

By: Delisi

H.B. No. 1066

Substitute the following for H.B. No. 1066:

By: Cohen

C.S.H.B. No. 1066

A BILL TO BE ENTITLED

AN ACT

relating to health information technology and the creation of the Texas Health Services Authority.

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. TEXAS HEALTH SERVICES AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 182.001. PURPOSE. This chapter establishes the Texas Health Services Authority as a public-private collaborative to implement the state-level health information technology functions identified by the Texas Health Information Technology Advisory Committee by serving as a catalyst for the development of a seamless electronic health information infrastructure to support the health care system in the state and to improve patient safety and quality of care.

Sec. 182.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the corporation.

(2) "Certifying entity" means:

(A) an incorporated association whose purpose includes bringing into one organization all physicians licensed to practice medicine in the state in multiple specialties that complies with the following conditions:

1 (i) the association must have at least
2 12,000 individual members who are physicians;

3 (ii) the association must have been in
4 continuing existence for a period of at least 10 years;

5 (iii) the association must employ
6 appropriate professional staff and consultants for program
7 management;

8 (iv) the association must not be a quality
9 improvement organization for Medicare, private insurers, or
10 hospitals; and

11 (v) the association must not be a
12 subsidiary of an insurer or a subsidiary of a holding company that
13 owns or operates an insurer; or

14 (B) a subsidiary of an incorporated association
15 described by Paragraph (A).

16 (3) "Corporation" means the Texas Health Services
17 Authority.

18 (4) "De-identified protected health information"
19 means protected health information that is not individually
20 identifiable health information as that term is defined by the
21 privacy rule of the Administrative Simplification subtitle of the
22 Health Insurance Portability and Accountability Act of 1996 (Pub.
23 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part
24 164, Subparts A and E.

25 (5) "Individually identifiable health information"
26 means individually identifiable health information as that term is
27 defined by the privacy rule of the Administrative Simplification

1 subtitle of the Health Insurance Portability and Accountability Act
2 of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45
3 C.F.R. Part 164, Subparts A and E.

4 (6) "Physician" means:

5 (A) an individual licensed to practice medicine
6 in this state under the authority of Subtitle B, Title 3,
7 Occupations Code;

8 (B) a professional entity organized in
9 conformity with Title 7, Business Organizations Code, and permitted
10 to practice medicine under Subtitle B, Title 3, Occupations Code;

11 (C) a partnership organized in conformity with
12 Title 4, Business Organizations Code, composed entirely of
13 individuals licensed to practice medicine under Subtitle B, Title
14 3, Occupations Code;

15 (D) an approved nonprofit health corporation
16 certified under Chapter 162, Occupations Code;

17 (E) a medical school or medical and dental unit,
18 as defined or described by Section 61.003, 61.501, or 74.601,
19 Education Code, that employs or contracts with physicians to teach
20 or provide medical services or employs physicians and contracts
21 with physicians in a practice plan; or

22 (F) an entity wholly owned by individuals
23 licensed to practice medicine under Subtitle B, Title 3,
24 Occupations Code.

25 (7) "Protected health information" means protected
26 health information as that term is defined by the privacy rule of
27 the Administrative Simplification subtitle of the Health Insurance

1 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)
2 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A
3 and E.

4 [Sections 182.003-182.050 reserved for expansion]

5 SUBCHAPTER B. ADMINISTRATION

6 Sec. 182.051. TEXAS HEALTH SERVICES AUTHORITY; PURPOSE.

7 (a) The corporation is established to:

8 (1) promote, implement, and facilitate the voluntary
9 and secure electronic exchange of health information; and

10 (2) create incentives to promote, implement, and
11 facilitate the voluntary and secure electronic exchange of health
12 information.

13 (b) The corporation is a public nonprofit corporation and,
14 except as otherwise provided in this chapter, has all the powers and
15 duties incident to a nonprofit corporation under the Business
16 Organizations Code.

17 (c) The corporation is subject to state law governing
18 nonprofit corporations, except that:

19 (1) the corporation may not be placed in receivership;
20 and

21 (2) the corporation is not required to make reports to
22 the secretary of state under Section 22.357, Business Organizations
23 Code.

24 (d) Except as otherwise provided by law, all expenses of the
25 corporation shall be paid from income of the corporation.

26 (e) The corporation is subject to Chapter 551, Government
27 Code.

1 Sec. 182.052. APPLICATION OF SUNSET ACT. The corporation
2 is subject to Chapter 325, Government Code. Unless continued in
3 existence as provided by that chapter, the corporation is abolished
4 and this chapter expires September 1, 2011. The governor may order
5 the dissolution of the corporation at any time the governor
6 declares that the purposes of the corporation have been fulfilled
7 or that the corporation is inoperative or abandoned.

8 Sec. 182.053. COMPOSITION OF BOARD OF DIRECTORS. (a) The
9 corporation is governed by a board of 11 directors appointed by the
10 governor, with the advice and consent of the senate.

11 (b) The governor shall also appoint at least two ex officio,
12 nonvoting members representing the Department of State Health
13 Services and the certifying entity.

14 (c) The governor shall appoint as voting board members
15 individuals who represent consumers, clinical laboratories, health
16 benefit plans, hospitals, regional health information exchange
17 initiatives, pharmacies, physicians, rural health providers, or
18 who possess expertise in any other area the governor finds
19 necessary for the successful operation of the corporation.

20 (d) An individual may not serve on the board of the
21 corporation if the individual serves on the board of any other
22 governmental body in this state.

23 (e) Appointments to the board shall be made without regard
24 to the race, color, disability, sex, religion, age, or national
25 origin of the appointees.

26 Sec. 182.054. TERMS OF OFFICE. Appointed members of the
27 board serve two-year terms and may continue to serve until a

1 successor has been appointed by the governor.

2 Sec. 182.055. EXPENSES. Members of the board serve without
3 compensation but are entitled to reimbursement for actual and
4 necessary expenses in attending meetings of the board or performing
5 other official duties authorized by the presiding officer.

6 Sec. 182.056. OFFICERS; CONFLICT OF INTEREST. (a) The
7 governor shall designate a member of the board as presiding officer
8 to serve in that capacity at the pleasure of the governor.

9 (b) Any board member or a member of a committee formed by the
10 board with direct interest in a matter, personally or through an
11 employer, before the board shall abstain from deliberations and
12 actions on the matter in which the conflict of interest arises and
13 shall further abstain on any vote on the matter, and may not
14 otherwise participate in a decision on the matter.

15 (c) Each board member shall file a conflict of interest
16 statement and a statement of ownership interests with the board to
17 ensure disclosure of all existing and potential personal interests
18 related to board business.

19 Sec. 182.057. MEETINGS. (a) The board may meet as often as
20 necessary, but shall meet at least twice a year.

21 (b) The board shall develop and implement policies that
22 provide the public with a reasonable opportunity to appear before
23 the board and to speak on any issue under the authority of the
24 corporation.

25 Sec. 182.058. CHIEF EXECUTIVE OFFICER; PERSONNEL. The
26 board may hire a chief executive officer. Under the direction of
27 the board, the chief executive officer shall perform the duties

1 required by this chapter or designated by the board. The chief
2 executive officer may hire additional staff to carry out the
3 responsibilities of the corporation.

4 Sec. 182.059. TECHNOLOGY POLICY. The board shall implement
5 a policy requiring the corporation to use appropriate technological
6 solutions to improve the corporation's ability to perform its
7 functions. The policy must ensure that the public is able to
8 interact with the corporation on the Internet.

9 Sec. 182.060. LIABILITIES OF AUTHORITY. Liabilities
10 created by the corporation are not debts or obligations of the
11 state, and the corporation may not secure any liability with funds
12 or assets of the state except as otherwise provided by law.

13 Sec. 182.061. BOARD MEMBER IMMUNITY. (a) A board member
14 may not be held civilly liable for an act performed, or omission
15 made, in good faith in the performance of the member's powers and
16 duties under this chapter.

17 (b) A cause of action does not arise against a member of the
18 board for an act or omission described by Subsection (a).

19 [Sections 182.062-182.100 reserved for expansion]

20 SUBCHAPTER C. POWERS AND DUTIES

21 Sec. 182.101. The corporation may:

22 (1) establish statewide health information exchange
23 capabilities, including capabilities for electronic laboratory
24 results, diagnostic studies, and medication history delivery, and,
25 where applicable, promote definitions and standards for electronic
26 interactions statewide;

27 (2) seek funding to:

1 (A) implement, promote, and facilitate the
2 voluntary exchange of secure electronic health information between
3 and among individuals and entities that are providing or paying for
4 health care services or procedures; and

5 (B) create incentives to implement, promote, and
6 facilitate the voluntary exchange of secure electronic health
7 information between and among individuals and entities that are
8 providing or paying for health care services or procedures;

9 (3) establish statewide health information exchange
10 capabilities for streamlining health care administrative functions
11 including:

12 (A) communicating point of care services,
13 including laboratory results, diagnostic imaging, and prescription
14 histories;

15 (B) communicating patient identification and
16 emergency room required information in conformity with state and
17 federal privacy laws;

18 (C) real time communication of enrollee status in
19 relation to health plan coverage, including enrollee cost-sharing
20 responsibilities; and

21 (D) current census and status of health plan
22 contracted providers;

23 (4) support health care quality improvement
24 initiatives relating to physicians by contracting with a certifying
25 entity to provide to licensed physicians, regardless of practice
26 environment, services for:

27 (A) collection and analysis of clinical data;

1 (B) reporting of a physician's clinical data and
2 analysis with comparisons to peer group physicians, physician
3 groups, physician teams, and to nationally specialty society
4 adopted quality measurements; and

5 (C) creation of a tool to measure physician
6 performance compared to peer group physicians on state and
7 specialty levels;

8 (5) support health care quality improvement
9 initiatives relating to physicians by contracting with a certifying
10 entity to provide to health care related entities services for:

11 (A) providing access to aggregated,
12 de-identified protected health information data to policymakers;

13 (B) providing access to aggregated,
14 de-identified protected health information data to local health
15 information exchanges and other users for quality of care studies,
16 disease management, and population health assessments;

17 (C) supporting public health programs by
18 trending aggregated, de-identified protected health information to
19 help assess the health status of populations and providing regular
20 reports of trends and important incidence events to public health
21 avenues for intervention, education, and prevention programs; and

22 (D) supporting disaster preparedness and
23 response efforts;

24 (6) support regional health information exchange
25 initiatives by:

26 (A) identifying data and messaging standards for
27 health information exchange;

1 (B) administering programs providing financial
2 incentives, including grants and loans for the creation of regional
3 health information networks, subject to available funds; and

4 (C) providing technical expertise where
5 appropriate;

6 (7) identify standards for streamlining health care
7 administrative functions across payors and providers including
8 electronic patient registration, communication of enrollment in
9 health plans, and information at the point of care regarding
10 services covered by health plans; and

11 (8) support the secure, electronic exchange of health
12 information through other strategies identified by the board.

13 Sec. 182.102. PRIVACY OF INFORMATION. (a) Protected
14 health information and individually identifiable health
15 information collected, assembled, or maintained by the corporation
16 is confidential and is not subject to disclosure under Chapter 552,
17 Government Code.

18 (b) The corporation shall comply with all state and federal
19 laws and rules relating to the transmission of health information,
20 including the Health Insurance Portability and Accountability Act
21 of 1996 (Pub. L. No. 104-191) and rules adopted under that Act.

22 (c) The corporation shall develop privacy, security,
23 operational, and technical standards to assist health information
24 networks in the state to ensure effective statewide privacy, data
25 security, efficiency, and interoperability across networks. The
26 network's standards shall be guided by reference to the standards
27 of the Certification Commission for Healthcare Information

1 Technology or the Health Information Technology Standards Panel, or
2 other federally approved certification standards, that exist on May
3 1, 2007, as to the process of implementation, acquisition, upgrade,
4 or installation of electronic health information technology.

5 Sec. 182.103. SECURITY COMPLIANCE. The corporation shall:

6 (1) establish appropriate security standards to
7 protect both the transmission and the receipt of individually
8 identifiable health information or health care data;

9 (2) establish appropriate security standards to
10 protect access to any individually identifiable health information
11 or health care data collected, assembled, or maintained by the
12 corporation, or made available to the certifying entity for
13 purposes of performing a contracted function;

14 (3) establish the highest levels of security and
15 protection for access to and control of individually identifiable
16 health information, including mental health care data and data
17 relating to specific disease status, that is governed by more
18 stringent state or federal privacy laws; and

19 (4) establish policies and procedures for the
20 corporation for taking disciplinary actions against a board member,
21 employee, certifying entity, or other person with access to
22 individually identifiable health care information that violates
23 state or federal privacy laws related to health care information or
24 data maintained by the corporation.

25 Sec. 182.104. INTELLECTUAL PROPERTY. The corporation shall
26 take commercially reasonable measures to protect its intellectual
27 property, including obtaining patents, trademarks, and copyrights

1 where appropriate.

2 Sec. 182.105. ANNUAL REPORT. The corporation shall submit
3 an annual report to the governor, the lieutenant governor, the
4 speaker of the house of representatives, and the appropriate
5 oversight committee in the senate and the house of representatives.
6 The annual report must include financial information and a progress
7 update on the corporation's efforts to carry out its mission.

8 Sec. 182.106. FUNDING. (a) The corporation may be funded
9 through the General Appropriations Act and may request, accept, and
10 use gifts and grants as necessary to implement its functions.

11 (b) The corporation may assess transaction, convenience, or
12 subscription fees to cover costs associated with implementing its
13 functions. All fees must be voluntary but receipt of services
14 provided by the corporation may be conditioned on payment of fees.

15 (c) The corporation may participate in other
16 revenue-generating activities that are consistent with the
17 corporation's purposes.

18 SECTION 2. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2007.