

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 26, 2005

TO: Honorable Norma Chavez, Chair, House Committee on Border and International Affairs

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB486 by Chavez (Relating to the transmission of certain health information to a site outside the United States; providing penalties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill relates to the transmission of certain health information to a site outside the United States. The bill amends the Health and Safety Code, Chapter 181, by adding new Subchapter G, titled Transmission of Certain Information. Section 181.301(a) prohibits a covered entity from disclosing protected health information to a person or site outside the United States except as provided by Subsection 181.301(b) and Section 181.304.

Subsection 181.301(b) requires the covered entity to obtain written authorization from the individual. Section 181.304 provides exceptions. Section 181.302 requires a covered entity to provide a notice of privacy practices that may be provided separately or added to a notice required by 45 C.F.R. Section 164.520 (Health Insurance Portability and Accountability Act [HIPAA] Notice of Privacy Practices) in bold print and in a conspicuous location. Section 181.305 provides enforcement provisions.

According to the Department of State Health Services (DSHS), disclosures that are authorized or required by law, disclosures for public health purposes, and disclosures that are initiated by the individual would be exempt from the notice and authorization requirements under 181.304. Where DSHS has a direct treatment relationship with an individual, a notice would be provided and an authorization would be obtained before a disclosure is made, in compliance with the requirements of Sections 181.301, 181.302 and 181.303. DSHS would incorporate the notice in the Notice of Privacy Practices, which is currently provided by all components that have been designated as HIPAA covered by DSHS. It is assumed that any cost incurred by DSHS in implementing the provisions of the bill would be absorbed within the agency's existing resources.

Local Government Impact

Locally owned health care businesses that do not have contracts in which protected health information is transmitted to a site outside the United States would have no costs associated with the provisions of the bill. Businesses that do have contracts would have costs associated with disclosing the transfers of the information to consumers and obtaining permission to transmit information. Businesses with larger numbers of consumers would have higher costs.

Source Agencies: 302 Office of the Attorney General, 454 Department of Insurance, 529 Health and Human Services Commission, 537 Department of State Health Services, 709 Texas A&M University System Health Science Center, 710 Texas A&M University System Administrative and General Offices, 739 Texas Tech University Health Sciences Center

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