

Texas Health Services Authority

Request for Information

Summary

House Bill 1066 (H.B. 1066; 80R) created the Texas Health Services Authority (THSA) to support the improvement of the Texas health care system by promoting and coordinating the electronic exchange of health information throughout the state to ensure that the right information is available to the right health care providers at the right times. In July 2008, Governor Perry appointed 11 members to the THSA board of directors, which held its first meeting on September 18, 2008. The THSA Board directed staff to publish this **Request for Information** (RFI) in order to identify options for the THSA's operations and financing.

How to Use to this Document

What is The Goal of this Document?

The Texas Health Services Authority is issuing this Request for Information (RFI) in order to identify options for the THSA's operations and financing.

What Goals are NOT Intended for this Document?

It is not our intention to make this RFI any sort of "pre-proposal." While we expect that the information gathered through the RFI process will help shape the direction of the Texas Health Services Authority, it is not our goal to define such things at this stage.

We do not intend to convey any predisposition to a particular solution, method, or service delivery methodology, nor do we hope to limit the creativity of your response.

Who Should Respond?

The intended audience for this RFI is quite broad. In addition to participants in existing health information technology or health information exchange projects in Texas and companies operating in the health information technology sector, we strongly encourage organizations representing major stakeholders in the Texas health care system such as doctors, hospitals, and health plans to respond.

How Will My Organization Benefit By Participating?

Not only will you ensure that your organization is part of the policy development process, but participating in the RFI will also ensure that you receive any additional future communications from the Texas Health Services Authority.

Format of Responses

Please limit responses to 20 pages, inclusive of all graphs, tables, diagrams, attachments, and other exhibits. Responses to this RFI should be sent to the Texas Health Care Policy Council, in the Office of the Governor, which is providing temporary staff support to the THSA. Responses should be sent by 5pm, Friday, October 31, 2008. Responses by email in Microsoft Word or Adobe PDF format are highly preferred. Please send responses to stephen.palmer@governor.state.tx.us. Staff will confirm receipt within 5 business days of submission. If you do not receive a confirmation within that time window, please call the Texas Health Care Policy Council office at 512-463-8470.

In addition to narrative elements, responses should include the following structured sections as a cover page:

- Responding organization (including contact information)
- Overview – One paragraph summarizing the overall proposal
- Data
 - Scope of data to be exchanged or otherwise made available
 - Source(s) of data to be exchanged or otherwise made available
- Technical strategy – What technical components would need to be developed or implemented?
- Governance structure – What, if any, additional advisory committees or other mechanisms for stakeholder input and accountability would be implemented?
- Anticipated/estimated cost

Background

- *Origin* – Creation of the THSA was recommended by the Texas Health Care System Integrity Partnership which was convened pursuant to Executive Order RP-61.
- *Establishment* – The THSA was created by the Legislature in 2007 (H.B. 1066, 80R) as a public-private partnership to promote and coordinate health information technology initiatives and electronic health information exchange.
- *Structure* – The THSA is structured as a non-profit corporation governed by a board appointed by the Governor.
- *Status* – Incorporation papers filed with Secretary of State. Appointments made.
- *Funding*
 - Original plan – Preliminary seed funding was sought through legislative appropriation. It was anticipated that long-term operations would be supported through revenues generated through fees or dues associated with business operations.
 - Current plan – Since no appropriations were made to the THSA, the THSA board is seeking to identify a bootstrapping approach or alternate funding.

Legislative Charge

Texas Health and Safety Code, Chapter 182, as added by H.B. 1066 created the Texas Health Services Authority and delineated its roles and responsibilities. The primary statutory provisions from Chapter 182 that provide direction regarding the anticipated purpose and functions of the THSA are as follows:

"Sec. 182.001. PURPOSE. This chapter establishes the Texas Health Services Authority as a public-private collaborative to implement the state-level health information technology functions identified by the Texas Health Information Technology Advisory

Committee by serving as a catalyst for the development of a seamless electronic health information infrastructure to support the health care system in the state and to improve patient safety and quality of care."

"Sec. 182.051. TEXAS HEALTH SERVICES AUTHORITY; PURPOSE. (a) The corporation is established to:

(1) promote, implement, and facilitate the voluntary and secure electronic exchange of health information; and
(2) create incentives to promote, implement, and facilitate the voluntary and secure electronic exchange of health information."

"SUBCHAPTER C. POWERS AND DUTIES

Sec. 182.101. The corporation may:

(1) establish statewide health information exchange capabilities, including capabilities for electronic laboratory results, diagnostic studies, and medication history delivery, and, where applicable, promote definitions and standards for electronic interactions statewide;

(2) seek funding to:

(A) implement, promote, and facilitate the voluntary exchange of secure electronic health information between and among individuals and entities that are providing or paying for health care services or procedures; and

(B) create incentives to implement, promote, and facilitate the voluntary exchange of secure electronic health information between and among individuals and entities that are providing or paying for health care services or procedures;

(3) establish statewide health information exchange capabilities for streamlining health care administrative functions including:

(A) communicating point of care services, including laboratory results, diagnostic imaging, and prescription histories;

(B) communicating patient identification and emergency room required information in conformity with state and federal privacy laws;

(C) real-time communication of enrollee status in relation to health plan coverage, including enrollee cost-sharing responsibilities; and

(D) current census and status of health plan contracted providers;

(4) support regional health information exchange initiatives by:

(A) identifying data and messaging standards for health information exchange;

(B) administering programs providing financial incentives, including grants and loans for the creation and support of regional health information networks, subject to available funds;

(C) providing technical expertise where appropriate;

(D) sharing intellectual property developed under Section 182.105;

(E) waiving the corporation's fees associated with intellectual property, data, expertise, and other services or materials provided to regional health information exchanges operated on a nonprofit basis; and

(F) applying operational and technical standards developed by the corporation to existing health information exchanges only on a voluntary basis, except for standards related to ensuring effective privacy and security of individually identifiable health information;

(5) identify standards for streamlining health care administrative functions across payors and providers, including electronic patient registration, communication of enrollment in health plans, and information at the point of care regarding services covered by health plans; and

(6) support the secure, electronic exchange of health information through other strategies identified by the board."

In considering operational plans for the THSA, it is also important to note that the enabling legislation prohibits the THSA from engaging in certain practices:

"Sec. 182.102. PROHIBITED ACTS. (a) The corporation has no authority and shall not engage in any of the following:

(1) the collection and analysis of clinical data;

(2) the comparison of physicians to other physicians, including comparisons to peer group physicians, physician groups, and physician teams, and to national specialty society adopted quality measurements;

(3) the creation of a tool to measure physician performance compared to:

(A) peer group physicians on state and specialty levels; or

(B) objective standards;

(4) the providing of access to aggregated, de-identified protected health information to local health information exchanges and other users of quality care studies, disease management and population health assessments;

(5) providing to public health programs trended, aggregated, de-identified protected health information to help assess the health status of populations and the providing of regular reports of trends and important incidence of events to public health avenues for intervention, education, and prevention programs; or

(6) the creation of evidence-based standards for the practice of medicine.

(b) The corporation has no authority and shall not disseminate information, in any manner, to the public that compares, rates, tiers, classifies, measures, or ranks a physician's performance, efficiency, or quality of practice."

These guidelines are only included in this document as a convenience. Potential respondents to this **Request for Information** are encouraged to review the entire enabling legislation.

Other Referenced Guidance

The primary “state-level health information technology functions identified by the Texas Health Information Technology Advisory Committee,” as referenced in Texas Health and Safety Code, Section 182.001 are as follows:

“Recommendation 1.1

Create a statewide coordinating body, which will work with Texas partners and practicing physicians to determine financial incentives to increase EHR adoption across Texas that meet patients’ expectations for privacy and control of access to their records.”

“Recommendation 1.2

Empower the statewide coordinating body to work with Texas partners and advisory groups to explore policy changes that should occur to increase the adoption of EHRs.”

“Recommendation 1.3

Charter the statewide coordinating body to partner with Texas organizations that are already focused on HIT adoption.”

“Recommendation 1.4

Encourage the statewide coordinating body to provide guidance, direction, and education to the stakeholders as part of the effort of HIT adoption.”

“Recommendation 2.1

Establish a statewide coordinating body that includes public and private stakeholders to provide governance, guidance, direction, and coordination to the design and implementation of the electronic HIE framework for regional stakeholders in Texas. This organization would perform state-level activities and functions, including: setting technology and data standards; acting as a federal liaison; developing privacy and confidentiality protocols; evaluating whether targeted policies are necessary for special-needs populations (children, geriatric, and individuals with disabilities) and/or the providers that serve them; coordinating state agency HIT activities; assisting in the coordination and collaboration of regional HIT and HIE initiatives; administering designated statewide funds for HIT and HIE; promoting and educating regional HIEs about national standards (technical and privacy); providing marketing and media materials; and providing an education plan working with existing HIT and HIE resources.”

Several of the other recommendations identified by the Texas Health Information Technology Advisory Committee have relevance to state-level health information technology and health information exchange and may be useful to potential respondents.

Potential Structures and Functions

An Option for Steady-State Operations

Although the enabling legislation is fairly vague in terms of actual operations, one vision for the THSA is for it to develop and operate a web portal through which health care providers and facilities can access clinical information about patients. For example, when an individual presents at a hospital emergency department, the hospital could query the THSA portal to see if

there is any available clinical information about the person (e.g., from their health plan, pharmacy, physician, etc.) and then use that clinical information to provide better, more efficient care. There are already numerous electronic sources of patient clinical information, accessible to authorized providers, but they are not tied together in a way that delivers optimum value and usability. One of the primary functions of the THSA under this option would be to tie these different sources of patient data together. (Another function of the THSA under this option would be to authorize and authenticate providers, to ensure that only those providers who should be accessing patient records are doing so.)

The ongoing operations of the THSA under this option could be funded through transaction fees on each record query. Even if only a fraction of visits to health care providers are enhanced by accessing the THSA portal, significant revenue could be generated. For example, it is estimated that there are over 80 million physician visits and over 30 million hospital visits in Texas each year. If participation and use of the THSA portal were to be at such a level that only 5% of physician and hospital encounters benefited from access to patients' medical histories, then a \$1 transaction fee would still generate over \$5 million per year.

An Option for Initial Development of an Operational Capability

Since no funds were appropriated for the THSA, one mechanism for funding the initial development of a health information exchange portal would be to leverage a business model similar to that used by TexasOnline or a privately operated toll road. As part of a zero dollar contract, a contractor could develop the portal and then receive a portion of the transaction fees on an ongoing basis, both to repay the contractor for its initial investment, but also to fund ongoing operations. Additional revenues above the contracted fee sharing would accrue to the THSA itself and could be used to support other activities such as grants and the development of additional operational functions. No particular transaction fee structure appears to be singularly preferable from an economic perspective since both payers and providers would likely benefit from this sort of information availability.

An Option for Support of a Coordination/Promotion Function

One potential role of the THSA would be to coordinate and promote health information technology and electronic health information exchange initiatives throughout the state. One option for financial sustainability under this operational model would be to develop a schedule of subscription or membership fees to be paid by participating individuals or entities, across industry sectors or from within particular sectors. For example, subscription/membership fees could be paid by employers based on the size of their workforce, or by health plans based on the number of lives that they cover, or by hospitals based on their bed count. Such a model would essentially be similar to a membership association. Obtaining a critical mass of support in order to show membership benefits would be a necessary but probably difficult step in the feasibility of this model.

Information Requested

The THSA Board of Directors invites any stakeholders with an interest in the Texas health care system or the electronic exchange of health information to provide feedback to inform the Board's consideration of potential operational and financial models for the THSA.

In addition to feedback in response to the **Potential Structures and Functions** outlined above, the following high-level questions are of particular interest, but should not be considered as exhaustive, nor should the categorical breakdown used below be considered restrictive:

Financing

- How should the THSA be funded?
- Are there any particular self-funding or “bootstrapping” models that the Board should consider from within health care, from other industries, or based on novel concepts?

Operations

- On which particular tasks should the THSA initially focus?
- What services should the THSA provide?
- What technical strategy or approach should be used?

Governance

- What role should the THSA play in coordinating health information technology and electronic health information exchange across the state?
- What additional subcommittees, workgroups, advisory committees, etc might be useful to the operations of the THSA?

Interactions

- How should any services provided by the THSA be funded?
- How should the financial, operational, and governance structures of the THSA interact, support each other, or otherwise interrelate?
- What is the feasibility of developing a service-delivery operational model, funded by transaction fees?
- What is the feasibility of developing a coordination/promotion operational model, funded by subscription or membership fees?