

By: Delisi

H.B. No. 1066

A BILL TO BE ENTITLED

AN ACT

relating to electronic health information, electronic health records, and creating the Texas Health Service Authority Corporation.

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. ELECTRONIC HEALTH RECORDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 182.001. DEFINITIONS. In this chapter:

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

(2) "Corporation" means the Texas Health Service Authority Corporation.

(3) "Health information technology" means the application of information processing, involving both computer hardware and software, that deals with the storage, retrieval, sharing, and use of health care information, data, and knowledge for communication, decision-making, quality, safety, and efficiency of clinical practice and may include:

(A) an electronic health record that electronically compiles and maintains health information that may be derived from multiple sources about the health status of an individual and may include the core functionalities such as an

1 electronic medical record, computerized physician order entry,  
2 electronic prescribing, and clinical decision support;

3 (B) a personal health record through which an  
4 individual and anyone authorized by the individual can maintain and  
5 manage the individual's health information;

6 (C) an electronic medical record that permits  
7 electronic formation of and access to clinical information or data  
8 to support medical care of an individual;

9 (D) a computerized provider order entry function  
10 that permits the electronic ordering of diagnostic and treatment  
11 services, including prescription drugs;

12 (E) a decision support function to assist  
13 physicians and other health care providers in making clinical  
14 decisions by providing electronic alerts and reminders to improve  
15 compliance with best practices, promote regular screenings and  
16 other preventive practices, and facilitate diagnoses and  
17 treatments;

18 (F) error notification function that generates a  
19 warning when an order is entered that is likely to lead to a  
20 significant adverse outcome for an individual; and

21 (G) tools to allow for the collection, analysis,  
22 and reporting of information or data on adverse events, near  
23 misses, the quality and efficiency of care, patient satisfaction,  
24 and other health care-related performance measures.

25 (4) "Interoperability" means the ability of two or  
26 more systems or components to exchange information or data in an  
27 accurate, effective, secure, and consistent manner and to use the

1 information or data that has been exchanged and includes:

2 (A) the capacity to connect to a network for the  
3 purpose of exchanging information or data with other users;

4 (B) the ability of a connected, authenticated  
5 user to demonstrate appropriate permissions to participate in the  
6 instant transaction over the network; and

7 (C) the capacity of a connected, authenticated  
8 user to access, transmit, receive, and exchange usable information  
9 with other users.

10 (5) "Recognized interoperability standard" means  
11 interoperability standards that are recognized by the  
12 Certification Commission for Healthcare Information Technology or  
13 other federally approved certification standards.

14 [Sections 182.002-182.050 reserved for expansion]

15 SUBCHAPTER B. ADMINISTRATION

16 Sec. 182.051. TEXAS HEALTH SERVICES AUTHORITY CORPORATION;  
17 PURPOSE. (a) The Texas Health Services Authority Corporation is  
18 created to promote the establishment of a privacy-protected and  
19 secure, integrated statewide network for the communication of  
20 electronic health information among authorized parties and to  
21 foster a coordinated public-private initiative for the development  
22 and operation of the health information infrastructure in this  
23 state.

24 (b) The corporation is a public nonprofit corporation and,  
25 except as otherwise provided in this chapter, has all the powers and  
26 duties incident to a nonprofit corporation under state law.

27 (c) Except as otherwise provided by law, all expenses of the

1 corporation shall be paid from income of the corporation.

2 (d) The corporation is subject to Chapter 551, Government  
3 Code.

4 (e) Health record information collected, assembled, or  
5 maintained by the corporation is confidential and is not subject to  
6 disclosure under Chapter 552, Government Code.

7 Sec. 182.052. APPLICATION OF SUNSET ACT. The Texas Health  
8 Services Authority Corporation is subject to Chapter 325,  
9 Government Code (Texas Sunset Act). Unless continued in existence  
10 as provided by that chapter, the corporation is abolished and this  
11 chapter expires September 1, 2019.

12 Sec. 182.053. COMPOSITION OF BOARD OF DIRECTORS. (a) The  
13 corporation is governed by a board of fifteen (15) directors  
14 appointed by and serving at the discretion of the governor, who have  
15 demonstrated an interest, knowledge, or expertise in issues related  
16 to electronic health information technology and who must include:

17 (1) One (1) Physician Representative;

18 (2) One (1) Hospital Representative;

19 (3) One (1) Health Plan Representative;

20 (4) One (1) Small Employer Representative;

21 (5) One (1) Large Employer;

22 (6) One (1) Pharmacy Representative;

23 (7) One (1) Pharmaceutical Industry Representative;

24 (8) One (1) Pharmacy Benefit Manager;

25 (9) One (1) Clinical Laboratory Representative;

26 (10) One (1) Consumer Representative;

27 (11) CEO as an ex-officio voting member;

1           (12) The Executive Commissioner of Texas Health and  
2 Human Services Commission or designee as an ex-officio non-voting  
3 member;

4           (13) The Commissioner of the Texas Department of State  
5 Health Services or designee as an ex-officio non-voting member;

6           (14) The Commissioner of the Texas Department of  
7 Insurance or designee as ex-officio non-voting member; and

8           (15) The Texas Attorney General or designee as ex  
9 officio non-voting member.

10          (b) Appointments to the board shall be made without regard  
11 to the race, color, disability, sex, religion, age, or national  
12 origin of the appointees.

13          (c) Each board member must be a Texas resident.

14          Sec. 182.054. TERMS OF OFFICE. Members of the board  
15 appointed by the governor serve for a term of two-years and may  
16 continue to serve until a successor has been appointed by the  
17 governor.

18          Sec. 182.055. VACANCIES. (a) A member of the board vacates  
19 the office if the member ceases to be a member of the field from  
20 which he or she was appointed.

21          (b) A vacancy on the board shall be filled by the original  
22 appointing authority for the remainder of the unexpired term.

23          Sec. 182.056. EXPENSES. Members of the board serve without  
24 compensation but are entitled to reimbursement for actual and  
25 necessary expenses in attending meetings of the board or performing  
26 other official duties authorized by the presiding officer.

27          Sec. 182.057. OFFICERS. (a) The governor shall designate a

1 member of the board as chairman of the board, and the board shall  
2 elect among its members a vice-chairman and other officers that the  
3 board considers necessary. The chairman, vice-chairman, and other  
4 officers serve for a term of two years, and may be reappointed or  
5 reelected for additional terms.

6 (b) The board shall elect from its membership such  
7 additional officers that the board considers necessary, and these  
8 officers serve for a term of one year and may be reelected.

9 (c) 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 not otherwise  
14 participate in a decision on the matter.

15 Sec. 182.058. MEETINGS. (a) The board may meet as often as  
16 necessary, but shall meet at least twice a year.

17 (b) The board shall develop and implement policies that  
18 provide the public with a reasonable opportunity to appear before  
19 the board and to speak on any issue under the jurisdiction of the  
20 corporation.

21 Sec. 182.059. CHIEF EXECUTIVE OFFICER; PERSONNEL. (a) The  
22 board shall hire a chief executive officer to administer the  
23 corporation and carrying out the policies of the board. The chief  
24 executive officer serves at the will of the board.

25 (b) The board may appoint employees and may fix their  
26 compensation and prescribe their duties.

27 (c) The board may delegate any of its powers to the chief

1 executive officer and corporation employees.

2 (d) The governor's office shall deliver a biennial report to  
3 the legislature based on the information received from the board.  
4 The report may be made separately or as part of other biennial  
5 reports made to the legislature.

6 (e) The board shall develop and implement policies that  
7 clearly separate the policymaking responsibilities of the board and  
8 the management responsibilities of the chief executive officer and  
9 the staff of the corporation.

10 Sec. 182.060. PUBLIC INTEREST INFORMATION AND COMPLAINTS.

11 (a) The corporation shall maintain a system to promptly and  
12 efficiently act on complaints filed with the corporation. The  
13 corporation shall maintain information about parties to the  
14 complaint, the subject matter of the complaint, a summary of the  
15 results of the review or investigation of the complaint, and its  
16 disposition.

17 (b) The corporation shall make information available  
18 describing its procedures for complaint investigation and  
19 resolution.

20 (c) The corporation shall periodically notify the complaint  
21 parties of the status of the complaint until final disposition.

22 Sec. 182.061. TECHNOLOGY POLICY. The board shall implement  
23 a policy requiring the corporation to use appropriate technological  
24 solutions to improve the corporation's ability to perform its  
25 functions. The policy must ensure that the public is able to  
26 interact with the corporation on the Internet.

27 Sec. 182.062. APPLICATION OF TEXAS NON-PROFIT CORPORATION

1 ACT. The corporation is subject to state law governing nonprofit  
2 corporations, except that:

3 (1) the corporation may not make donations for the  
4 public welfare or for charitable or scientific purposes or in aid of  
5 war activities;

6 (2) the corporation is not required to file articles  
7 of incorporation;

8 (3) the corporation is not subject to voluntary or  
9 involuntary dissolution;

10 (4) the corporation may not be placed in receivership;  
11 and

12 (5) the corporation is not required to make reports to  
13 the secretary of state under Section 22.357, Business Organizations  
14 Code.

15 Sec. 182.063. LIABILITIES OF CORPORATION. Liabilities  
16 created by the corporation are not debts of the state, and the  
17 corporation may not secure any liability with funds or assets of the  
18 state except as otherwise provided by law.

19 Sec. 182.064. AUTHORITY TO PARTICIPATE IN OTHER  
20 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. The corporation may  
21 participate in a revenue-generating activity that is consistent  
22 with the corporation's purposes if the board determines that the  
23 revenue from the activity is sufficient to cover the costs of the  
24 activity.

25 [Sections 182.065-182.100 reserved for expansion]

26 SUBCHAPTER C. POWERS AND DUTIES OF CORPORATION

27 Sec. 182.101. STATEWIDE HEALTH INFORMATION NETWORK. (a)



1 The corporation shall assist in the development of a statewide,  
2 integrated electronic health information network as a  
3 public-private partnership among the state's providers, payers,  
4 consumers, employers, public health officials, medical  
5 researchers, and other health care stakeholders.

6 (b) The corporation shall develop, implement, and  
7 periodically update a plan and performance standards for the  
8 operation of a statewide, integrated electronic health information  
9 network. The corporation may implement the plan for a statewide,  
10 integrated electronic health information network in phases or by  
11 using pilot projects or a regional approach.

12 (c) The corporation shall:

13 (1) provide leadership related to, and encourage the  
14 adoption and effective use of, health information technology by  
15 conducting pilot projects, demonstration programs, and other  
16 initiatives and by administering programs providing financial  
17 incentives, including grants and loans for the creation of local,  
18 regional, or statewide health information networks to facilitate  
19 the development of interoperability across health care settings;

20 (2) promote the widespread use of a statewide,  
21 integrated electronic health information network, including  
22 assembling, analyzing, and widely disseminating to health care  
23 providers and the general public evidence and experience related to  
24 the adoption, implementation, effective use, and value of health  
25 information technology;

26 (3) identify, adopt, and promote the use of standards  
27 for interoperability, which must include provisions relating to

1 security, privacy, data content, structures and format,  
2 vocabulary, and transmission protocols and which must take into  
3 account and be compatible with any national data standards in order  
4 to allow for interstate interoperability:

5 (4) procure outside sources of funding by seeking  
6 public or private grants or contracting with local, state, or  
7 federal entities or private business to finance the formation and  
8 expansion of a statewide integrated electronic health information  
9 exchange network;

10 (5) provide consumer access to information on price  
11 and quality of health care goods and services, and health insurance  
12 products; and

13 (6) adopt rules necessary to implement this chapter in  
14 accordance with Chapter 2001, Government Code.

15 (d) The corporation shall regularly assess the adoption of  
16 electronic health records systems and use of the statewide health  
17 information network by providers, consumers, public health  
18 officers, and other health care stakeholders to identify and  
19 regularly reevaluate the state's health information infrastructure  
20 strengths and weaknesses, assess opportunities to increase  
21 consumer access to the consumer's health records, and incorporate  
22 the information into the corporation's regular strategic planning  
23 process.

24 (e) In developing and periodically revising a health  
25 information technology plan, the corporation shall request public  
26 comment on the proposed plan, hold one or more public meetings to  
27 receive public comments on the plan or modifications to the plan,

1 and take steps to assure the greatest possible collaboration  
2 between the private and public sectors, including the federal  
3 government.

4 Sec. 182.102. LOCAL, REGIONAL, STATE HEALTH INFORMATION  
5 NETWORKS. The corporation shall:

6 (1) assist in the development and expansion of  
7 existing local or regional health information networks and the  
8 creation of new networks that may include:

9 (A) medical trading areas that may be defined as:

10 (i) areas within the state in which  
11 physicians or other health care providers deliver, either formally  
12 or informally, health care to individuals by utilizing health  
13 information technology;

14 (ii) areas selected based on criteria that  
15 meet recognized interoperability standards; and

16 (iii) areas receiving planning, technical  
17 assistance, or monetary support from the corporation that promote  
18 the spread or use of an integrated electronic health information  
19 exchange network;

20 (B) centers of excellence that may assist the  
21 corporation to create the statewide integrated electronic health  
22 information exchange network, where a center of excellence may be:

23 (i) established at a local, regional, or  
24 state level;

25 (ii) designated to promote the spread or  
26 use of an integrated electronic health information exchange  
27 network; and

1                    (iii) demonstrated to have excellence in  
2 health information technology application or utilization, or both;  
3 and

4                    (2) promulgate interoperability standards among  
5 local, regional, or statewide integrated electronic health  
6 information networks that promote effective statewide and  
7 interstate interoperability.

8                    Sec. 182.103. PRIVACY OF INFORMATION. The corporation  
9 shall develop privacy, security, operational, and technical  
10 standards to assist regional and local health information networks  
11 to ensure effective statewide privacy, data security, efficiency,  
12 and interoperability across networks. The network's standards  
13 shall be guided by reference to the Certification Commission for  
14 Healthcare Information Technology, or other federally approved  
15 certification standards, as existing on the date of adoption, as  
16 the process of implementation, acquisition, upgrade, or  
17 installation of electronic health information technology.

18                    Sec. 182.104. ANNUAL BUDGET. The corporation shall develop  
19 an annual budget that includes funding from public and private  
20 entities, including user fees.

21                    Sec. 182.105. INTELLECTUAL PROPERTY. The corporation shall  
22 take commercially reasonable measures to protect its intellectual  
23 property, including obtaining patents, trademarks, and copyrights  
24 where appropriate.

25                    Sec. 182.106. REPORT TO LEGISLATURE. (a) The corporation  
26 shall submit an annual report to the Governor, the Lieutenant  
27 Governor, the Speaker of the House, and the appropriate oversight

1 committee in the Senate and the House of Representatives.

2 (b) The annual report submitted by the corporation must  
3 include:

4 (1) an assessment of progress in developing and  
5 implementing the health information technology plan;

6 (2) an assessment of the impact of the plan, including  
7 the results of pilot projects and other initiatives undertaken by  
8 and financial incentives provided by the state;

9 (3) a summary description of health information  
10 technology in use by state programs, including technology used to  
11 administer Medicaid, the state child health plan, and health  
12 benefit plans for public employees of the state;

13 (4) recommendations for additional funding and  
14 legislation needed to accelerate the deployment and effective use  
15 of health information technology; and

16 (5) recommendations for reform of the state's laws  
17 regarding medical records and the collection of medical records  
18 data.

19 Sec. 182.107. COMPLIANCE WITH STANDARDS. Each state agency  
20 collecting health data shall comply with the data standards for  
21 interoperability adopted by the corporation and shall implement  
22 procedures to enable receipt of statutorily mandated and  
23 voluntarily reported health information in a standard electronic  
24 format.

25 Sec. 182.108. FUNDING. The corporation may be funded  
26 through the General Appropriations Act and may seek funding through  
27 public and private entities to accomplish its goals and duties.

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