

By: Gattis

H.B. No. 3886

A BILL TO BE ENTITLED

AN ACT

relating to the adoption of electronic health records by health care providers and facilities.

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

SECTION 1. (a) Chapter 311, Health & Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. ELECTRONIC HEALTH RECORDS

Sec. 311.051. DEFINITIONS. In this subchapter "Qualifying hospital" means:

(1) A hospital in Texas associated with an academic medical center or health science center that uses an electronic health record system; or

(2) A hospital receiving payments through the medical assistance program for which costs associated with the implementation or maintenance of an electronic health record are included in the calculation of prospective payment rates;

Sec. 311.052. DUTY OF QUALIFYING HOSPITALS TO SHARE ELECTRONIC HEALTH RECORD SYSTEMS. (a) A qualifying hospital shall allow community-based health care providers remotely to access and use its electronic health record system.

(b) A qualifying hospital may establish a fee to be paid by each participating provider to cover the marginal cost associated with allowing each additional provider to use the hospital's electronic health record system.

1       (c) A qualifying hospital may not restrict the use of its  
2 electronic health record system by a provider based on that  
3 provider's pattern of referrals or on any other financial or  
4 clinical relationships between the qualifying hospital and a  
5 participating provider.

6       (d) A qualifying hospital shall submit to the Department of  
7 State Health Services:

8           (1) A description of the capabilities and features of  
9 its electronic health record system;

10          (2) A description of the hardware, software, and  
11 access requirements associated with its electronic health record  
12 system;

13          (3) A fee schedule describing and justifying the fees  
14 to be assessed for access to the electronic health record system;  
15 and

16          (4) An affidavit signed by the executive officer of  
17 the hospital attesting to the hospital's compliance with  
18 311.052(c).

19       (e) The Department of State Health Services may grant a  
20 qualifying hospital a waiver of the requirements of subsection  
21 311.052(a)-311.052(d) if the qualifying hospital can demonstrate  
22 that meeting the requirements would be unreasonably inefficient or  
23 impractical.

24       (f) The Department of State Health Services and the Texas  
25 Medical Board shall jointly develop a provider web-portal through  
26 which providers can obtain information on available electronic  
27 health record systems.

1       (g) The Department of State Health Services may develop  
2 rules to administer this subchapter.

3       SECTION 2. (a) Chapter 531.021, Health & Safety Code, is  
4 amended by adding Subsection (h) to read as follows:

5       (h) In adopting rates for medical assistance payments to  
6 hospitals under Subsection (b)(2), the executive commissioner may  
7 not allow a hospital to include the costs of implementation or  
8 maintenance of an electronic health record system unless the  
9 hospital allows community-based providers remotely to access and  
10 use its electronic health record system as required by Health &  
11 Safety Code, Chapter 311, Subchapter E.

12       SECTION 3. If before implementing any provision of this Act  
13 a state agency determines that a waiver or authorization from a  
14 federal agency is necessary for implementation of that provision,  
15 the agency affected by the provision shall request the waiver or  
16 authorization and may delay implementing that provision until the  
17 waiver or authorization is granted.

18       SECTION 4. This Act takes effect September 1, 2007.