

By: Nelson

S.B. No. 205

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. Subsection (f), Section 58.0071, Family Code, is amended to read as follows:

(f) This section does not affect the destruction of:

(1) physical records and files authorized by the Texas State Library Records Retention Schedule; or

(2) protected health information maintained by a covered entity, as that term is 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.

SECTION 2. Subsections (b) and (c), Section 82.010, 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

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

7 SECTION 3. Subsections (a) and (b), Section 162.018, Family  
8 Code, are amended to read as follows:

9 (a) The department, licensed child-placing agency, person,  
10 or entity placing a child for adoption shall provide to the ~~[The]~~  
11 adoptive parents, upon request, ~~[are entitled to receive]~~ copies of  
12 the records and other information relating to the history of the  
13 child maintained by the department, licensed child-placing agency,  
14 person, or entity placing the child for adoption.

15 (b) The department, licensed child-placing agency, person,  
16 or entity placing the child for adoption shall, upon request,  
17 provide to the ~~[The]~~ adoptive parents and the adopted child, after  
18 the child is an adult, ~~[are entitled to receive]~~ copies of the  
19 records maintained by the entity that have been edited to protect  
20 the identity of the biological parents and any other person whose  
21 identity is confidential and other information relating to the  
22 history of the child ~~[maintained by the department, licensed~~  
23 ~~child-placing agency, person, or entity placing the child for~~  
24 ~~adoption]~~.

25 SECTION 4. Section 162.414, Family Code, is amended by  
26 adding Subsection (f) to read as follows:

27 (f) To the extent that Subsection (d) authorizes the use or

1 disclosure of protected health information by a covered entity, as  
2 those terms 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 use or disclosure complies  
7 with all applicable requirements, standards, or implementation  
8 specifications of the privacy rule.

9 SECTION 5. Subsection (a), Section 264.408, Family Code, is  
10 amended to read as follows:

11 (a) The files, reports, records, communications, and  
12 working papers used or developed in providing services under this  
13 chapter are confidential and not subject to public release under  
14 Chapter 552, Government Code. A center~~, and~~ may only disclose the  
15 files, reports, records, communications, and working papers  
16 developed in providing services under this chapter ~~[be disclosed]~~  
17 for purposes consistent with this chapter. Disclosure may be to:

18 (1) the department, department employees, law  
19 enforcement agencies, prosecuting attorneys, medical  
20 professionals, and other state agencies that provide services to  
21 children and families; and

22 (2) the attorney for the child who is the subject of  
23 the records and a court-appointed volunteer advocate appointed for  
24 the child under Section 107.031.

25 SECTION 6. Subsection (e), Section 420.031, Government  
26 Code, is amended to read as follows:

27 (e) Evidence collected under this section may not be

1 released unless the survivor of the offense or a legal  
2 representative of the survivor signs a written consent to release  
3 the evidence. If a disclosure under this subsection is a disclosure  
4 of protected health information by a covered entity, as those terms  
5 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 consent to the disclosure  
10 complies with all of the privacy rule's applicable requirements,  
11 standards, and implementation specifications relating to  
12 authorizations for uses and disclosures of protected health  
13 information.

14 SECTION 7. Section 825.507, Government Code, is amended by  
15 adding Subsection (h) to read as follows:

16 (h) If a disclosure under Subsection (b)(6) is a disclosure  
17 of protected health information by a covered entity, as those terms  
18 are defined by the privacy rule of the Administrative  
19 Simplification subtitle of the Health Insurance Portability and  
20 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
21 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
22 covered entity shall ensure that the authorization for the  
23 disclosure complies with all of the privacy rule's applicable  
24 requirements, standards, and implementation specifications  
25 relating to authorizations for uses and disclosures of protected  
26 health information.

27 SECTION 8. Section 865.019, Government Code, is amended by

1 adding Subdivision (e) to read as follows:

2 (e) If a disclosure under Subsection (a) is a disclosure of  
3 protected health information by a covered entity, as those terms  
4 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 for the  
9 disclosure complies with all of the privacy rule's applicable  
10 requirements, standards, and implementation specifications  
11 relating to authorizations for uses and disclosures of protected  
12 health information.

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

15 (k) If a disclosure under Subsection (d) is a disclosure of  
16 protected health information by a covered entity, as those terms  
17 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 shall ensure that the authorization for the  
22 disclosure complies with all of the privacy rule's applicable  
23 requirements, standards, and implementation specifications  
24 relating to authorizations for uses and disclosures of protected  
25 health information.

26 SECTION 10. Section 108.009, Health and Safety Code, is  
27 amended by adding Subsection (c-1) to read as follows:

1        (c-1) For purposes of this section, the council or other  
2 entity as determined by the council under Subsection (a) is a public  
3 health authority, as that term is defined by the privacy rule of the  
4 Administrative Simplification subtitle of the Health Insurance  
5 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
6 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A  
7 and E. Data voluntarily submitted by a rural provider to the  
8 council under Subsection (c) is a use and disclosure for which an  
9 authorization or an opportunity to agree or object is not required.

10        SECTION 11. Section 142.009, Health and Safety Code, is  
11 amended by amending Subsection (g) and adding Subsection (m) to  
12 read as follows:

13        (g) After a survey of a home and community support services  
14 agency by the department, the department shall provide to the chief  
15 executive officer of the home and community support services  
16 agency:

17                (1) specific and timely written notice of the  
18 preliminary findings of the survey, including:

19                        (A) the specific nature of the survey;

20                        (B) any alleged violations of a specific statute  
21 or rule;

22                        (C) the specific nature of any finding regarding  
23 an alleged violation or deficiency; and

24                        (D) if a deficiency is alleged, the severity of  
25 the deficiency;

26                (2) information on the identity, including the  
27 signature, of each department representative conducting,

1 reviewing, or approving the results of the survey and the date on  
2 which the department representative acted on the matter; and

3 (3) if requested by the home and community support  
4 services agency, copies of all documents relating to the survey  
5 maintained by the department or provided by the department to any  
6 other state or federal agency that are not confidential under state  
7 law.

8 (m) If a disclosure under Subsection (d)(3) is a 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 consent to the disclosure  
15 complies with all of the privacy rule's applicable requirements,  
16 standards, and implementation specifications relating to  
17 authorizations for uses and disclosures of protected health  
18 information.

19 SECTION 12. Section 162.006, Health and Safety Code, is  
20 amended by adding Subsection (d) to read as follows:

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

1 of the privacy rule's applicable requirements, standards, and  
2 implementation specifications.

3 SECTION 13. Section 162.007, Health and Safety Code, is  
4 amended by amending Subsection (a) and adding Subsection (d) to  
5 read as follows:

6 (a) Except as provided by Subsection (d), a [A] blood bank  
7 shall report blood test results for blood confirmed as HIV positive  
8 by the normal procedures blood banks presently use or found to be  
9 contaminated by any other infectious disease to:

10 (1) the hospital or other facility in which the blood  
11 was transfused or provided;

12 (2) the physician who transfused the infected blood;  
13 and [or]

14 (3) the recipient of the blood.

15 (d) If a blood bank is unable to report blood test results to  
16 a person listed in Subsection (a), the blood bank shall maintain a  
17 record of the blood bank's attempt to report to that person along  
18 with the blood test results.

19 SECTION 14. Section 181.051, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 181.051. PARTIAL EXEMPTION. Except for Subchapters  
22 [Subchapter] D and E, this chapter does not apply to:

23 (1) a covered entity as defined by Section 602.001,  
24 Insurance Code;

25 (2) an entity established under Article 5.76-3,  
26 Insurance Code; or

27 (3) an employer.



1 SECTION 15. Section 241.103, Health and Safety Code, is  
2 amended by adding Subsection (d) to read as follows:

3 (d) This section applies to a hospital that is a covered  
4 entity, as that term is defined by the privacy rule of the  
5 Administrative Simplification subtitle of the Health Insurance  
6 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
7 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A  
8 and E.

9 SECTION 16. Section 241.152, Health and Safety Code, is  
10 amended by adding Subsection (g) to read as follows:

11 (g) If an authorization under this section authorizes the  
12 disclosure of protected health information by a covered entity, as  
13 those terms 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 complies with  
18 all of the privacy rule's applicable requirements, standards, and  
19 implementation specifications.

20 SECTION 17. Section 241.153, Health and Safety Code, is  
21 amended to read as follows:

22 Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION.

23 (a) Subject to Subsection (b), a [A] patient's health care  
24 information may be disclosed without the patient's authorization if  
25 the disclosure is:

26 (1) directory information, unless the patient has  
27 instructed the hospital not to make the disclosure or the directory

1 information is otherwise protected by state or federal law;

2 (2) to a health care provider who is rendering health  
3 care to the patient when the request for the disclosure is made;

4 (3) to a transporting emergency medical services  
5 provider for the purpose of:

6 (A) treatment or payment, as those terms are  
7 defined by the regulations adopted under the Health Insurance  
8 Portability and Accountability Act of 1996 (Pub. L. No. 104-191);  
9 or

10 (B) the following health care operations  
11 described by the regulations adopted under the Health Insurance  
12 Portability and Accountability Act of 1996 (Pub. L. No. 104-191):

13 (i) quality assessment and improvement  
14 activities;

15 (ii) specified insurance functions;

16 (iii) conducting or arranging for medical  
17 reviews; or

18 (iv) competency assurance activities;

19 (4) to a clergy member [~~of the clergy~~] specifically  
20 designated by the patient;

21 (5) to a qualified organ or tissue procurement  
22 organization as defined in Section 692.002 for the purpose of  
23 making inquiries relating to donations according to the protocol  
24 referred to in Section 692.013(d);

25 (6) to a prospective health care provider for the  
26 purpose of securing the services of that health care provider as  
27 part of the patient's continuum of care, as determined by the

1 patient's attending physician;

2 (7) to a person authorized to consent to medical  
3 treatment under Chapter 313 or to a person in a circumstance  
4 exempted from Chapter 313 to facilitate the adequate provision of  
5 treatment;

6 (8) to an employee or agent of the hospital who  
7 requires health care information for health care education, quality  
8 assurance, or peer review or for assisting the hospital in the  
9 delivery of health care or in complying with statutory, licensing,  
10 accreditation, or certification requirements and if the hospital  
11 takes appropriate action to ensure that the employee or agent:

12 (A) will not use or disclose the health care  
13 information for any other purpose; and

14 (B) will take appropriate steps to protect the  
15 health care information;

16 (9) to a federal, state, or local government agency or  
17 authority to the extent authorized or required by law;

18 (10) to a hospital that is the successor in interest to  
19 the hospital maintaining the health care information;

20 (11) to the American Red Cross for the specific  
21 purpose of fulfilling the duties specified under its charter  
22 granted as an instrumentality of the United States government;

23 (12) to a regional poison control center, as the term  
24 is used in Chapter 777, to the extent necessary to enable the center  
25 to provide information and education to health professionals  
26 involved in the management of poison and overdose victims,  
27 including information regarding appropriate therapeutic use of

1 medications, their compatibility and stability, and adverse drug  
2 reactions and interactions;

3 (13) to a health care utilization review agent who  
4 requires the health care information for utilization review of  
5 health care under Chapter 4201 [~~Article 21.58A~~], Insurance Code;

6 (14) for use in a research project authorized by an  
7 institutional review board under federal law;

8 (15) to health care personnel of a penal or other  
9 custodial institution in which the patient is detained if the  
10 disclosure is for the sole purpose of providing health care to the  
11 patient;

12 (16) to facilitate reimbursement to a hospital, other  
13 health care provider, or the patient for medical services or  
14 supplies;

15 (17) to a health maintenance organization for purposes  
16 of maintaining a statistical reporting system as required by a rule  
17 adopted by a state agency or regulations adopted under the federal  
18 Health Maintenance Organization Act of 1973, as amended (42 U.S.C.  
19 Section 300e et seq.);

20 (18) to satisfy a request for medical records of a  
21 deceased or incompetent person pursuant to Section 74.051(e), Civil  
22 Practice and Remedies Code;

23 (19) to comply with a court order except as provided by  
24 Subdivision (20); or

25 (20) related to a judicial proceeding in which the  
26 patient is a party and the disclosure is requested under a subpoena  
27 issued under:

1 (A) the Texas Rules of Civil Procedure or Code of  
2 Criminal Procedure; or

3 (B) Chapter 121, Civil Practice and Remedies  
4 Code.

5 (b) A hospital that is a covered entity disclosing protected  
6 health information under this section, as those terms are defined  
7 by the privacy rule of the Administrative Simplification subtitle  
8 of the Health Insurance Portability and Accountability Act of 1996  
9 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R.  
10 Part 164, Subparts A and E, shall ensure that the disclosure  
11 complies with all applicable requirements, standards, or  
12 implementation specifications of the privacy rule, including  
13 provisions relating to disclosures for:

14 (1) facility directories under 45 C.F.R. Section  
15 164.510(a);

16 (2) treatment, payment, or health care operations  
17 under 45 C.F.R. Section 164.506;

18 (3) cadaveric organ, eye, or tissue donation purposes  
19 under 45 C.F.R. Section 164.512(h);

20 (4) law enforcement purposes under 45 C.F.R. Section  
21 164.512(f);

22 (5) health oversight activities under 45 C.F.R.  
23 Section 164.512(d);

24 (6) research purposes under 45 C.F.R. Section  
25 164.512(i); and

26 (7) a judicial or administrative proceeding under 45  
27 C.F.R. Section 164.512(e).

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

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

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

13 (A) a charge for each page of:

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

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

18 (iii) 25 cents for any remaining pages of  
19 the provided copies; and

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

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

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

27 (B) the actual cost of mailing, shipping, or

1 otherwise delivering the provided copies.

2 (f) A covered entity shall comply with the requirements of  
3 45 C.F.R. Section 164.524, including the requirement that access to  
4 protected health information, as those terms are defined by the  
5 privacy rule of the Administrative Simplification subtitle of the  
6 Health Insurance Portability and Accountability Act of 1996 (Pub.  
7 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part  
8 164, Subparts A and E, for inspection purposes may not be denied to  
9 an individual or legally authorized representative for nonpayment  
10 of a fee.

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

13 (c) Subsection (b)(7) does not authorize the disclosure or  
14 use of protected health information by a covered entity, as those  
15 terms 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, unless the  
19 disclosure or use complies with all applicable requirements,  
20 standards, or implementation specifications of the privacy rule.

21 SECTION 20. Section 595.003, Health and Safety Code, is  
22 amended by adding Subsection (c) to read as follows:

23 (c) If consent under this section authorizes the 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 authorization complies with  
3 all of the privacy rule's applicable requirements, standards, and  
4 implementation specifications.

5 SECTION 21. Section 595.004, Health and Safety Code, is  
6 amended by amending Subsection (a) and adding Subsection (c) to  
7 read as follows:

8 (a) The content of a confidential record shall be made  
9 available on the request of the person about whom the record was  
10 made unless:

11 (1) the person is a client; and

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

16 (c) A covered entity may not deny a request under this  
17 section for protected health information, as those terms are  
18 defined by the privacy rule of the Administrative Simplification  
19 subtitle of the Health Insurance Portability and Accountability Act  
20 of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45  
21 C.F.R. Part 164, Subparts A and E, unless the qualified  
22 professional responsible for supervising the client's  
23 habilitation:

24 (1) determines that making the record available to the  
25 client is reasonably likely to endanger the life or physical safety  
26 of the client or another person; and

27 (2) complies with other requirements relating to



1 denial of access to an individual's protected health information  
2 under 45 C.F.R. Section 164.524.

3 SECTION 22. Section 611.004, Health and Safety Code, is  
4 amended by adding Subsection (e) to read as follows:

5 (e) If a disclosure under Subsection (a)(4) 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 23. Subsection (b), Section 611.0045, Health and  
17 Safety Code, is amended to read as follows:

18 (b) The professional may deny access to any portion of a  
19 record if the professional determines that release of that portion  
20 would be harmful to the patient's physical, mental, or emotional  
21 health. A covered entity may not deny a request under this  
22 subsection for protected health information, as those terms are  
23 defined by the privacy rule of the Administrative Simplification  
24 subtitle of the Health Insurance Portability and Accountability Act  
25 of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45  
26 C.F.R. Part 164, Subparts A and E, unless the professional:

27 (1) determines that making the record available to the

1 patient is reasonably likely to endanger the life or physical  
2 safety of the patient or another person; and

3 (2) complies with other requirements relating to  
4 denial of access to an individual's protected health information  
5 under 45 C.F.R. Section 164.524.

6 SECTION 24. Subsection (b), Section 611.008, Health and  
7 Safety Code, is amended to read as follows:

8 (b) Except as provided by this subsection, unless ~~[Unless]~~  
9 provided for by other state law, the professional may charge a  
10 reasonable fee for retrieving or copying mental health care  
11 information and is not required to permit examination or copying  
12 until the fee is paid unless there is a medical emergency. A  
13 covered entity shall comply with the requirements of 45 C.F.R.  
14 Section 164.524, including the requirement that access to protected  
15 health information, as those terms are defined by the privacy rule  
16 of the Administrative Simplification subtitle of the Health  
17 Insurance Portability and Accountability Act of 1996 (Pub. L. No.  
18 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164,  
19 Subparts A and E, for inspection purposes may not be denied to an  
20 individual or legally authorized representative for nonpayment of a  
21 fee.

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

24 (d) If consent under this section authorizes the disclosure  
25 of 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 complies with all of  
4 the privacy rule's applicable requirements, standards, and  
5 implementation specifications.

6 SECTION 26. Section 546.104, Insurance Code, is amended to  
7 read as follows:

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

12 (1) is written in plain language;

13 (2) is dated;

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

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

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

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

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

25 (8) advises the individual or legal representative  
26 that the individual's authorized representative is entitled to  
27 receive a copy of the authorization.

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

10        SECTION 27. Section 4201.552, Insurance Code, is amended by  
11 adding Subsection (d) to read as follows:

12        (d) If an authorization under this section authorizes the  
13 disclosure of protected health information by a covered entity, as  
14 those terms 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 authorization complies with  
19 all of the privacy rule's applicable requirements, standards, and  
20 implementation specifications.

21        SECTION 28. Section 21.4032, Labor Code, is amended to read  
22 as follows:

23        Sec. 21.4032. AUTHORIZED DISCLOSURE. (a) An individual or  
24 the legal representative of an individual may authorize disclosure  
25 of genetic information relating to the individual by a written  
26 authorization that includes:

- 27            (1) a description of the information to be disclosed;

1           (2) the name of the person to whom the disclosure is  
2 made; and

3           (3) the purpose for the disclosure.

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

13           SECTION 29. Subsection (c), Section 201.009, Local  
14 Government Code, is amended to read as follows:

15           (c) Subsection (b) does not apply to:

16           (1) a local government record whose public disclosure  
17 is prohibited by an order of a court or by another state law; or

18           (2) a local government that is a covered entity  
19 disclosing protected health information, as those terms are defined  
20 by the privacy rule of the Administrative Simplification subtitle  
21 of the Health Insurance Portability and Accountability Act of 1996  
22 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R.  
23 Part 164, Subparts A and E.

24           SECTION 30. Section 58.104, Occupations Code, is amended to  
25 read as follows:

26           Sec. 58.104. AUTHORIZED DISCLOSURE. (a) An individual or  
27 the legal representative of an individual may authorize disclosure

1 of genetic information relating to the individual by a written  
2 authorization that includes:

- 3 (1) a description of the information to be disclosed;  
4 (2) the name of the person to whom the disclosure is  
5 made; and  
6 (3) the purpose for the disclosure.

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

16 SECTION 31. Section 159.005, Occupations Code, is amended  
17 by adding Subsection (f) to read as follows:

18 (f) If consent under this section authorizes the disclosure  
19 of 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 consent complies with all of  
25 the privacy rule's applicable requirements, standards, and  
26 implementation specifications.

27 SECTION 32. Section 159.006, Occupations Code, is amended

1 by amending Subsection (a) and adding Subsection (f) to read as  
2 follows:

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

12 (f) A physician who is a covered entity may not deny a  
13 request under this section for protected health information, as  
14 those terms 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, unless the  
18 physician:

19 (1) determines that making the information available  
20 to the patient is reasonably likely to endanger the life or physical  
21 safety of the patient or another person; and

22 (2) complies with other requirements relating to  
23 denial of access to an individual's protected health information  
24 under 45 C.F.R. Section 164.524.

25 SECTION 33. Section 159.008, Occupations Code, is amended  
26 by amending Subsection (a) and adding Subsection (c) to read as  
27 follows:

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

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

5 (2) is not required to permit examination or copying  
6 of the records until the fee is paid unless there is a medical  
7 emergency.

8 (c) A covered entity shall comply with the requirements of  
9 45 C.F.R. Section 164.524, including the requirement that access to  
10 protected health information, as those terms are defined by the  
11 privacy rule of the Administrative Simplification subtitle of the  
12 Health Insurance Portability and Accountability Act of 1996 (Pub.  
13 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part  
14 164, Subparts A and E, for inspection purposes may not be denied to  
15 an individual or legally authorized representative for nonpayment  
16 of a fee.

17 SECTION 34. Section 201.405, Occupations Code, is amended  
18 by amending Subsection (g) and adding Subsection (h) to read as  
19 follows:

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

4 (1) determines that making the record available to the  
5 patient is reasonably likely to endanger the life or physical  
6 safety of the patient or another person; and

7 (2) complies with other requirements relating to  
8 denial of access to an individual's protected health information  
9 under 45 C.F.R. Section 164.524.

10 (h) If a consent under this section authorizes the  
11 disclosure of protected health information by a covered entity, as  
12 those terms 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 complies with all of  
17 the privacy rule's applicable requirements, standards, and  
18 implementation specifications.

19 SECTION 35. Section 202.406, Occupations Code, is amended  
20 by amending Subsection (d) and adding Subsection (f) to read as  
21 follows:

22 (d) A podiatrist shall furnish copies of podiatric records  
23 requested or a summary or narrative of the records under a written  
24 consent for release of the information as provided by this section  
25 unless the podiatrist determines that access to the information  
26 would be harmful to the physical, mental, or emotional health of the  
27 patient. The podiatrist may delete confidential information about

1 another person who has not consented to the release. A podiatrist  
2 who is a covered entity may not deny a request under this subsection  
3 for protected health information, as those terms are defined by the  
4 privacy rule of the Administrative Simplification subtitle of the  
5 Health Insurance Portability and Accountability Act of 1996 (Pub.  
6 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part  
7 164, Subparts A and E, unless the podiatrist:

8 (1) determines that making the record available to the  
9 patient is reasonably likely to endanger the life or physical  
10 safety of the patient or another person; and

11 (2) complies with other requirements relating to  
12 denial of access to an individual's protected health information  
13 under 45 C.F.R. Section 164.524.

14 (f) If consent under this section authorizes the disclosure  
15 of protected health information by a covered entity, as those terms  
16 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 consent complies with all of  
21 the privacy rule's applicable requirements, standards, and  
22 implementation specifications.

23 SECTION 36. Section 258.104, Occupations Code, is amended  
24 by adding Subsection (e) to read as follows:

25 (e) 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 37. Section 32, Texas Local Fire Fighters  
8 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is  
9 amended by adding Subsection (d) to read as follows:

10 (d) If a disclosure under Subsection (a)(1)(D) of this  
11 section is a disclosure of protected health information by a  
12 covered entity, as those terms are defined by the privacy rule of  
13 the 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, the covered entity shall ensure that the consent to the  
17 disclosure complies with all of the privacy rule's applicable  
18 requirements, standards, and implementation specifications  
19 relating to authorizations for uses and disclosures of protected  
20 health information.

21 SECTION 38. Section 3.01, Chapter 824, Acts of the 73rd  
22 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
23 Civil Statutes), is amended by adding Subsection (k) to read as  
24 follows:

25 (k) If a disclosure under Subsection (h)(1)(D) of this  
26 section is a disclosure of protected health information by a  
27 covered entity, as those terms are defined by the privacy rule of

1 the Administrative Simplification subtitle of the Health Insurance  
2 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
3 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A  
4 and E, the covered entity shall ensure that the consent to 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 39. (a) Each state agency shall report to the  
10 state auditor the agency's progress in determining compliance with  
11 the federal Health Insurance Portability and Accountability Act of  
12 1996 (Pub. L. No. 104-191), including determining whether the  
13 agency has designated itself to be a covered entity for the purposes  
14 of that Act and whether the agency is designated as a hybrid of a  
15 covered entity.

16 (b) Each state agency must submit compliance information in  
17 the form and within the period prescribed by the state auditor.  
18 Information submitted by each agency is subject to audit by the  
19 state auditor, based on a risk assessment, and subject to the  
20 legislative audit committee's approval of including the work in the  
21 audit plan under Subsection (c), Section 321.013, Government Code.

22 (c) State agency progress in compliance with the federal  
23 Health Insurance Portability and Accountability Act of 1996 (Pub.  
24 L. No. 104-191), and any work performed by the state auditor to  
25 verify the information submitted by the agency, shall be reported  
26 by the state auditor to the office of the attorney general and the  
27 appropriate legislative committees.

1 SECTION 40. This Act takes effect September 1, 2007.