

By: Nelson

S.B. No. 1328

A BILL TO BE ENTITLED

AN ACT

relating to the privacy of protected health information.

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

SECTION 1. Section 58.0071, Family Code, is amended by adding Subsection (g) to read as follows:

(g) If destruction of a physical record or file under this section is destruction of protected health information by a covered entity, as those terms are defined by the privacy rule of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the covered entity may not destroy the record or file before the sixth anniversary of the date the record or file was created.

SECTION 2. Sections 82.010(b) and (c), Family Code, are amended to read as follows:

(b) Except as otherwise provided by law, an application for a protective order is confidential and [7] is excepted from required public disclosure under Chapter 552, Government Code. A court [7-and] may not release an application [be released] to a person who is not a respondent to the application until after the date of service of notice of the application or the date of the hearing on the application, whichever date is sooner.

(c) Except as otherwise provided by law, an application requesting the issuance of a temporary ex parte order under Chapter

1 83 is confidential and [7] is excepted from required public
2 disclosure under Chapter 552, Government Code. A court [~~7~~ and] may
3 not release an application [~~be released~~] to a person who is not a
4 respondent to the application until after the date that the court or
5 law enforcement informs the respondent of the court's order.

6 SECTION 3. Section 107.006(c), Family Code, is amended to
7 read as follows:

8 (c) A mental health record of a child at least 12 years of
9 age that is privileged or confidential under other law may be
10 released to a person appointed under Subsection (a) only in
11 accordance with the other law, except to the extent that the other
12 law is preempted by the privacy rule of the Administrative
13 Simplification subtitle of the Health Insurance Portability and
14 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
15 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E.

16 SECTION 4. Sections 162.018(a) and (b), Family Code, are
17 amended to read as follows:

18 (a) The department, licensed child-placing agency, person,
19 or entity placing a child for adoption shall provide to the [The]
20 adoptive parents, upon request, [~~are entitled to receive~~] copies of
21 the records and other information relating to the history of the
22 child maintained by the department, licensed child-placing agency,
23 person, or entity placing the child for adoption.

24 (b) The department, licensed child-placing agency, person,
25 or entity placing the child for adoption shall, upon request,
26 provide to the [The] adoptive parents and the adopted child, after
27 the child is an adult, [~~are entitled to receive~~] copies of the

1 records maintained by the entity that have been edited to protect
2 the identity of the biological parents and any other person whose
3 identity is confidential and other information relating to the
4 history of the child [~~maintained by the department, licensed~~
5 ~~child-placing agency, person, or entity placing the child for~~
6 ~~adoption~~].

7 SECTION 5. Section 162.414, Family Code, is amended by
8 adding Subsection (f) to read as follows:

9 (f) To the extent that Subsection (d) authorizes the use or
10 disclosure of protected health information by a covered entity, as
11 those terms are defined by the privacy rule of the Administrative
12 Simplification subtitle of the Health Insurance Portability and
13 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
14 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
15 covered entity shall ensure that the use or disclosure complies
16 with all applicable requirements, standards, or implementation
17 specifications of the privacy rule.

18 SECTION 6. Section 264.408(a), Family Code, is amended to
19 read as follows:

20 (a) The files, reports, records, communications, and
21 working papers used or developed in providing services under this
22 chapter are confidential and not subject to public release under
23 Chapter 552, Government Code. A center [and] may only disclose the
24 files, reports, records, communications, and working papers
25 developed in providing services under this chapter [be disclosed]
26 for purposes consistent with this chapter. Disclosure may be to:

27 (1) the department, department employees, law

1 enforcement agencies, prosecuting attorneys, medical
2 professionals, and other state agencies that provide services to
3 children and families; and

4 (2) the attorney for the child who is the subject of
5 the records and a court-appointed volunteer advocate appointed for
6 the child under Section 107.031.

7 SECTION 7. Section 420.031(e), Government Code, is amended
8 to read as follows:

9 (e) Evidence collected under this section may not be
10 released unless the survivor of the offense or a legal
11 representative of the survivor signs a written consent to release
12 the evidence. If a disclosure under this subsection is a disclosure
13 of protected health information by a covered entity, as those terms
14 are defined by the privacy rule of the Administrative
15 Simplification subtitle of the Health Insurance Portability and
16 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
17 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
18 covered entity shall ensure that the consent to the disclosure
19 complies with all of the privacy rule's applicable requirements,
20 standards, and implementation specifications relating to
21 authorizations for uses and disclosures of protected health
22 information.

23 SECTION 8. Section 825.507, Government Code, is amended by
24 adding Subsection (h) to read as follows:

25 (h) If a disclosure under Subsection (b)(6) is a disclosure
26 of protected health information by a covered entity, as those terms
27 are defined by the privacy rule of the Administrative

1 Simplification subtitle of the Health Insurance Portability and
2 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
3 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
4 covered entity shall ensure that the authorization for the
5 disclosure complies with all of the privacy rule's applicable
6 requirements, standards, and implementation specifications
7 relating to authorizations for uses and disclosures of protected
8 health information.

9 SECTION 9. Section 81.103, Health and Safety Code, is
10 amended by adding Subsection (k) to read as follows:

11 (k) If a disclosure under Subsection (d) is a disclosure of
12 protected health information by a covered entity, as those terms
13 are defined by the privacy rule of the Administrative
14 Simplification subtitle of the Health Insurance Portability and
15 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
16 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
17 covered entity shall ensure that the authorization for the
18 disclosure complies with all of the privacy rule's applicable
19 requirements, standards, and implementation specifications
20 relating to authorizations for uses and disclosures of protected
21 health information.

22 SECTION 10. Section 83.005, Health and Safety Code, is
23 amended by adding Subsection (c) to read as follows:

24 (c) If a disclosure under Subsection (a) is a disclosure of
25 protected health information by a covered entity, as those terms
26 are defined by the privacy rule of the Administrative
27 Simplification subtitle of the Health Insurance Portability and

1 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
2 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
3 covered entity shall ensure that the consent to the disclosure
4 complies with all of the privacy rule's applicable requirements,
5 standards, and implementation specifications relating to
6 authorizations for uses and disclosures of protected health
7 information.

8 SECTION 11. Section 84.006, Health and Safety Code, is
9 amended by adding Subsection (c) to read as follows:

10 (c) If a disclosure under Subsection (a)(2) is a disclosure
11 of protected health information by a covered entity, as those terms
12 are defined by the privacy rule of the Administrative
13 Simplification subtitle of the Health Insurance Portability and
14 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
15 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
16 covered entity shall ensure that the consent to the disclosure
17 complies with all of the privacy rule's applicable requirements,
18 standards, and implementation specifications relating to
19 authorizations for uses and disclosures of protected health
20 information.

21 SECTION 12. Section 88.002, Health and Safety Code, is
22 amended by adding Subsection (e) to read as follows:

23 (e) If a disclosure under Subsection (c)(2) is a disclosure
24 of protected health information by a covered entity, as those terms
25 are defined by the privacy rule of the Administrative
26 Simplification subtitle of the Health Insurance Portability and
27 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45

1 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
2 covered entity shall ensure that the consent to the disclosure
3 complies with all of the privacy rule's applicable requirements,
4 standards, and implementation specifications relating to
5 authorizations for uses and disclosures of protected health
6 information.

7 SECTION 13. Section 92.006, Health and Safety Code, is
8 amended by adding Subsection (d) to read as follows:

9 (d) If a disclosure under Subsection (a)(2) is a disclosure
10 of protected health information by a covered entity, as those terms
11 are defined by the privacy rule of the Administrative
12 Simplification subtitle of the Health Insurance Portability and
13 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
14 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
15 covered entity shall ensure that the consent to the disclosure
16 complies with all of the privacy rule's applicable requirements,
17 standards, and implementation specifications relating to
18 authorizations for uses and disclosures of protected health
19 information.

20 SECTION 14. Section 108.009(a), Health and Safety Code, is
21 amended to read as follows:

22 (a) The council may collect, and, except as provided by
23 Subsection [~~Subsections (c) and~~] (d), providers shall submit to the
24 council or another entity as determined by the council, all data
25 required by this section. The data shall be collected according to
26 uniform submission formats, coding systems, and other technical
27 specifications necessary to make the incoming data substantially

1 valid, consistent, compatible, and manageable using electronic
2 data processing, if available.

3 SECTION 15. Section 142.009, Health and Safety Code, is
4 amended by adding Subsection (m) to read as follows:

5 (m) If a disclosure under Subsection (d)(3) is a disclosure
6 of protected health information by a covered entity, as those terms
7 are defined by the privacy rule of the Administrative
8 Simplification subtitle of the Health Insurance Portability and
9 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
10 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
11 covered entity shall ensure that the consent to the disclosure
12 complies with all of the privacy rule's applicable requirements,
13 standards, and implementation specifications relating to
14 authorizations for uses and disclosures of protected health
15 information.

16 SECTION 16. Section 162.006, Health and Safety Code, is
17 amended by adding Subsection (d) to read as follows:

18 (d) If a disclosure under this section is a disclosure of
19 protected health information by a covered entity, as those terms
20 are defined by the privacy rule of the Administrative
21 Simplification subtitle of the Health Insurance Portability and
22 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
23 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
24 covered entity shall ensure that the disclosure complies with all
25 of the privacy rule's applicable requirements, standards, and
26 implementation specifications.

27 SECTION 17. Section 241.152, Health and Safety Code, is

1 amended by adding Subsection (g) to read as follows:

2 (g) If an authorization under this section authorizes the
3 disclosure of protected health information by a covered entity, as
4 those terms are defined by the privacy rule of the Administrative
5 Simplification subtitle of the Health Insurance Portability and
6 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
7 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
8 covered entity shall ensure that the authorization complies with
9 all of the privacy rule's applicable requirements, standards, and
10 implementation specifications.

11 SECTION 18. Section 241.154, Health and Safety Code, is
12 amended by amending Subsection (b) and adding Subsection (f) to
13 read as follows:

14 (b) Except as provided by Subsections [~~Subsection~~] (d) and
15 (f), the hospital or its agent may charge a reasonable fee for
16 providing the health care information and is not required to permit
17 the examination, copying, or release of the information requested
18 until the fee is paid unless there is a medical emergency. The fee
19 may not exceed the sum of:

20 (1) a basic retrieval or processing fee, which must
21 include the fee for providing the first 10 pages of the copies and
22 which may not exceed \$30; and

23 (A) a charge for each page of:

24 (i) \$1 for the 11th through the 60th page of
25 the provided copies;

26 (ii) 50 cents for the 61st through the 400th
27 page of the provided copies; and

1 (iii) 25 cents for any remaining pages of
2 the provided copies; and

3 (B) the actual cost of mailing, shipping, or
4 otherwise delivering the provided copies; or

5 (2) if the requested records are stored on any
6 microform or other electronic medium, a retrieval or processing
7 fee, which must include the fee for providing the first 10 pages of
8 the copies and which may not exceed \$45; and

9 (A) \$1 per page thereafter; and

10 (B) the actual cost of mailing, shipping, or
11 otherwise delivering the provided copies.

12 (f) A hospital that is a covered entity releasing protected
13 health information, as those terms are defined by the privacy rule
14 of the Administrative Simplification subtitle of the Health
15 Insurance Portability and Accountability Act of 1996 (Pub. L. No.
16 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164,
17 Subparts A and E, to an individual who is the subject of the
18 information or that person's representative:

19 (1) may charge a reasonable, cost-based fee, provided
20 that the fee includes only the cost of:

21 (A) copying, including the cost of supplies for
22 and labor of copying, the protected health information requested by
23 the individual; and

24 (B) postage, when the individual has requested
25 the copy, or the summary or explanation, be mailed; and

26 (2) may not:

27 (A) charge a retrieval fee; or

1 (B) withhold copies of the information for
2 nonpayment of the fee.

3 SECTION 19. Section 247.065, Health and Safety Code, is
4 amended by adding Subsection (c) to read as follows:

5 (c) Subsection (b)(7) does not authorize the disclosure or
6 use of protected health information by a covered entity, as those
7 terms are defined by the privacy rule of the Administrative
8 Simplification subtitle of the Health Insurance Portability and
9 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
10 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, unless the
11 disclosure or use complies with all applicable requirements,
12 standards, or implementation specifications of the privacy rule.

13 SECTION 20. Section 262.030, Health and Safety Code, is
14 amended by adding Subsection (c) to read as follows:

15 (c) If destruction of a record under this section is
16 destruction of protected health information by a covered entity, as
17 those terms are defined by the privacy rule of the Administrative
18 Simplification subtitle of the Health Insurance Portability and
19 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
20 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
21 covered entity may not destroy the record before the sixth
22 anniversary of the date the record was created.

23 SECTION 21. Section 281.073, Health and Safety Code, is
24 amended by adding Subsection (c) to read as follows:

25 (c) If destruction of a record under this section is
26 destruction of protected health information by a covered entity, as
27 those terms are defined by the privacy rule of the Administrative

1 Simplification subtitle of the Health Insurance Portability and
2 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
3 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
4 covered entity may not destroy the record before the sixth
5 anniversary of the date the record was created.

6 SECTION 22. Section 595.003, Health and Safety Code, is
7 amended by adding Subsection (c) to read as follows:

8 (c) If consent under this section authorizes the disclosure
9 of protected health information by a covered entity, as those terms
10 are defined by the privacy rule of the Administrative
11 Simplification subtitle of the Health Insurance Portability and
12 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
13 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
14 covered entity shall ensure that the authorization complies with
15 all of the privacy rule's applicable requirements, standards, and
16 implementation specifications.

17 SECTION 23. Section 595.004, Health and Safety Code, is
18 amended by amending Subsection (a) and adding Subsection (c) to
19 read as follows:

20 (a) The content of a confidential record shall be made
21 available on the request of the person about whom the record was
22 made unless:

23 (1) the person is a client; and

24 (2) subject to Subsection (c), the qualified
25 professional responsible for supervising the client's habilitation
26 states in a signed written statement that having access to the
27 record is not in the client's best interest.

1 (c) A covered entity may not deny a request under this
2 section for protected health information, as those terms are
3 defined by the privacy rule of the Administrative Simplification
4 subtitle of the Health Insurance Portability and Accountability Act
5 of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45
6 C.F.R. Part 164, Subparts A and E, unless the qualified
7 professional responsible for supervising the client's habilitation
8 determines that making the record available to the client is
9 reasonably likely to endanger the life or physical safety of the
10 client or another person.

11 SECTION 24. Section 611.004, Health and Safety Code, is
12 amended by adding Subsection (e) to read as follows:

13 (e) If a disclosure under Subsection (a)(4) is a disclosure
14 of protected health information by a covered entity, as those terms
15 are defined by the privacy rule of the Administrative
16 Simplification subtitle of the Health Insurance Portability and
17 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
18 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
19 covered entity shall ensure that the consent to the disclosure
20 complies with all of the privacy rule's applicable requirements,
21 standards, and implementation specifications relating to
22 authorizations for uses and disclosures of protected health
23 information.

24 SECTION 25. Section 611.0045(b), Health and Safety Code, is
25 amended to read as follows:

26 (b) The professional may deny access to any portion of a
27 record if the professional determines that release of that portion

1 would be harmful to the patient's physical, mental, or emotional
2 health. A covered entity may not deny a request under this
3 subsection for protected health information, as those terms are
4 defined by the privacy rule of the Administrative Simplification
5 subtitle of the Health Insurance Portability and Accountability Act
6 of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45
7 C.F.R. Part 164, Subparts A and E, unless the professional
8 determines that making the record available to the patient is
9 reasonably likely to endanger the life or physical safety of the
10 patient or another person.

11 SECTION 26. Section 611.008(b), Health and Safety Code, is
12 amended to read as follows:

13 (b) Except as provided by this subsection, unless ~~[Unless]~~
14 provided for by other state law, the professional may charge a
15 reasonable fee for retrieving or copying mental health care
16 information and is not required to permit examination or copying
17 until the fee is paid unless there is a medical emergency. A covered
18 entity charging a fee for protected health information, as those
19 terms are defined by the privacy rule of the Administrative
20 Simplification subtitle of the Health Insurance Portability and
21 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
22 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, may not:

23 (1) charge a fee for retrieving the information; or

24 (2) withhold copies for nonpayment of the fee.

25 SECTION 27. Section 773.093, Health and Safety Code, is
26 amended by adding Subsection (d) to read as follows:

27 (d) If consent under this section authorizes the disclosure

1 of protected health information by a covered entity, as those terms
2 are defined by the privacy rule of the Administrative
3 Simplification subtitle of the Health Insurance Portability and
4 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
5 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
6 covered entity shall ensure that the consent complies with all of
7 the privacy rule's applicable requirements, standards, and
8 implementation specifications.

9 SECTION 28. Section 8, Article 21.58A, Insurance Code, is
10 amended by amending Subsection (g) and adding Subsection (j) to
11 read as follows:

12 (g) Documents in the custody of the utilization review agent
13 that contain confidential patient information or physician or
14 health care provider financial data shall be destroyed by a method
15 which induces complete destruction of the information when the
16 agent determines the information is no longer needed. If
17 destruction of information under this subsection is destruction of
18 protected health information by a covered entity, as those terms
19 are defined by the privacy rule of the Administrative
20 Simplification subtitle of the Health Insurance Portability and
21 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
22 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
23 covered entity may not destroy the information before the sixth
24 anniversary of the date the record was created.

25 (j) If an authorization under Subsection (b) authorizes the
26 disclosure of protected health information by a covered entity, as
27 those terms are defined by the privacy rule of the Administrative

1 Simplification subtitle of the Health Insurance Portability and
2 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
3 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
4 covered entity shall ensure that the authorization complies with
5 all of the privacy rule's applicable requirements, standards, and
6 implementation specifications.

7 SECTION 29. Section 546.104, Insurance Code, as effective
8 April 1, 2005, is amended to read as follows:

9 Sec. 546.104. AUTHORIZED DISCLOSURE. (a) An individual or
10 an individual's legal representative may authorize disclosure of
11 genetic information relating to the individual by an authorization
12 that:

13 (1) is written in plain language;

14 (2) is dated;

15 (3) contains a specific description of the information
16 to be disclosed;

17 (4) identifies or describes each person authorized to
18 disclose the genetic information to a group health benefit plan
19 issuer;

20 (5) identifies or describes the individuals or
21 entities to whom the disclosure or subsequent redisclosure of the
22 genetic information may be made;

23 (6) describes the specific purpose of the disclosure;

24 (7) is signed by the individual or legal
25 representative and, if the disclosure is made to claim proceeds of
26 an affected life insurance policy, the claimant; and

27 (8) advises the individual or legal representative

1 that the individual's authorized representative is entitled to
2 receive a copy of the authorization.

3 (b) If an authorization under this section authorizes the
4 disclosure of protected health information by a covered entity, as
5 those terms are defined by the privacy rule of the Administrative
6 Simplification subtitle of the Health Insurance Portability and
7 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
8 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
9 covered entity shall ensure that the authorization complies with
10 all of the privacy rule's applicable requirements, standards, and
11 implementation specifications.

12 SECTION 30. Section 21.4032, Labor Code, is amended to read
13 as follows:

14 Sec. 21.4032. AUTHORIZED DISCLOSURE. (a) An individual or
15 the legal representative of an individual may authorize disclosure
16 of genetic information relating to the individual by a written
17 authorization that includes:

- 18 (1) a description of the information to be disclosed;
19 (2) the name of the person to whom the disclosure is
20 made; and
21 (3) the purpose for the disclosure.

22 (b) If an authorization under this section authorizes the
23 disclosure of protected health information by a covered entity, as
24 those terms are defined by the privacy rule of the Administrative
25 Simplification subtitle of the Health Insurance Portability and
26 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
27 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the

1 covered entity shall ensure that the authorization complies with
2 all of the privacy rule's applicable requirements, standards, and
3 implementation specifications.

4 SECTION 31. Section 58.104, Occupations Code, is amended to
5 read as follows:

6 Sec. 58.104. AUTHORIZED DISCLOSURE. (a) An individual or
7 the legal representative of an individual may authorize disclosure
8 of genetic information relating to the individual by a written
9 authorization that includes:

- 10 (1) a description of the information to be disclosed;
11 (2) the name of the person to whom the disclosure is
12 made; and
13 (3) the purpose for the disclosure.

14 (b) If an authorization under this section authorizes the
15 disclosure of protected health information by a covered entity, as
16 those terms are defined by the privacy rule of the Administrative
17 Simplification subtitle of the Health Insurance Portability and
18 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
19 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
20 covered entity shall ensure that the authorization complies with
21 all of the privacy rule's applicable requirements, standards, and
22 implementation specifications.

23 SECTION 32. Chapter 159.005, Occupations Code, is amended
24 by adding Subsection (f) to read as follows:

25 (f) If consent under this section authorizes the disclosure
26 of protected health information by a covered entity, as those terms
27 are defined by the privacy rule of the Administrative

1 Simplification subtitle of the Health Insurance Portability and
2 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
3 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
4 covered entity shall ensure that the consent complies with all of
5 the privacy rule's applicable requirements, standards, and
6 implementation specifications.

7 SECTION 33. Section 159.006, Occupations Code, is amended
8 by amending Subsection (a) and adding Subsection (f) to read as
9 follows:

10 (a) Subject to Subsection (f), unless ~~[Unless]~~ the
11 physician determines that access to the information would be
12 harmful to the physical, mental, or emotional health of the
13 patient, a physician who receives a written consent for release of
14 information as provided by Section 159.005 shall furnish copies of
15 the requested billing or medical records, or a summary or narrative
16 of the records, including records received from a physician or
17 other health care provider involved in the care or treatment of the
18 patient.

19 (f) A physician who is a covered entity may not deny a
20 request under this section for protected health information, as
21 those terms are defined by the privacy rule of the Administrative
22 Simplification subtitle of the Health Insurance Portability and
23 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
24 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, unless the
25 physician determines that making the information available to the
26 patient is reasonably likely to endanger the life or physical
27 safety of the patient or another person.

1 SECTION 34. Section 159.008, Occupations Code, is amended
2 by amending Subsection (a) and adding Subsection (c) to read as
3 follows:

4 (a) Except as provided by Subsections [~~Subsection~~] (b) and
5 (c), a physician:

6 (1) may charge a reasonable fee, as prescribed by
7 board rule, for copying billing or medical records; and

8 (2) is not required to permit examination or copying
9 of the records until the fee is paid unless there is a medical
10 emergency.

11 (c) A covered entity providing protected health
12 information, as those terms are defined by the privacy rule of the
13 Administrative Simplification subtitle of the Health Insurance
14 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)
15 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A
16 and E, to the person who is the subject of the information or the
17 personal representative of the subject of the information may not
18 withhold copies for nonpayment of the fee.

19 SECTION 35. Section 201.405, Occupations Code, is amended
20 by amending Subsection (g) and adding Subsection (h) to read as
21 follows:

22 (g) A chiropractor who determines that access to
23 information requested under Subsection (f) would be harmful to the
24 physical, mental, or emotional health of the patient may refuse to
25 release the information requested under this section. A
26 chiropractor who is a covered entity may not deny a request under
27 this subsection for protected health information, as those terms

1 are defined by the privacy rule of the Administrative
2 Simplification subtitle of the Health Insurance Portability and
3 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
4 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, unless the
5 chiropractor determines that making the record available to the
6 patient is reasonably likely to endanger the life or physical
7 safety of the patient or another person.

8 (h) If a consent under this section authorizes the
9 disclosure of protected health information by a covered entity, as
10 those terms are defined by the privacy rule of the Administrative
11 Simplification subtitle of the Health Insurance Portability and
12 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
13 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
14 covered entity shall ensure that the consent complies with all of
15 the privacy rule's applicable requirements, standards, and
16 implementation specifications.

17 SECTION 36. Section 202.406, Occupations Code, is amended
18 by amending Subsection (d) and adding Subsection (f) to read as
19 follows:

20 (d) A podiatrist shall furnish copies of podiatric records
21 requested or a summary or narrative of the records under a written
22 consent for release of the information as provided by this section
23 unless the podiatrist determines that access to the information
24 would be harmful to the physical, mental, or emotional health of the
25 patient. The podiatrist may delete confidential information about
26 another person who has not consented to the release. A podiatrist
27 who is a covered entity may not deny a request under this subsection

1 for protected health information, as those terms are defined by the
2 privacy rule of the Administrative Simplification subtitle of the
3 Health Insurance Portability and Accountability Act of 1996 (Pub.
4 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part
5 164, Subparts A and E, unless the podiatrist determines that making
6 the record available to the patient is reasonably likely to
7 endanger the life or physical safety of the patient or another
8 person.

9 (f) If consent under this section authorizes the disclosure
10 of protected health information by a covered entity, as those terms
11 are defined by the privacy rule of the Administrative
12 Simplification subtitle of the Health Insurance Portability and
13 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
14 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
15 covered entity shall ensure that the consent complies with all of
16 the privacy rule's applicable requirements, standards, and
17 implementation specifications.

18 SECTION 37. Section 258.104, Occupations Code, is amended
19 by adding Subsection (e) to read as follows:

20 (e) If consent under this section authorizes the disclosure
21 of protected health information by a covered entity, as those terms
22 are defined by the privacy rule of the Administrative
23 Simplification subtitle of the Health Insurance Portability and
24 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
25 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
26 covered entity shall ensure that the consent complies with all of
27 the privacy rule's applicable requirements, standards, and

1 implementation specifications.

2 SECTION 38. Section 32, Texas Local Fire Fighters
3 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is
4 amended by adding Subsection (d) to read as follows:

5 (d) If a disclosure under Subsection (a)(1)(D) is a
6 disclosure of protected health information by a covered entity, as
7 those terms are defined by the privacy rule of the Administrative
8 Simplification subtitle of the Health Insurance Portability and
9 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
10 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
11 covered entity shall ensure that the consent to the disclosure
12 complies with all of the privacy rule's applicable requirements,
13 standards, and implementation specifications relating to
14 authorizations for uses and disclosures of protected health
15 information.

16 SECTION 39. Section 108.009(c), Health and Safety Code, is
17 repealed.

18 SECTION 40. This Act takes effect September 1, 2005.