

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. Section 58.0071(f), 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 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 ~~is~~ is excepted from required public disclosure under Chapter 552, Government Code. A court ~~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) is a
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 to the disclosure
17 complies with all of the privacy rule's applicable requirements,
18 standards, and implementation specifications relating to
19 authorizations for uses and disclosures of protected health
20 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) is a
26 disclosure of protected health information by a covered entity, as
27 those terms 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 to the disclosure
5 complies with all of the privacy rule's applicable requirements,
6 standards, and implementation specifications relating to
7 authorizations for uses and disclosures of protected health
8 information.

9 SECTION 39. The state auditor shall conduct an audit of
10 state agencies to determine which agencies have designated
11 themselves covered entities for the purposes of the federal Health
12 Insurance Portability and Accountability Act and whether the agency
13 should be designated as a hybrid of a covered entity. The auditor
14 shall report the results of the audit to the office of the attorney
15 general and the appropriate legislative committees not later than
16 March 1, 2008. The report must include any recommendations for
17 changes in agency designation.

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