

By: Chavez

H.B. No. 486

A BILL TO BE ENTITLED

AN ACT

relating to the transmission of certain health information to a site outside the United States; creating an offense.

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 in relation to the provision of health care.

(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;

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

8 (3) provides notice in accordance with Section
9 182.005.

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

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

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

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

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

26 (2) clearly and conspicuously disclose:

27 (A) that by signing, the individual is consenting

1 to the transmission of individually identifiable health
2 information to a site outside the United States;

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

6 (C) that the individual may revoke the consent at
7 any time; and

8 (D) the procedure by which consent may be
9 revoked.

10 Sec. 182.005. NOTICE REQUIRED. (a) A health care business
11 required to provide notice under Section 182.003 shall publish
12 notice that individually identifiable health information may be
13 transmitted to a site outside the United States at least once each
14 week for four consecutive weeks in a newspaper of the largest
15 general circulation that is published in the county in which the
16 greatest number of individuals served by the health care business
17 are located.

18 (b) Notice must include:

19 (1) a description of the type of information that will
20 be transmitted to a site outside the United States;

21 (2) a statement that the health care business must
22 request the consent of an individual before transmitting
23 individually identifiable health information to a site outside the
24 United States; and

25 (3) the manner in which the health care business may be
26 contacted for further information.

27 (c) If a newspaper is not published in the county described

1 by Subsection (a), the notice must be published in a newspaper of
2 general circulation in an adjoining county.

3 (d) A health care business is not required to publish notice
4 under this section more than once.

5 Sec. 182.006. OFFENSE; CRIMINAL PENALTY. (a) A health care
6 business, or a person that contracts with a health care business,
7 that transmits individually identifiable health information in
8 violation of this chapter commits an offense. Each record
9 transmitted in violation of this chapter is a separate offense.

10 (b) An offense under this section is a Class C misdemeanor.

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