and establishes the date of the provisional license as the effective date of the facility's license if issued.</li> </ul>
<a href="#">SB 203</a>	Reporting of Health Care-Associated Infections and Preventable Adverse Events by Health Care Facilities	September 1st	<ul style="list-style-type: none"> <li>Requires health care facilities to report to the Department of State Health Services ("DSHS") the occurrence of certain adverse events including an adverse condition or event for which the Medicare program will not provide additional payment to the facility and an event included in the list of adverse events identified by the National Quality Forum.</li> <li>Requires HHSC to adopt rules regarding the denial or reduction of reimbursement under the Medicaid program for preventable adverse events that occur in a hospital setting.</li> </ul>

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">SB 476</a>	Staffing, Overtime and Other Employment Protections for Nurses	September 1st	<ul style="list-style-type: none"> <li>• Requires hospitals to adopt, implement and enforce a written nurse staffing policy to ensure that an adequate number and skill mix of nurses are available to meet the level of patient care needed and sets forth the required content of and standards for such policies.</li> <li>• Requires hospitals to establish a nurse staffing committee as a standing committee of the hospital and sets forth the composition, duties and responsibilities for the committee.</li> <li>• Requires hospitals to annually report information relating to the committee and its findings and recommendations to DSHS.</li> <li>• Prohibits hospitals from requiring nurses to work mandatory overtime except in certain emergencies such as a natural disaster, authorizes a nurse to refuse to work such overtime, and provides that such a refusal does not constitute patient abandonment or neglect.</li> <li>• Prohibits a hospital from retaliating against a nurse who refuses to work mandatory overtime.</li> </ul>
<a href="#">SB 527</a>	Mammography Systems that Fail Certification Standards	September 1st	<ul style="list-style-type: none"> <li>• Requires a facility whose mammography system fails to meet DSHS certification standards and the failure is a Severity Level I violation to notify each patient on whom the facility performed a mammography during the period in which the system failed to meet DSHS certification standards.</li> <li>• Requires the facility to inform the patient that the mammography system failed to satisfy DSHS certification standards, recommend that the patient consult with the patient's physician regarding the need for another mammogram, and list the three facilities closest to the original testing facility that have a certified mammography system.</li> </ul>

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">SB 911</a>	Certification and Regulation of Pain Management Clinics	Generally September 1st; Section 167.101 of the Occupations Code is effective September 1st, 2010	<ul style="list-style-type: none"> <li>Requires a pain management clinic be owned and operated by a medical director who is a physician who practices in the State under an unrestricted license.</li> <li>Requires a pain management clinic to apply for certification before operating in Texas.</li> <li>Exempts from the certification requirement medical or dental schools and their associated outpatient clinic, hospitals, hospices, facilities maintained or operated by the State, clinics owned or operated by the federal government, a health organization certified by the Texas Medical Board ("TMB") or a clinic owned or operated by a physician who treats patients within the physician's area of specialty and who uses other forms of treatment, including surgery, with the issuance of a prescription for a majority of the patients.</li> </ul>
<a href="#">SB 1705</a>	Dallas County Hospital District	Immediately	Allows the Dallas County Hospital District to appoint, contract for or employ physicians, dentists and other health care providers as necessary for the efficient operation of the District. The term of employment may not exceed 4 years.
<b>MANAGED CARE / HEALTH INSURANCE</b>			
<a href="#">HB 389</a>	Requirements for Expedited Credentialing of Physicians by Managed Care Plans	September 1st	Corrects and clarifies the definition of a "group" as two or more physicians.
<a href="#">HB 1888</a>	Standards Required for Ranking Physicians by Health Plans	September 1st	<ul style="list-style-type: none"> <li>Prohibits health plans and HMOs from ranking or classifying physicians into tiers based on performance or publishing physician-specific information with rankings, tiers, ratings or other performance comparisons against standards, measures or other physicians, unless standards conform to nationally recognized standards required by the Texas Department of Insurance ("TDI").</li> <li>Requires rules, standards and measurements to be disclosed by the health plan to physicians before any evaluation period.</li> <li>Permits physicians to dispute the ranking or classification through an appeal process with due process protections.</li> <li>Prohibits physicians from requiring patients not to rank, evaluate, or participate in surveys or express an opinion about the physician.</li> </ul>

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">HB 1888 (cont'd)</a>	Standards Required for Ranking Physicians by Health Plans	September 1st	<ul style="list-style-type: none"> <li>Requires health plans to ensure physician involvement in developing ranking standards and ensure measures and methods of comparison are transparent and valid.</li> </ul>
<a href="#">HB 2256</a>	Mediation of Out-Of-Network Health Benefit Claim Disputes	Immediately	<ul style="list-style-type: none"> <li>Sets up a mediation process for patients to resolve disputes involving out-of-network, facility-based physician claims provided at an in-network facility.</li> <li>Requires TDI to adopt network adequacy standards to increase the likelihood that patients will receive services from participating physicians.</li> </ul>
<a href="#">HB 4341</a>	Regulation of Discount Health Care Programs	September 1st; Section 3 of the Act takes effect April 1, 2010; Subchapter E, Chapter 562 of the Insurance Code as added by the Act takes effect April 1, 2010.	<ul style="list-style-type: none"> <li>Requires discount health care programs to register with TDI.</li> <li>Prohibits a discount health care program from misrepresenting the discounts offered, misrepresenting it is a federally approved Medicare prescription discount card or misleading an individual into believing that the discount health care program is health insurance.</li> <li>Requires the discount health program operator to provide contact information, an up-to-date list of participating providers and program disclosure materials.</li> <li>Must maintain a surety bond and refund membership fees to any member who cancels a membership within the first 30 days after the date the person becomes a member.</li> </ul>
<a href="#">SB 39</a>	Health Plan Coverage for Routine Patient Care Costs for Enrollees Participating in Certain Clinical Trials	September 1st	Requires health plans and Medicaid to cover the routine costs of care for a patient enrolled in a clinical trial relating to prevention, detection or treatment of a life-threatening disease or condition. Routine costs would include any medically necessary health care service, including physician visits, hospital stays, tests, and x-rays, for which benefits are provided under the plan regardless of whether the patient were participating in a clinical trial.
<a href="#">SB 2423</a>	Transfer or Sale of Patient Information on Prescription Drug History by Discount Health Care Programs	September 1st	Requires discount health care programs who engage in the transfer or sale of a member's patient information or prescription drug history to provide each prospective member, before enrollment, disclosure materials describing the program's practices regarding such transfer or sale.

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<b>MEDICAID / CHIP</b>			
<a href="#"><u>HB 1630</u></a>	Eligibility of Individuals for CHIP and Medicaid Coverage on Release from Certain Facilities	Immediately	<ul style="list-style-type: none"> <li>Requires HHSC to enter into a memorandum of understanding with the Texas Youth Commission to ensure that each individual who is committed under Title 3, Family Code, is assessed by HHSC for eligibility for Medicaid and CHIP before that individual's release from commitment.</li> <li>Requires HHSC to enter into a memorandum of understanding with the Texas Juvenile Probation Commission to ensure that each individual who is placed or detained under Title 3, Family Code, is assessed by HHSC for eligibility for Medicaid and CHIP before that individual's release from placement or detention.</li> </ul>
<a href="#"><u>HB 1966</u></a>	E-Prescribing Implementation Plan under the Medicaid and CHIP Programs	Immediately	Requires HHSC to develop an e-prescribing implementation plan under the vendor drug program for the Medicaid and CHIP programs designed to improve patient safety and standardize electronic prescribing systems used in the programs.
<a href="#"><u>HB 2030</u></a>	Medicaid Drug Utilization Review Program ("MDURP") and Prescription Drug Use Under the Medicaid Program	September 1st	<ul style="list-style-type: none"> <li>Requires HHSC to implement additional retrospective drug use reviews, improve the evaluation of program activities and monitor and publish prescription drug data on most prescribed drugs.</li> <li>Prohibits members of MDURP board from having a contractual relationship, ownership interest or other conflict of interest with a pharmaceutical manager or labeler or with an entity engaged by HHSC to assist in the administration of MDURP.</li> </ul>
<a href="#"><u>SB 1</u></a>	Appropriations for Fiscal Year 2010-2011	September 1st	Increased funding for projected caseload growth, to address the less favorable federal match, to address cost growth, increase community attendant wages and health care provider rates at DADS, DFPS and HHSC, to implement a Medicaid buy-in program for children and to provide health care to permanent residents at an enhanced federal match rate.
<a href="#"><u>SB 2424</u></a>	Non-emergency Ambulance Services Under the Medicaid Program	Immediately	Changes the notification requirements for health care providers to obtain authorization to use an ambulance for non-emergency transport of a Medicaid recipient.

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<b>MEDICAL LIABILITY</b>			
<a href="#"><u>SB 1211</u></a>	Volunteer Audiology and Speech-Language Pathology Personnel	September 1st	Amends Civil Practice and Remedies Code to redefine "volunteer health care provider" to include speech-language pathologists and audiologists.
<b>MISCELLANEOUS HEALTH CARE AND BUSINESS ISSUES</b>			
<a href="#"><u>HB 233</u></a>	Qualifications for Health Care Translators and Interpreters	September 1st	<ul style="list-style-type: none"> <li>Requires translators to fluently understand a written foreign language and demonstrate the ability to accurately translate messages communicated in that language into English and to accurately translate messages communicated in English into that language and have practical experience as a translator or hold professional certification as a translator.</li> <li>Requires interpreters to fluently understand a written foreign language and demonstrate the ability to accurately interpret messages communicated in that language into English and to accurately interpret messages communicated in English into that language and have practical experience as an interpreter or hold professional certification as an interpreter.</li> </ul>
<a href="#"><u>HB 2330</u></a>	Laboratory Tests Measuring Kidney Function	September 1st	Requires a laboratory that performs a serum creatinine test on a sample from a person 18 years of age or older shall also calculate and include in the reported results the person's estimated glomerular filtration rate or the results of an alternative equivalent calculation unless the physician determines that the calculation is unnecessary.
<a href="#"><u>HB 2558</u></a>	Registration for Evacuation and Disaster Preparedness for Clients of Home and Community Support Services Agencies	Immediately	Requires home and community support services to assist clients as necessary in registering for disaster evacuation assistance through 2-1-1 services and to counsel clients regarding disaster preparedness.

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">HB 2585</a>	Digital or Electronic Signatures and Witness Signatures on Advance Directives	September 1st	<ul style="list-style-type: none"> <li>Allows a declarant, witness or notary public to sign or revoke an advance directive using a digital signature or an electronic signature.</li> <li>Allows declarant, in lieu of signing in the presence of witnesses, to sign the directive and have the signature acknowledged before a notary public.</li> <li>Allows a declarant to electronically or digitally sign an out-of-hospital do-not-resuscitate (DNR) order.</li> <li>Allows a declarant, in lieu of signing before witnesses, to sign the out-of-hospital DNR order and have the signature acknowledged before a notary public.</li> <li>Allows a declarant to electronically or digitally sign a medical power of attorney.</li> <li>Allows a declarant, in lieu of signing before witnesses, to sign the medical power of attorney and have the signature acknowledged before a notary public.</li> </ul>
<a href="#">HB 4765</a>	Computation of Franchise Tax	January 1, 2010	Amends franchise/margin tax so a taxable entity is not required to pay any tax and does not owe any tax if the amount of the entity's total revenue from its entire business is less than or equal to \$1 million, or the amount determined per 12-month period on which margin is based – increased from \$300,000 of total revenue.
<a href="#">SB 1326</a>	Functions of the Statewide Health Coordinating Council ("SHCC")	Immediately	Updates references to federal and Texas statutes and agencies in the SHCC statute and authorizes individuals from the public and private sectors to serve on SHCC advisory boards and ad hoc committees.
<b>NURSES AND OTHER HEALTHCARE PERSONNEL</b>			
<a href="#">HB 643</a>	Qualifications of Surgical Technologists	September 1st	<ul style="list-style-type: none"> <li>Institutes requirements for the practice of surgical technology.</li> <li>Prohibits health care facilities from hiring a surgical technologist unless the individual has successfully completed an accredited surgical technology educational program, holds and maintains surgical technologist certification, has completed an appropriate surgical technologist training program in the U.S. military or U.S. Public Health Service, was employed as a surgical technologist in a health care facility prior to September 1, 2009, or is in the service of the federal government to practice surgical technology.</li> </ul>

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">HB 643</a> (cont'd)	Qualifications of Surgical Technologists	September 1st	<ul style="list-style-type: none"> <li>Allows facilities to hire new surgical technologist graduates from accredited educational programs provided the individual holds and maintains certification within 180 days of employment.</li> </ul>
<a href="#">HB 3961</a>	Regulation of Nursing	Immediately	<ul style="list-style-type: none"> <li>Adds provisions relating to the confidentiality of evaluations of nurses and nursing candidates.</li> <li>Allows the Board of Nursing ("BON") to require a nurse or applicant to submit to a physical or psychological evaluation to determine the individual's fitness to practice nursing only if BON had probable cause to believe that the individual was unable to practice nursing with reasonable skill and safety because of a mental impairment, physical impairment, chemical dependency or abuse of drugs or alcohol.</li> <li>Requires BON to temporarily suspend the license of a nurse under a board order prohibiting the use of alcohol or drugs if the nurse tests positive for alcohol or drugs, refuses to submit to a drug or alcohol test or fails to participate in a required drug or alcohol peer assistance program.</li> </ul>
<a href="#">HB 4471</a>	Professional Nursing Shortage Reduction Program	Immediately	Allows a public or private institution of higher education that offers a professional nursing program apply to receive a grant to enroll additional students or graduate additional students prepared for initial licensure as registered nurses.
<a href="#">SB 1415</a>	Corrective Actions by the Texas BON	September 1st	<ul style="list-style-type: none"> <li>Directs the BON, if feasible, to conduct a pilot program to evaluate a model of deferred disciplinary action other than a reprimand or a denial, suspension or revocation of a license for minor violations.</li> <li>Enables the BON to impose a corrective action on a person licensed or regulated under the Nursing Practices Act ("NPA"). The corrective action may be a fine, remedial education, or any combination of a fine or remedial education, is not a disciplinary action under disciplinary provisions of NPA and is subject to disclosure only to the extent a complaint is subject to disclosure under the confidentiality provisions relating to disciplinary actions.</li> </ul>

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">SB 1415</a> (cont'd)	Corrective Actions by the Texas BON	September 1st	<ul style="list-style-type: none"> <li>• Authorizes the BON, if a person has committed a violation for which corrective action may be imposed under the adopted guidelines, to give written notice of the determination and recommendation for corrective action subject to the corrective action. The notice must include a brief summary of the alleged violation, state recommended corrective action and inform the person of the person's options in responding to the notice.</li> <li>• Implements a corrective action proceeding under the disciplinary action provisions for a person receiving written notice of a violation for which corrective action may be imposed.</li> </ul>
<b>PHARMACIES AND PHARMACISTS</b>			
<a href="#">HB 19</a>	Requirements for Drugs Dispensed by Pharmacists	September 1st	Requires certain information on label of dispensing container dispensed by pharmacy and statement that unused medications should not be flushed or poured down a drain.
<a href="#">HB 1924</a>	Performance of Pharmacy Services in Rural Areas	Immediately	<ul style="list-style-type: none"> <li>• Authorizes a nurse or practitioner, if a practitioner orders a prescription drug or device for a patient in a rural hospital when the hospital pharmacist is not on duty or when the institutional pharmacy is closed, to withdraw the drug or device from the pharmacy in sufficient quantity to fill the order.</li> <li>• Authorizes a nurse or practitioner, in a rural hospital that uses a floor stock method of drug distribution, to withdraw prescription drugs or devices from the institutional pharmacy in the original manufacturer's container or prepackaged container.</li> <li>• Requires the hospital pharmacist to verify the withdrawal of a drug or device and perform a drug regimen review not later than the seventh day after the date of the withdrawal.</li> <li>• Authorizes a rural hospital to allow a pharmacy technician to perform certain duties if the pharmacy technician is registered and meets the training requirements and a pharmacist is accessible at all times to respond to any questions and needs of the pharmacy technician or other hospital employees to verify the accuracy of the actions of the pharmacy technician.</li> <li>• Requires the pharmacist-in-charge of an institutional pharmacy in a rural hospital to develop and implement policies and procedures for the operation of the pharmacy when the pharmacist is not on-site.</li> </ul>

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">HB 1924</a> (cont'd)	Performance of Pharmacy Services in Rural Areas	Immediately	<ul style="list-style-type: none"> <li>• Authorizes rural hospitals to establish standing orders and protocols that may include additional exceptions to instances in which prospective drug use review is required.</li> <li>• Authorizes a Class C pharmacy that has an ongoing clinical pharmacy program to allow a pharmacy technician to verify the accuracy of work performed by another pharmacy technician relating to the filing of floor stock and unit dose distribution systems for a patient admitted to the hospital if the patient's orders have previously been reviewed and approved by a pharmacist.</li> <li>• Requires the pharmacist-in-charge of the clinical pharmacy program to adopt policies and procedures for the verification processes.</li> </ul>
<b>PHYSICIANS</b>			
<a href="#">HB 448</a>	Provider Choice System for Vaccines	September 1st; effective September 1, 2010, Section 161.0103 of the Health and Safety Code is repealed.	Allows health care providers participating in the vaccines for children program or the adult safety net vaccination program ("ASVP") to select any licensed vaccine that is recommended by the federal Advisory Committee on Immunization Practices, are made available by the Centers for Disease Control and Prevention and for adult vaccines, are on the approved list of vaccines offered by the ASVP.
<a href="#">HB 732</a>	Removal of Information from a Physician's Medical Board Profile	September 1st	<ul style="list-style-type: none"> <li>• Requires that the TMB, in the annual update of a physician's profile, remove any record of complaint if it was dismissed or no action was taken more than five years before the date of the update.</li> <li>• Requires TMB to remove any record of a medical malpractice claim if the investigation was resolved more than five years before the date of the update and no action was taken against the physician's license as a result of the investigation.</li> </ul>
<a href="#">HB 2154</a>	Physician Education Loan Repayment Program	September 1st	Funds a loan repayment program for physicians who practice in medically underserved areas in Texas.
<a href="#">HB 3623</a>	Physician Covenants Not to Compete	September 1st	Clarifies that a covenant not to compete enforceable against a physician does not apply to a physician's business ownership interest in a licensed hospital or licensed ambulatory surgical center.

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">HB 3674</a>	Licensing Requirements for a Foreign-Trained Physician Applicant	September 1st	<ul style="list-style-type: none"> <li>Expands licensing for foreign-trained physicians who are specialty board certified by a specialty board organization acceptable to TMB.</li> <li>Expands licensing for foreign-trained physicians who have successfully completed at least two years of graduate medical training in the United States or Canada and at least one year of graduate medical training outside the United States or Canada that was approved for advanced standing by a specialty board organization approved by TMB.</li> </ul>
<a href="#">SB 202</a>	Provisional Licensing of Physicians to Practice in Underserved Areas	September 1st	Allows for provisional licensing of a physician in a location designated by the federal government as a health professional shortage area or designated by the federal or state government as a medically underserved area.
<a href="#">SB 292</a>	Physician Emergency Contact Information	September 1st	<ul style="list-style-type: none"> <li>Requires licensed physicians to submit telephone numbers, fax numbers and e-mail addresses that the TMB may use to contact the license holder in an emergency.</li> <li>Establishes the physician health program to promote physician and physician assistant wellness.</li> </ul>
<a href="#">SB 381</a>	Authority of Physicians to Delegate Implementation and Modification of a Patient's Drug Therapy to a Pharmacist	September 1st	Allows a physician to delegate to a pharmacist the implementation or modification of a patient's drug therapy under a protocol, including the authority to sign a prescription drug order for dangerous drugs, if: 1) the delegation follows a diagnosis, initial patient assessment and drug therapy order by the physician, 2) the pharmacist practices in a hospital, hospital-based clinic or an academic health care institution, 3) the hospital, hospital-based clinic or academic health care institution in which the pharmacist practices has bylaws and a medical staff policy that permits a physician to delegate to a pharmacist the management of a patient's drug therapy, 4) the pharmacist provides the name, address and telephone number of the pharmacist and of the delegating physician on each prescription signed by the pharmacist, and 5) the pharmacist provides a copy of the protocol to the Texas State Board of Pharmacy.

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">SB 532</a>	Physician Delegation of Prescriptive Authority to Physician Assistants or Advance Practice Nurses	September 1st	<ul style="list-style-type: none"> <li>Expands definition of primary practice site to include location where physician assistant ("PA") or advance practice nurse ("APN") practices with physician more than fifty percent of the time for established patients, or, without remuneration, at a charity clinic or at a temporary facility during a disaster.</li> <li>Increases to four (4) the number of PAs or APNs to whom a physician can delegate prescriptive authority at physician's primary or alternate practice sites.</li> </ul>
<a href="#">SB 904</a>	Classification of and Prescriptions Issued for Controlled Substances	Immediately	Authorizes a prescribing practitioner to issue multiple prescriptions authorizing a patient to receive a total of up to a 90-day supply of a Schedule II controlled substance if each separate prescription is issued for a legitimate medical purpose by a prescribing practitioner acting in the usual course of professional practice, the prescribing practitioner provides written instructions on each prescription to be filled at a later date indicating the earliest date on which a pharmacy may fill each prescription, the prescribing practitioner concludes that providing the patient with multiple prescriptions in such a manner does not create an undue risk of diversion or abuse and the issuance of multiple prescriptions complies with other applicable State and federal laws.
<b>PRIVACY / CONFIDENTIALITY / DISCLOSURE OF HEALTH INFORMATION</b>			
<a href="#">HB 583</a>	Expansion of the Electronic Eligibility Information Pilot Project	Immediately	Expands the electronic eligibility information pilot project created to determine the feasibility, costs, and benefits of accepting the direct importation of electronic information from a regional safety net provider collaborative organization for the purpose of establishing eligibility for benefits under state and federal health and human services programs by requiring HHSC to establish the project in at least two urban areas in Texas.

Bill #	Subject	Effective Date <i>*all dates 2009 unless otherwise indicated</i>	Summary
<a href="#">HB 1218</a>	Programs to Exchange Health Information Between HHSC and Health Care Entities	September 1st	<ul style="list-style-type: none"> <li>• Institutes a pilot project to determine the feasibility, costs and benefits of exchanging secure electronic health information among hospitals, clinics, physicians' offices and other health care providers.</li> <li>• Requires HHSC to develop an electronic health information exchange system to improve the quality, safety and efficiency of health care services provided under the CHIP and Medicaid programs.</li> <li>• Requires that any health information technology used by HHSC, or any entity acting on behalf of HHSC, in the Medicaid program or the CHIP conform to standards required under federal law.</li> </ul>
<a href="#">HB 2004</a>	Breach of Computer Security Involving Sensitive Personal Information and to the Protection of Sensitive Personal Information	September 1st	<ul style="list-style-type: none"> <li>• Revises the definition of "sensitive personal information" to include personal health information.</li> <li>• Requires a state agency or local government that owns, licenses or maintains computerized data that includes sensitive personal information to comply with notification requirements in the event of a breach of system security.</li> <li>• Revises the definition of "protected health information" to protect any information that reflects that an individual received health care from a covered entity that is a governmental unit and is not public information and is not subject to disclosure under the Texas Government Code.</li> </ul>
<a href="#">HB 4029</a>	Release of Health Care Information	September 1st	Establishes that payment information is part of a patient's confidential health care information and not subject to release without patient authorization. Conforms Texas law more closely to the definition of "protected health information" under the federal Health Insurance Portability and Accountability Act. Does not change existing practices in Texas hospitals, but ensures patients who receive services from public hospitals will have a level of privacy similar to that of patients who receive services from private hospitals.

PUBLIC HEALTH			
<a href="#">HB 1240</a>	Information to be Provided to Parents of an Infant	September 1st	Requires health care providers to provide parents of newborn children with information relating to the development, health and safety of a child from birth until age five.
<a href="#">HB 1510</a>	Sudden Infant Death Syndrome ("SIDS") Pamphlets for Parents of Newborn Children	September 1st	Requires hospitals, birthing centers, physicians, nurse midwives, or midwives who provide prenatal care to a pregnant woman during gestation or at delivery of an infant to provide information regarding SIDS to parents of newborn children.
<a href="#">HB 1671</a>	Mutual Aid Agreements for Newborn Screening Laboratory Services	September 1st	Allows DSHS to enter into a mutual aid agreement to provide newborn screening laboratory services with another state in the event of an unexpected interruption of service, including an interruption caused by disaster.
<a href="#">HB 1672</a>	Newborn Screening	Immediately	<ul style="list-style-type: none"> <li>• Adds screening for the sickle-cell trait in the detection and treatment program, the screening for inheritable diseases and newborn screening services.</li> <li>• Requires the health care provider to provide a parent, managing conservator or guardian with a disclosure statement stating DSHS or laboratory may retain genetic material used to conduct the newborn screening and discloses how the material is managed, used or limited in use.</li> <li>• Permits the parent, managing conservator or guardian to limit the use of the genetic material by providing a written statement prohibiting DSHS or laboratory from retaining the genetic material for uses other than the conduct of a newborn screening test.</li> <li>• Requires reports, records and information obtained in newborn screening be confidential and not subject to disclosure except in limited circumstances.</li> </ul>
<a href="#">HB 1795</a>	Newborn Screening	September 1st	<ul style="list-style-type: none"> <li>• Creates a newborn advisory committee and requires health care providers to screen a pregnant woman for HIV, syphilis and hepatitis B in the third trimester of pregnancy.</li> <li>• Requires providers if the tests are not performed before delivery, to take a sample from the newborn within two hours of birth to screen for HIV.</li> <li>• Allows parent, managing conservator or guardian to object to and prohibit the performance of the HIV test.</li> </ul>

<a href="#">SB 395</a>	Creation of the Early Childhood Health and Nutrition Interagency Council	September 1st	Creates a six person Early Childhood Health and Nutrition Interagency Council ("Council") to develop an early childhood nutrition and activity plan, and study existing nutrition and physical activity programs and requirements in early childhood settings and consult with key stakeholders to identify barriers to improving related standards.
<a href="#">SB 870</a>	Health, Wellness and Prevention of Obesity	September 1st	Creates an evidence-based public health awareness plan and establishes an obesity prevention pilot program.
<a href="#">SB 1171</a>	Health-Related Reports, Records and Information	Immediately	Authorizes the sharing of certain health-related reports, records, and information regarding communicable diseases or health conditions among public health districts, local health departments, and DSHS.

For more information about any of the new laws or agencies' proposed or final rules, please contact

[Lewis Lefko](#)  
972.739.8651  
[lew.lefko@haynesboone.com](mailto:lew.lefko@haynesboone.com)

[Thomas William Mayo](#)  
214.651.5676  
[thomas.mayo@haynesboone.com](mailto:thomas.mayo@haynesboone.com)

[Lane Wood](#)  
972.739.8630  
[lane.wood@haynesboone.com](mailto:lane.wood@haynesboone.com)

If you receive this Health Care Alert by mail and would prefer to receive it electronically, please e-mail Lewis Lefko at [lew.lefko@haynesboone.com](mailto:lew.lefko@haynesboone.com).

This alert is for informational purposes only and is not intended to be legal advice. Transmission is not intended to create and receipt does not establish an attorney-client relationship. Legal advice of any nature should be sought from legal counsel. For more information about Haynes and Boone and our practices, please visit [www.haynesboone.com/](http://www.haynesboone.com/).

© 2009 Haynes and Boone, LLP