



Physicians Caring for Texans

**Senate Health and Human Services**  
**Senate Bill 968 by Sen. Lois Kolkhorst**  
**Testimony by John T. Carlo, MD**  
**Texas Medical Association**  
*March 31, 2021*

Honorable Chair Kolkhorst and members:

The Texas Medical Association and its more than 55,000 physician and medical student members appreciate this opportunity to share both medical and public health perspectives regarding Senate Bill 968 and to testify on the bill.

We appreciate the efforts to improve Texas' public health disaster response, especially steps to bolster Texas' personal protective equipment (PPE) supply by guaranteeing the Texas Division of Emergency Management priority status for purchasing PPE during declared public health disasters. TMA also commends SB 968's calling for Texas state health agencies to conduct appropriate public health disaster planning and supports the establishment of the Office of Chief State Epidemiologist within the Texas Department of State Health Services (DSHS).

Public health disasters are complex scenarios, involving communicable disease threats that pose a high risk of death, serious long-term disability, or high levels of contagion. Often a communicable disease demands a rapid response to defend the health of the public, and requiring the DSHS commissioner to address local elected and county officials right in the middle of what needs to be a quick response may be challenging and slow down the process. Further, all health authorities are appointed officials within this state. Governing bodies already have the authority to intervene at times they feel are appropriate through the immediate removal of appointed officials. TMA also supports the oversight of a public health disaster decision by the governor, which will provide both expedience and accountability to voters.

From a medical and public health perspective, the DSHS commissioner should have the ability to make public health declarations independently. Perhaps a broader body of consultants should be assembled to review or confirm a state public health disaster. That group ideally would have the best knowledge of the science and contain at the minimum the expertise of those in medicine, and law/ethics, and faith-based leadership. Decisions made in a vacuum are not ideal; however, the addition of a consulting board for the commissioner could provide the right expertise to guide potentially sensitive decisions.

TMA would like to express concerns regarding the requirement that reports of communicable disease tests include the cycle threshold values and their reference ranges. This requirement would be onerous and create more administrative burden to physicians and laboratories that are

already inundated on the front lines fighting the outbreak. As you may already know, to improve its ability to detect virus, an RT-PCR test creates many copies of the same genetic material from the virus in a process called amplification. The cycle threshold value indicates when the virus is detectable in the amplification process. Cycle threshold values should not be used to determine a patient's viral load, how infectious a person may be, or when a person can be released from isolation or quarantine.<sup>1</sup> A high cycle threshold value cannot be assumed to be indicative of a false positive test.

Lastly, TMA shares concerns regarding the penalties for lab failure to report to DSHS the required information as outlined in the bill during a public health disaster or emergency. TMA does understand the need for accurate, timely data during a disaster. However, the burden on smaller practices to report what may be hundreds of point-of-care tests daily can be both overwhelming and time consuming, and the penalties would add even more stress and pressure to physicians while they are busy actively responding to the pandemic. We would also like to suggest that if physicians are included or targeted, the Texas Medical Board, not the attorney general, be the appropriate entity to sanction physicians accompanied by appropriate due process.

TMA appreciates the efforts of this committee to improve Texas' public health response in light of lessons learned from COVID-19. We ask for your considerations of these critical medical and public health implications moving forward. Thank you very much for the opportunity to comment, and I am happy to answer any questions.

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<sup>1</sup> Centers for Disease Control and Prevention (CDC). [Frequently Asked Questions about Coronavirus \(COVID-19\) for Laboratories.](#)