

1-1 By: Nelson S.B. No. 205  
1-2 (In the Senate - Filed January 11, 2007; January 30, 2007,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; March 5, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 March 5, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 205 By: Nelson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the privacy of protected health information.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subsection (f), Section 58.0071, Family Code, is  
1-13 amended to read as follows:

1-14 (f) This section does not affect the destruction of:

1-15 (1) physical records and files authorized by the Texas  
1-16 State Library Records Retention Schedule; or

1-17 (2) protected health information maintained by a  
1-18 covered entity, as that term is defined by the privacy rule of the  
1-19 Administrative Simplification subtitle of the Health Insurance  
1-20 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
1-21 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A  
1-22 and E.

1-23 SECTION 2. Subsections (b) and (c), Section 82.010, Family  
1-24 Code, are amended to read as follows:

1-25 (b) Except as otherwise provided by law, an application for  
1-26 a protective order is confidential and[~~and~~] is excepted from required  
1-27 public disclosure under Chapter 552, Government Code. A court[~~a court~~]  
1-28 and may not release an application [~~be released~~] to a person who is  
1-29 not a respondent to the application until after the date of service  
1-30 of notice of the application or the date of the hearing on the  
1-31 application, whichever date is sooner.

1-32 (c) Except as otherwise provided by law, an application  
1-33 requesting the issuance of a temporary ex parte order under Chapter  
1-34 83 is confidential and[~~and~~] is excepted from required public  
1-35 disclosure under Chapter 552, Government Code. A court[~~a court~~]  
1-36 and may not release an application [~~be released~~] to a person who is not a  
1-37 respondent to the application until after the date that the court or  
1-38 law enforcement informs the respondent of the court's order.

1-39 SECTION 3. Subsections (a) and (b), Section 162.018, Family  
1-40 Code, are amended to read as follows:

1-41 (a) The department, licensed child-placing agency, person,  
1-42 or entity placing a child for adoption shall provide to the [~~The~~]  
1-43 adoptive parents, upon request, [are entitled to receive] copies of  
1-44 the records and other information relating to the history of the  
1-45 child maintained by the department, licensed child-placing agency,  
1-46 person, or entity placing the child for adoption.

1-47 (b) The department, licensed child-placing agency, person,  
1-48 or entity placing the child for adoption shall, upon request,  
1-49 provide to the [~~The~~] adoptive parents and the adopted child, after  
1-50 the child is an adult, [are entitled to receive] copies of the  
1-51 records maintained by the entity that have been edited to protect  
1-52 the identity of the biological parents and any other person whose  
1-53 identity is confidential and other information relating to the  
1-54 history of the child [~~maintained by the department, licensed~~  
1-55 ~~child-placing agency, person, or entity placing the child for~~  
1-56 ~~adoption~~].

1-57 SECTION 4. Section 162.414, Family Code, is amended by  
1-58 adding Subsection (f) to read as follows:

1-59 (f) To the extent that Subsection (d) authorizes the use or  
1-60 disclosure of protected health information by a covered entity, as  
1-61 those terms are defined by the privacy rule of the Administrative  
1-62 Simplification subtitle of the Health Insurance Portability and  
1-63 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45

2-1 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
2-2 covered entity shall ensure that the use or disclosure complies  
2-3 with all applicable requirements, standards, or implementation  
2-4 specifications of the privacy rule.

2-5 SECTION 5. Subsection (a), Section 264.408, Family Code, is  
2-6 amended to read as follows:

2-7 (a) The files, reports, records, communications, and  
2-8 working papers used or developed in providing services under this  
2-9 chapter are confidential and not subject to public release under  
2-10 Chapter 552, Government Code. A center~~[, and]~~ may only disclose the  
2-11 files, reports, records, communications, and working papers  
2-12 developed in providing services under this chapter ~~[be disclosed]~~  
2-13 for purposes consistent with this chapter. Disclosure may be to:

2-14 (1) the department, department employees, law  
2-15 enforcement agencies, prosecuting attorneys, medical  
2-16 professionals, and other state agencies that provide services to  
2-17 children and families; and

2-18 (2) the attorney for the child who is the subject of  
2-19 the records and a court-appointed volunteer advocate appointed for  
2-20 the child under Section 107.031.

2-21 SECTION 6. Subsection (e), Section 420.031, Government  
2-22 Code, is amended to read as follows:

2-23 (e) Evidence collected under this section may not be  
2-24 released unless the survivor of the offense or a legal  
2-25 representative of the survivor signs a written consent to release  
2-26 the evidence. If a disclosure under this subsection is a disclosure  
2-27 of protected health information by a covered entity, as those terms  
2-28 are defined by the privacy rule of the Administrative  
2-29 Simplification subtitle of the Health Insurance Portability and  
2-30 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
2-31 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
2-32 covered entity shall ensure that the consent to the disclosure  
2-33 complies with all of the privacy rule's applicable requirements,  
2-34 standards, and implementation specifications relating to  
2-35 authorizations for uses and disclosures of protected health  
2-36 information.

2-37 SECTION 7. Section 825.507, Government Code, is amended by  
2-38 adding Subsection (h) to read as follows:

2-39 (h) If a disclosure under Subsection (b)(6) is a disclosure  
2-40 of protected health information by a covered entity, as those terms  
2-41 are defined by the privacy rule of the Administrative  
2-42 Simplification subtitle of the Health Insurance Portability and  
2-43 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
2-44 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
2-45 covered entity shall ensure that the authorization for the  
2-46 disclosure complies with all of the privacy rule's applicable  
2-47 requirements, standards, and implementation specifications  
2-48 relating to authorizations for uses and disclosures of protected  
2-49 health information.

2-50 SECTION 8. Section 865.019, Government Code, is amended by  
2-51 adding Subdivision (e) to read as follows:

2-52 (e) If a disclosure under Subsection (a) is a disclosure of  
2-53 protected health information by a covered entity, as those terms  
2-54 are defined by the privacy rule of the Administrative  
2-55 Simplification subtitle of the Health Insurance Portability and  
2-56 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
2-57 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
2-58 covered entity shall ensure that the authorization for the  
2-59 disclosure complies with all of the privacy rule's applicable  
2-60 requirements, standards, and implementation specifications  
2-61 relating to authorizations for uses and disclosures of protected  
2-62 health information.

2-63 SECTION 9. Section 81.103, Health and Safety Code, is  
2-64 amended by adding Subsection (k) to read as follows:

2-65 (k) If a disclosure under Subsection (d) is a disclosure of  
2-66 protected health information by a covered entity, as those terms  
2-67 are defined by the privacy rule of the Administrative  
2-68 Simplification subtitle of the Health Insurance Portability and  
2-69 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45

3-1 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
3-2 covered entity shall ensure that the authorization for the  
3-3 disclosure complies with all of the privacy rule's applicable  
3-4 requirements, standards, and implementation specifications  
3-5 relating to authorizations for uses and disclosures of protected  
3-6 health information.

3-7 SECTION 10. Section 108.009, Health and Safety Code, is  
3-8 amended by adding Subsection (c-1) to read as follows:

3-9 (c-1) For purposes of this section, the council or other  
3-10 entity as determined by the council under Subsection (a) is a public  
3-11 health authority, as that term is defined by the privacy rule of the  
3-12 Administrative Simplification subtitle of the Health Insurance  
3-13 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
3-14 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A  
3-15 and E. Data voluntarily submitted by a rural provider to the  
3-16 council under Subsection (c) is a use and disclosure for which an  
3-17 authorization or an opportunity to agree or object is not required.

3-18 SECTION 11. Section 142.009, Health and Safety Code, is  
3-19 amended by amending Subsection (g) and adding Subsection (m) to  
3-20 read as follows:

3-21 (g) After a survey of a home and community support services  
3-22 agency by the department, the department shall provide to the chief  
3-23 executive officer of the home and community support services  
3-24 agency:

3-25 (1) specific and timely written notice of the  
3-26 preliminary findings of the survey, including:

3-27 (A) the specific nature of the survey;

3-28 (B) any alleged violations of a specific statute  
3-29 or rule;

3-30 (C) the specific nature of any finding regarding  
3-31 an alleged violation or deficiency; and

3-32 (D) if a deficiency is alleged, the severity of  
3-33 the deficiency;

3-34 (2) information on the identity, including the  
3-35 signature, of each department representative conducting,  
3-36 reviewing, or approving the results of the survey and the date on  
3-37 which the department representative acted on the matter; and

3-38 (3) if requested by the home and community support  
3-39 services agency, copies of all documents relating to the survey  
3-40 maintained by the department or provided by the department to any  
3-41 other state or federal agency that are not confidential under state  
3-42 law.

3-43 (m) If a disclosure under Subsection (d)(3) is a disclosure  
3-44 of protected health information by a covered entity, as those terms  
3-45 are defined by the privacy rule of the Administrative  
3-46 Simplification subtitle of the Health Insurance Portability and  
3-47 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
3-48 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
3-49 covered entity shall ensure that the consent to the disclosure  
3-50 complies with all of the privacy rule's applicable requirements,  
3-51 standards, and implementation specifications relating to  
3-52 authorizations for uses and disclosures of protected health  
3-53 information.

3-54 SECTION 12. Section 162.006, Health and Safety Code, is  
3-55 amended by adding Subsection (d) to read as follows:

3-56 (d) If a disclosure under this section is a disclosure of  
3-57 protected health information by a covered entity, as those terms  
3-58 are defined by the privacy rule of the Administrative  
3-59 Simplification subtitle of the Health Insurance Portability and  
3-60 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
3-61 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
3-62 covered entity shall ensure that the disclosure complies with all  
3-63 of the privacy rule's applicable requirements, standards, and  
3-64 implementation specifications.

3-65 SECTION 13. Section 162.007, Health and Safety Code, is  
3-66 amended by amending Subsection (a) and adding Subsection (d) to  
3-67 read as follows:

3-68 (a) Except as provided by Subsection (d), a [A] blood bank  
3-69 shall report blood test results for blood confirmed as HIV positive

4-1 by the normal procedures blood banks presently use or found to be  
4-2 contaminated by any other infectious disease to:

4-3 (1) the hospital or other facility in which the blood  
4-4 was transfused or provided;

4-5 (2) the physician who transfused the infected blood;  
4-6 and [or]

4-7 (3) the recipient of the blood.

4-8 (d) If a blood bank is unable to report blood test results to  
4-9 a person listed in Subsection (a), the blood bank shall maintain a  
4-10 record of the blood bank's attempt to report to that person along  
4-11 with the blood test results.

4-12 SECTION 14. Section 181.051, Health and Safety Code, is  
4-13 amended to read as follows:

4-14 Sec. 181.051. PARTIAL EXEMPTION. Except for Subchapters  
4-15 [Subchapter] D and E, this chapter does not apply to:

4-16 (1) a covered entity as defined by Section 602.001,  
4-17 Insurance Code;

4-18 (2) an entity established under Article 5.76-3,  
4-19 Insurance Code; or

4-20 (3) an employer.

4-21 SECTION 15. Section 241.103, Health and Safety Code, is  
4-22 amended by adding Subsection (d) to read as follows:

4-23 (d) This section applies to a hospital that is a covered  
4-24 entity, as that term is defined by the privacy rule of the  
4-25 Administrative Simplification subtitle of the Health Insurance  
4-26 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
4-27 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A  
4-28 and E.

4-29 SECTION 16. Section 241.152, Health and Safety Code, is  
4-30 amended by adding Subsection (g) to read as follows:

4-31 (g) If an authorization under this section authorizes the  
4-32 disclosure of protected health information by a covered entity, as  
4-33 those terms are defined by the privacy rule of the Administrative  
4-34 Simplification subtitle of the Health Insurance Portability and  
4-35 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
4-36 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
4-37 covered entity shall ensure that the authorization complies with  
4-38 all of the privacy rule's applicable requirements, standards, and  
4-39 implementation specifications.

4-40 SECTION 17. Section 241.153, Health and Safety Code, is  
4-41 amended to read as follows:

4-42 Sec. 241.153. DISCLOSURE WITHOUT WRITTEN AUTHORIZATION.

4-43 (a) Subject to Subsection (b), a [A] patient's health care  
4-44 information may be disclosed without the patient's authorization if  
4-45 the disclosure is:

4-46 (1) directory information, unless the patient has  
4-47 instructed the hospital not to make the disclosure or the directory  
4-48 information is otherwise protected by state or federal law;

4-49 (2) to a health care provider who is rendering health  
4-50 care to the patient when the request for the disclosure is made;

4-51 (3) to a transporting emergency medical services  
4-52 provider for the purpose of:

4-53 (A) treatment or payment, as those terms are  
4-54 defined by the regulations adopted under the Health Insurance  
4-55 Portability and Accountability Act of 1996 (Pub. L. No. 104-191);  
4-56 or

4-57 (B) the following health care operations  
4-58 described by the regulations adopted under the Health Insurance  
4-59 Portability and Accountability Act of 1996 (Pub. L. No. 104-191):

4-60 (i) quality assessment and improvement  
4-61 activities;

4-62 (ii) specified insurance functions;

4-63 (iii) conducting or arranging for medical  
4-64 reviews; or

4-65 (iv) competency assurance activities;

4-66 (4) to a clergy member ~~[of the clergy]~~ specifically  
4-67 designated by the patient;

4-68 (5) to a qualified organ or tissue procurement  
4-69 organization as defined in Section 692.002 for the purpose of

5-1 making inquiries relating to donations according to the protocol  
5-2 referred to in Section 692.013(d);

5-3 (6) to a prospective health care provider for the  
5-4 purpose of securing the services of that health care provider as  
5-5 part of the patient's continuum of care, as determined by the  
5-6 patient's attending physician;

5-7 (7) to a person authorized to consent to medical  
5-8 treatment under Chapter 313 or to a person in a circumstance  
5-9 exempted from Chapter 313 to facilitate the adequate provision of  
5-10 treatment;

5-11 (8) to an employee or agent of the hospital who  
5-12 requires health care information for health care education, quality  
5-13 assurance, or peer review or for assisting the hospital in the  
5-14 delivery of health care or in complying with statutory, licensing,  
5-15 accreditation, or certification requirements and if the hospital  
5-16 takes appropriate action to ensure that the employee or agent:

5-17 (A) will not use or disclose the health care  
5-18 information for any other purpose; and

5-19 (B) will take appropriate steps to protect the  
5-20 health care information;

5-21 (9) to a federal, state, or local government agency or  
5-22 authority to the extent authorized or required by law;

5-23 (10) to a hospital that is the successor in interest to  
5-24 the hospital maintaining the health care information;

5-25 (11) to the American Red Cross for the specific  
5-26 purpose of fulfilling the duties specified under its charter  
5-27 granted as an instrumentality of the United States government;

5-28 (12) to a regional poison control center, as the term  
5-29 is used in Chapter 777, to the extent necessary to enable the center  
5-30 to provide information and education to health professionals  
5-31 involved in the management of poison and overdose victims,  
5-32 including information regarding appropriate therapeutic use of  
5-33 medications, their compatibility and stability, and adverse drug  
5-34 reactions and interactions;

5-35 (13) to a health care utilization review agent who  
5-36 requires the health care information for utilization review of  
5-37 health care under Chapter 4201 [~~Article 21.58A~~], Insurance Code;

5-38 (14) for use in a research project authorized by an  
5-39 institutional review board under federal law;

5-40 (15) to health care personnel of a penal or other  
5-41 custodial institution in which the patient is detained if the  
5-42 disclosure is for the sole purpose of providing health care to the  
5-43 patient;

5-44 (16) to facilitate reimbursement to a hospital, other  
5-45 health care provider, or the patient for medical services or  
5-46 supplies;

5-47 (17) to a health maintenance organization for purposes  
5-48 of maintaining a statistical reporting system as required by a rule  
5-49 adopted by a state agency or regulations adopted under the federal  
5-50 Health Maintenance Organization Act of 1973, as amended (42 U.S.C.  
5-51 Section 300e et seq.);

5-52 (18) to satisfy a request for medical records of a  
5-53 deceased or incompetent person pursuant to Section 74.051(e), Civil  
5-54 Practice and Remedies Code;

5-55 (19) to comply with a court order except as provided by  
5-56 Subdivision (20); or

5-57 (20) related to a judicial proceeding in which the  
5-58 patient is a party and the disclosure is requested under a subpoena  
5-59 issued under:

5-60 (A) the Texas Rules of Civil Procedure or Code of  
5-61 Criminal Procedure; or

5-62 (B) Chapter 121, Civil Practice and Remedies  
5-63 Code.

5-64 (b) A hospital that is a covered entity disclosing protected  
5-65 health information under this section, as those terms are defined  
5-66 by the privacy rule of the Administrative Simplification subtitle  
5-67 of the Health Insurance Portability and Accountability Act of 1996  
5-68 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R.  
5-69 Part 164, Subparts A and E, shall ensure that the disclosure

6-1 complies with all applicable requirements, standards, or  
6-2 implementation specifications of the privacy rule, including  
6-3 provisions relating to disclosures for:  
6-4 (1) facility directories under 45 C.F.R. Section  
6-5 164.510(a);  
6-6 (2) treatment, payment, or health care operations  
6-7 under 45 C.F.R. Section 164.506;  
6-8 (3) cadaveric organ, eye, or tissue donation purposes  
6-9 under 45 C.F.R. Section 164.512(h);  
6-10 (4) law enforcement purposes under 45 C.F.R. Section  
6-11 164.512(f);  
6-12 (5) health oversight activities under 45 C.F.R.  
6-13 Section 164.512(d);  
6-14 (6) research purposes under 45 C.F.R. Section  
6-15 164.512(i); and  
6-16 (7) a judicial or administrative proceeding under 45  
6-17 C.F.R. Section 164.512(e).

6-18 SECTION 18. Section 241.154, Health and Safety Code, is  
6-19 amended by amending Subsection (b) and adding Subsection (f) to  
6-20 read as follows:

6-21 (b) Except as provided by Subsections [~~Subsection~~] (d) and  
6-22 (f), the hospital or its agent may charge a reasonable fee for  
6-23 providing the health care information and is not required to permit  
6-24 the examination, copying, or release of the information requested  
6-25 until the fee is paid unless there is a medical emergency. The fee  
6-26 may not exceed the sum of:

6-27 (1) a basic retrieval or processing fee, which must  
6-28 include the fee for providing the first 10 pages of the copies and  
6-29 which may not exceed \$30; and

6-30 (A) a charge for each page of:

6-31 (i) \$1 for the 11th through the 60th page of  
6-32 the provided copies;

6-33 (ii) 50 cents for the 61st through the 400th  
6-34 page of the provided copies; and

6-35 (iii) 25 cents for any remaining pages of  
6-36 the provided copies; and

6-37 (B) the actual cost of mailing, shipping, or  
6-38 otherwise delivering the provided copies; or

6-39 (2) if the requested records are stored on any  
6-40 microform or other electronic medium, a retrieval or processing  
6-41 fee, which must include the fee for providing the first 10 pages of  
6-42 the copies and which may not exceed \$45; and

6-43 (A) \$1 per page thereafter; and

6-44 (B) the actual cost of mailing, shipping, or  
6-45 otherwise delivering the provided copies.

6-46 (f) A covered entity shall comply with the requirements of  
6-47 45 C.F.R. Section 164.524, including the requirement that access to  
6-48 protected health information, as those terms are defined by the  
6-49 privacy rule of the Administrative Simplification subtitle of the  
6-50 Health Insurance Portability and Accountability Act of 1996 (Pub.  
6-51 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part  
6-52 164, Subparts A and E, for inspection purposes may not be denied to  
6-53 an individual or legally authorized representative for nonpayment  
6-54 of a fee.

6-55 SECTION 19. Section 247.065, Health and Safety Code, is  
6-56 amended by adding Subsection (c) to read as follows:

6-57 (c) Subsection (b)(7) does not authorize the disclosure or  
6-58 use of protected health information by a covered entity, as those  
6-59 terms are defined by the privacy rule of the Administrative  
6-60 Simplification subtitle of the Health Insurance Portability and  
6-61 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
6-62 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, unless the  
6-63 disclosure or use complies with all applicable requirements,  
6-64 standards, or implementation specifications of the privacy rule.

6-65 SECTION 20. Section 595.003, Health and Safety Code, is  
6-66 amended by adding Subsection (c) to read as follows:

6-67 (c) If consent under this section authorizes the disclosure  
6-68 of protected health information by a covered entity, as those terms  
6-69 are defined by the privacy rule of the Administrative

7-1 Simplification subtitle of the Health Insurance Portability and  
7-2 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
7-3 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
7-4 covered entity shall ensure that the authorization complies with  
7-5 all of the privacy rule's applicable requirements, standards, and  
7-6 implementation specifications.

7-7 SECTION 21. Section 595.004, Health and Safety Code, is  
7-8 amended by amending Subsection (a) and adding Subsection (c) to  
7-9 read as follows:

7-10 (a) The content of a confidential record shall be made  
7-11 available on the request of the person about whom the record was  
7-12 made unless:

7-13 (1) the person is a client; and  
7-14 (2) subject to Subsection (c), the qualified  
7-15 professional responsible for supervising the client's habilitation  
7-16 states in a signed written statement that having access to the  
7-17 record is not in the client's best interest.

7-18 (c) A covered entity may not deny a request under this  
7-19 section for protected health information, as those terms are  
7-20 defined by the privacy rule of the Administrative Simplification  
7-21 subtitle of the Health Insurance Portability and Accountability Act  
7-22 of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45  
7-23 C.F.R. Part 164, Subparts A and E, unless the qualified  
7-24 professional responsible for supervising the client's  
7-25 habilitation:

7-26 (1) determines that making the record available to the  
7-27 client is reasonably likely to endanger the life or physical safety  
7-28 of the client or another person; and

7-29 (2) complies with other requirements relating to  
7-30 denial of access to an individual's protected health information  
7-31 under 45 C.F.R. Section 164.524.

7-32 SECTION 22. Section 611.004, Health and Safety Code, is  
7-33 amended by adding Subsection (e) to read as follows:

7-34 (e) If a disclosure under Subsection (a)(4) is a disclosure  
7-35 of protected health information by a covered entity, as those terms  
7-36 are defined by the privacy rule of the Administrative  
7-37 Simplification subtitle of the Health Insurance Portability and  
7-38 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
7-39 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
7-40 covered entity shall ensure that the consent to the disclosure  
7-41 complies with all of the privacy rule's applicable requirements,  
7-42 standards, and implementation specifications relating to  
7-43 authorizations for uses and disclosures of protected health  
7-44 information.

7-45 SECTION 23. Subsection (b), Section 611.0045, Health and  
7-46 Safety Code, is amended to read as follows:

7-47 (b) The professional may deny access to any portion of a  
7-48 record if the professional determines that release of that portion  
7-49 would be harmful to the patient's physical, mental, or emotional  
7-50 health. A covered entity may not deny a request under this

7-51 subsection for protected health information, as those terms are  
7-52 defined by the privacy rule of the Administrative Simplification  
7-53 subtitle of the Health Insurance Portability and Accountability Act  
7-54 of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45  
7-55 C.F.R. Part 164, Subparts A and E, unless the professional:

7-56 (1) determines that making the record available to the  
7-57 patient is reasonably likely to endanger the life or physical  
7-58 safety of the patient or another person; and

7-59 (2) complies with other requirements relating to  
7-60 denial of access to an individual's protected health information  
7-61 under 45 C.F.R. Section 164.524.

7-62 SECTION 24. Subsection (b), Section 611.008, Health and  
7-63 Safety Code, is amended to read as follows:

7-64 (b) Except as provided by this subsection, unless [Unless]  
7-65 provided for by other state law, the professional may charge a  
7-66 reasonable fee for retrieving or copying mental health care  
7-67 information and is not required to permit examination or copying  
7-68 until the fee is paid unless there is a medical emergency. A  
7-69 covered entity shall comply with the requirements of 45 C.F.R.

8-1 Section 164.524, including the requirement that access to protected  
8-2 health information, as those terms are defined by the privacy rule  
8-3 of the Administrative Simplification subtitle of the Health  
8-4 Insurance Portability and Accountability Act of 1996 (Pub. L. No.  
8-5 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164,  
8-6 Subparts A and E, for inspection purposes may not be denied to an  
8-7 individual or legally authorized representative for nonpayment of a  
8-8 fee.

8-9 SECTION 25. Section 773.093, Health and Safety Code, is  
8-10 amended by adding Subsection (d) to read as follows:

8-11 (d) If consent under this section authorizes the disclosure  
8-12 of protected health information by a covered entity, as those terms  
8-13 are defined by the privacy rule of the Administrative  
8-14 Simplification subtitle of the Health Insurance Portability and  
8-15 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
8-16 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
8-17 covered entity shall ensure that the consent complies with all of  
8-18 the privacy rule's applicable requirements, standards, and  
8-19 implementation specifications.

8-20 SECTION 26. Section 546.104, Insurance Code, is amended to  
8-21 read as follows:

8-22 Sec. 546.104. AUTHORIZED DISCLOSURE. (a) An individual or  
8-23 an individual's legal representative may authorize disclosure of  
8-24 genetic information relating to the individual by an authorization  
8-25 that:

8-26 (1) is written in plain language;  
8-27 (2) is dated;  
8-28 (3) contains a specific description of the information  
8-29 to be disclosed;

8-30 (4) identifies or describes each person authorized to  
8-31 disclose the genetic information to a health benefit plan issuer;

8-32 (5) identifies or describes the individuals or  
8-33 entities to whom the disclosure or subsequent redisclosure of the  
8-34 genetic information may be made;

8-35 (6) describes the specific purpose of the disclosure;

8-36 (7) is signed by the individual or legal  
8-37 representative and, if the disclosure is made to claim proceeds of  
8-38 an affected life insurance policy, the claimant; and

8-39 (8) advises the individual or legal representative  
8-40 that the individual's authorized representative is entitled to  
8-41 receive a copy of the authorization.

8-42 (b) If an authorization under this section authorizes the  
8-43 disclosure of protected health information by a covered entity, as  
8-44 those terms are defined by the privacy rule of the Administrative  
8-45 Simplification subtitle of the Health Insurance Portability and  
8-46 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
8-47 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
8-48 covered entity shall ensure that the authorization complies with  
8-49 all of the privacy rule's applicable requirements, standards, and  
8-50 implementation specifications.

8-51 SECTION 27. Section 4201.552, Insurance Code, is amended by  
8-52 adding Subsection (d) to read as follows:

8-53 (d) If an authorization under this section authorizes the  
8-54 disclosure of protected health information by a covered entity, as  
8-55 those terms are defined by the privacy rule of the Administrative  
8-56 Simplification subtitle of the Health Insurance Portability and  
8-57 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
8-58 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
8-59 covered entity shall ensure that the authorization complies with  
8-60 all of the privacy rule's applicable requirements, standards, and  
8-61 implementation specifications.

8-62 SECTION 28. Section 21.4032, Labor Code, is amended to read  
8-63 as follows:

8-64 Sec. 21.4032. AUTHORIZED DISCLOSURE. (a) An individual or  
8-65 the legal representative of an individual may authorize disclosure  
8-66 of genetic information relating to the individual by a written  
8-67 authorization that includes:

8-68 (1) a description of the information to be disclosed;  
8-69 (2) the name of the person to whom the disclosure is



9-1 made; and

9-2 (3) the purpose for the disclosure.

9-3 (b) If an authorization under this section authorizes the  
9-4 disclosure of protected health information by a covered entity, as  
9-5 those terms are defined by the privacy rule of the Administrative  
9-6 Simplification subtitle of the Health Insurance Portability and  
9-7 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
9-8 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
9-9 covered entity shall ensure that the authorization complies with  
9-10 all of the privacy rule's applicable requirements, standards, and  
9-11 implementation specifications.

9-12 SECTION 29. Subsection (c), Section 201.009, Local  
9-13 Government Code, is amended to read as follows:

9-14 (c) Subsection (b) does not apply to:

9-15 (1) a local government record whose public disclosure  
9-16 is prohibited by an order of a court or by another state law; or

9-17 (2) a local government that is a covered entity  
9-18 disclosing protected health information, as those terms are defined  
9-19 by the privacy rule of the Administrative Simplification subtitle  
9-20 of the Health Insurance Portability and Accountability Act of 1996  
9-21 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R.  
9-22 Part 164, Subparts A and E.

9-23 SECTION 30. Section 58.104, Occupations Code, is amended to  
9-24 read as follows:

9-25 Sec. 58.104. AUTHORIZED DISCLOSURE. (a) An individual or  
9-26 the legal representative of an individual may authorize disclosure  
9-27 of genetic information relating to the individual by a written  
9-28 authorization that includes:

9-29 (1) a description of the information to be disclosed;

9-30 (2) the name of the person to whom the disclosure is  
9-31 made; and

9-32 (3) the purpose for the disclosure.

9-33 (b) If an authorization under this section authorizes the  
9-34 disclosure of protected health information by a covered entity, as  
9-35 those terms are defined by the privacy rule of the Administrative  
9-36 Simplification subtitle of the Health Insurance Portability and  
9-37 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
9-38 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
9-39 covered entity shall ensure that the authorization complies with  
9-40 all of the privacy rule's applicable requirements, standards, and  
9-41 implementation specifications.

9-42 SECTION 31. Section 159.005, Occupations Code, is amended  
9-43 by adding Subsection (f) to read as follows:

9-44 (f) If consent under this section authorizes the disclosure  
9-45 of protected health information by a covered entity, as those terms  
9-46 are defined by the privacy rule of the Administrative  
9-47 Simplification subtitle of the Health Insurance Portability and  
9-48 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
9-49 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
9-50 covered entity shall ensure that the consent complies with all of  
9-51 the privacy rule's applicable requirements, standards, and  
9-52 implementation specifications.

9-53 SECTION 32. Section 159.006, Occupations Code, is amended  
9-54 by amending Subsection (a) and adding Subsection (f) to read as  
9-55 follows:

9-56 (a) Subject to Subsection (f), unless ~~[Unless]~~ the  
9-57 physician determines that access to the information would be  
9-58 harmful to the physical, mental, or emotional health of the  
9-59 patient, a physician who receives a written consent for release of  
9-60 information as provided by Section 159.005 shall furnish copies of  
9-61 the requested billing or medical records, or a summary or narrative  
9-62 of the records, including records received from a physician or  
9-63 other health care provider involved in the care or treatment of the  
9-64 patient.

9-65 (f) A physician who is a covered entity may not deny a  
9-66 request under this section for protected health information, as  
9-67 those terms are defined by the privacy rule of the Administrative  
9-68 Simplification subtitle of the Health Insurance Portability and  
9-69 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45

10-1 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, unless the  
 10-2 physician:

10-3 (1) determines that making the information available  
 10-4 to the patient is reasonably likely to endanger the life or physical  
 10-5 safety of the patient or another person; and

10-6 (2) complies with other requirements relating to  
 10-7 denial of access to an individual's protected health information  
 10-8 under 45 C.F.R. Section 164.524.

10-9 SECTION 33. Section 159.008, Occupations Code, is amended  
 10-10 by amending Subsection (a) and adding Subsection (c) to read as  
 10-11 follows:

10-12 (a) Except as provided by Subsections [~~Subsection~~] (b) and  
 10-13 (c), a physician:

10-14 (1) may charge a reasonable fee, as prescribed by  
 10-15 board rule, for copying billing or medical records; and

10-16 (2) is not required to permit examination or copying  
 10-17 of the records until the fee is paid unless there is a medical  
 10-18 emergency.

10-19 (c) A covered entity shall comply with the requirements of  
 10-20 45 C.F.R. Section 164.524, including the requirement that access to  
 10-21 protected health information, as those terms are defined by the  
 10-22 privacy rule of the Administrative Simplification subtitle of the  
 10-23 Health Insurance Portability and Accountability Act of 1996 (Pub.  
 10-24 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part  
 10-25 164, Subparts A and E, for inspection purposes may not be denied to  
 10-26 an individual or legally authorized representative for nonpayment  
 10-27 of a fee.

10-28 SECTION 34. Section 201.405, Occupations Code, is amended  
 10-29 by amending Subsection (g) and adding Subsection (h) to read as  
 10-30 follows:

10-31 (g) A chiropractor who determines that access to  
 10-32 information requested under Subsection (f) would be harmful to the  
 10-33 physical, mental, or emotional health of the patient may refuse to  
 10-34 release the information requested under this section. A  
 10-35 chiropractor who is a covered entity may not deny a request under  
 10-36 this subsection for protected health information, as those terms  
 10-37 are defined by the privacy rule of the Administrative  
 10-38 Simplification subtitle of the Health Insurance Portability and  
 10-39 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
 10-40 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, unless the  
 10-41 chiropractor:

10-42 (1) determines that making the record available to the  
 10-43 patient is reasonably likely to endanger the life or physical  
 10-44 safety of the patient or another person; and

10-45 (2) complies with other requirements relating to  
 10-46 denial of access to an individual's protected health information  
 10-47 under 45 C.F.R. Section 164.524.

10-48 (h) If a consent under this section authorizes the  
 10-49 disclosure of protected health information by a covered entity, as  
 10-50 those terms are defined by the privacy rule of the Administrative  
 10-51 Simplification subtitle of the Health Insurance Portability and  
 10-52 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
 10-53 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
 10-54 covered entity shall ensure that the consent complies with all of  
 10-55 the privacy rule's applicable requirements, standards, and  
 10-56 implementation specifications.

10-57 SECTION 35. Section 202.406, Occupations Code, is amended  
 10-58 by amending Subsection (d) and adding Subsection (f) to read as  
 10-59 follows:

10-60 (d) A podiatrist shall furnish copies of podiatric records  
 10-61 requested or a summary or narrative of the records under a written  
 10-62 consent for release of the information as provided by this section  
 10-63 unless the podiatrist determines that access to the information  
 10-64 would be harmful to the physical, mental, or emotional health of the  
 10-65 patient. The podiatrist may delete confidential information about  
 10-66 another person who has not consented to the release. A podiatrist  
 10-67 who is a covered entity may not deny a request under this subsection  
 10-68 for protected health information, as those terms are defined by the  
 10-69 privacy rule of the Administrative Simplification subtitle of the

11-1 Health Insurance Portability and Accountability Act of 1996 (Pub.  
 11-2 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part  
 11-3 164, Subparts A and E, unless the podiatrist:

11-4 (1) determines that making the record available to the  
 11-5 patient is reasonably likely to endanger the life or physical  
 11-6 safety of the patient or another person; and

11-7 (2) complies with other requirements relating to  
 11-8 denial of access to an individual's protected health information  
 11-9 under 45 C.F.R. Section 164.524.

11-10 (f) If consent under this section authorizes the disclosure  
 11-11 of protected health information by a covered entity, as those terms  
 11-12 are defined by the privacy rule of the Administrative  
 11-13 Simplification subtitle of the Health Insurance Portability and  
 11-14 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
 11-15 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
 11-16 covered entity shall ensure that the consent complies with all of  
 11-17 the privacy rule's applicable requirements, standards, and  
 11-18 implementation specifications.

11-19 SECTION 36. Section 258.104, Occupations Code, is amended  
 11-20 by adding Subsection (e) to read as follows:

11-21 (e) If consent under this section authorizes the disclosure  
 11-22 of protected health information by a covered entity, as those terms  
 11-23 are defined by the privacy rule of the Administrative  
 11-24 Simplification subtitle of the Health Insurance Portability and  
 11-25 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45  
 11-26 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the  
 11-27 covered entity shall ensure that the consent complies with all of  
 11-28 the privacy rule's applicable requirements, standards, and  
 11-29 implementation specifications.

11-30 SECTION 37. Section 32, Texas Local Fire Fighters  
 11-31 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is  
 11-32 amended by adding Subsection (d) to read as follows:

11-33 (d) If a disclosure under Subsection (a)(1)(D) of this  
 11-34 section is a disclosure of protected health information by a  
 11-35 covered entity, as those terms are defined by the privacy rule of  
 11-36 the Administrative Simplification subtitle of the Health Insurance  
 11-37 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
 11-38 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A  
 11-39 and E, the covered entity shall ensure that the consent to the  
 11-40 disclosure complies with all of the privacy rule's applicable  
 11-41 requirements, standards, and implementation specifications  
 11-42 relating to authorizations for uses and disclosures of protected  
 11-43 health information.

11-44 SECTION 38. Section 3.01, Chapter 824, Acts of the 73rd  
 11-45 Legislature, Regular Session, 1993 (Article 6243o, Vernon's Texas  
 11-46 Civil Statutes), is amended by adding Subsection (k) to read as  
 11-47 follows:

11-48 (k) If a disclosure under Subsection (h)(1)(D) of this  
 11-49 section is a disclosure of protected health information by a  
 11-50 covered entity, as those terms are defined by the privacy rule of  
 11-51 the Administrative Simplification subtitle of the Health Insurance  
 11-52 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)  
 11-53 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A  
 11-54 and E, the covered entity shall ensure that the consent to the  
 11-55 disclosure complies with all of the privacy rule's applicable  
 11-56 requirements, standards, and implementation specifications  
 11-57 relating to authorizations for uses and disclosures of protected  
 11-58 health information.

11-59 SECTION 39. (a) Each state agency shall report to the  
 11-60 state auditor the agency's progress in determining compliance with  
 11-61 the federal Health Insurance Portability and Accountability Act of  
 11-62 1996 (Pub. L. No. 104-191), including determining whether the  
 11-63 agency has designated itself to be a covered entity for the purposes  
 11-64 of that Act and whether the agency is designated as a hybrid of a  
 11-65 covered entity.

11-66 (b) Each state agency must submit compliance information in  
 11-67 the form and within the period prescribed by the state auditor.  
 11-68 Information submitted by each agency is subject to audit by the  
 11-69 state auditor, based on a risk assessment, and subject to the

12-1 legislative audit committee's approval of including the work in the  
12-2 audit plan under Subsection (c), Section 321.013, Government Code.

12-3 (c) State agency progress in compliance with the federal  
12-4 Health Insurance Portability and Accountability Act of 1996 (Pub.  
12-5 L. No. 104-191), and any work performed by the state auditor to  
12-6 verify the information submitted by the agency, shall be reported  
12-7 by the state auditor to the office of the attorney general and the  
12-8 appropriate legislative committees.

12-9 SECTION 40. This Act takes effect September 1, 2007.

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