

By: McClendon

H.B. No. 411

A BILL TO BE ENTITLED

AN ACT

relating to the transmission of certain health information to a site outside the United States.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle I, Title 2, Health and Safety Code, is amended by adding Chapter 182 to read as follows:

CHAPTER 182. MEDICAL RECORDS PROTECTION

Sec. 182.001. DEFINITIONS. In this chapter:

(1) "Health care business" means a person that collects or retains individually identifiable health information about an individual.

(2) "Individually identifiable health information" has the meaning assigned by Section 1171, Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d).

Sec. 182.002. DISCLOSURE REQUIRED. A person that contracts with a health care business to receive individually identifiable health information shall disclose to the health care business if any of the information will be transmitted to a site outside the United States.

Sec. 182.003. CONSENT REQUIRED. (a) A health care business or person that contracts with a health care business may not transmit individually identifiable health information to a site outside the United States unless, before transmittal, the health

1 care business:

2 (1) discloses to the individual that his or her
3 individually identifiable health information may be transmitted to
4 a site outside the United States; and

5 (2) obtains the written consent of the individual
6 whose health information is identifiable in accordance with Section
7 182.004.

8 (b) A health care business may not discriminate against an
9 individual or deny an individual health care services because the
10 individual has not provided consent under this chapter.

11 (c) A health care business that has ownership and control of
12 individually identifiable health information is responsible for
13 compliance with this chapter and may not delegate that
14 responsibility to a physician who, as a contractor or employee,
15 provides health care services to individuals.

16 (d) This chapter does not apply if an individual initiates a
17 request for health care services, diagnosis, or treatment outside
18 the United States.

19 Sec. 182.004. REQUIREMENTS FOR CONSENT. Written consent to
20 transmit individually identifiable health information to a site
21 outside the United States must:

22 (1) be dated and signed by the individual whose health
23 care information is identifiable; and

24 (2) clearly and conspicuously disclose:

25 (A) that by signing, the individual is consenting
26 to the transmission of individually identifiable health
27 information to a site outside the United States;

1 (B) that the consent of the individual must have
2 been made or renewed not more than one year before the date on which
3 the information is transmitted;

4 (C) that the individual may revoke the consent at
5 any time; and

6 (D) the procedure by which consent may be
7 revoked.

8 SECTION 2. This Act takes effect September 1, 2006.