

**House Bill 1066**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle I, Title 2, Health and Safety Code, is amended by adding Chapter 182 to read as follows:

CHAPTER 182. TEXAS HEALTH SERVICES AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 182.001. PURPOSE. This chapter establishes the Texas Health Services Authority as a public-private collaborative to implement the state-level health information technology functions identified by the Texas Health Information Technology Advisory Committee by serving as a catalyst for the development of a seamless electronic health information infrastructure to support the health care system in the state and to improve patient safety and quality of care.

Sec. 182.002. DEFINITIONS. In this chapter:

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

(2) "Certifying entity" means:

(A) an incorporated association whose purpose includes bringing into one organization all physicians licensed to practice medicine in the state in multiple specialties that complies with the following conditions:

(i) the association must have at least 12,000 individual members who are physicians;

(ii) the association must have been in continuing existence for a period of at least 10 years;

(iii) the association must employ appropriate professional staff and consultants for program management;

(iv) the association must not be a quality improvement

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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 182.001. PURPOSE. This chapter establishes the Texas Health Services Authority as a public-private collaborative to implement the state-level health information technology functions identified by the Texas Health Information Technology Advisory Committee by serving as a catalyst for the development of a seamless electronic health information infrastructure to support the health care system in the state and to improve patient safety and quality of care.

Sec. 182.002. DEFINITIONS. In this chapter:

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

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organization for Medicare, private insurers, or hospitals; and

(v) the association must not be a subsidiary of an insurer or a subsidiary of a holding company that owns or operates an insurer; or

(B) a subsidiary of an incorporated association described by Paragraph (A).

(3) "Corporation" means the Texas Health Services Authority.

(4) "De-identified protected health information" means protected health information that is not individually identifiable health information 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.

(5) "Individually identifiable health information" means individually identifiable health information 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.

(6) "Physician" means:

(A) an individual licensed to practice medicine in this state under the authority of Subtitle B, Title 3, Occupations Code;

(B) a professional entity organized in conformity with Title 7, Business Organizations Code, and permitted to

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

(3) "De-identified protected health information" means protected health information that is not individually identifiable health information 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.

(4) "Individually identifiable health information" means individually identifiable health information 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.

(5) "Physician" means:

(A) an individual licensed to practice medicine in this state under the authority of Subtitle B, Title 3, Occupations Code;

(B) a professional entity organized in conformity with Title 7, Business Organizations Code, and permitted to

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practice medicine under Subtitle B, Title 3, Occupations Code;

(C) a partnership organized in conformity with Title 4, Business Organizations Code, composed entirely of individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code;

(D) an approved nonprofit health corporation certified under Chapter 162, Occupations Code;

(E) a medical school or medical and dental unit, as defined or described by Section 61.003, 61.501, or 74.601, Education Code, that employs or contracts with physicians to teach or provide medical services or employs physicians and contracts with physicians in a practice plan; or

(F) an entity wholly owned by individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code.

(7) "Protected health information" means protected health information 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.

[Sections 182.003-182.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION

Sec. 182.051. TEXAS HEALTH SERVICES AUTHORITY; PURPOSE. (a) The corporation is established to:

(1) promote, implement, and facilitate the voluntary and secure electronic exchange of health information; and

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practice medicine under Subtitle B, Title 3, Occupations Code;

(C) a partnership organized in conformity with Title 4, Business Organizations Code, composed entirely of individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code;

(D) an approved nonprofit health corporation certified under Chapter 162, Occupations Code;

(E) a medical school or medical and dental unit, as defined or described by Section 61.003, 61.501, or 74.601, Education Code, that employs or contracts with physicians to teach or provide medical services or employs physicians and contracts with physicians in a practice plan; or

(F) an entity wholly owned by individuals licensed to practice medicine under Subtitle B, Title 3, Occupations Code.

(6) "Protected health information" means protected health information 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.

[Sections 182.003-182.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION

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(1) promote, implement, and facilitate the voluntary and secure electronic exchange of health information; and

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(2) create incentives to promote, implement, and facilitate the voluntary and secure electronic exchange of health information.

(b) The corporation is a public nonprofit corporation and, except as otherwise provided in this chapter, has all the powers and duties incident to a nonprofit corporation under the Business Organizations Code.

(c) The corporation is subject to state law governing nonprofit corporations, except that:

(1) the corporation may not be placed in receivership; and

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

(d) Except as otherwise provided by law, all expenses of the corporation shall be paid from income of the corporation.

(e) The corporation is subject to Chapter 551, Government Code.

Sec. 182.052. APPLICATION OF SUNSET ACT. The corporation is subject to Chapter 325, Government Code. Unless continued in existence as provided by that chapter, the corporation is abolished and this chapter expires September 1, 2011. The governor may order the dissolution of the corporation at any time the governor declares that the purposes of the corporation have been fulfilled or that the corporation is inoperative or abandoned.

Sec. 182.053. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a

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(2) create incentives to promote, implement, and facilitate the voluntary and secure electronic exchange of health information.

(b) The corporation is a public nonprofit corporation and, except as otherwise provided in this chapter, has all the powers and duties incident to a nonprofit corporation under the Business Organizations Code.

(c) The corporation is subject to state law governing nonprofit corporations, except that:

(1) the corporation may not be placed in receivership; and

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

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Sec. 182.053. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a

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board of 11 directors appointed by the governor, with the advice and consent of the senate.

(b) The governor shall also appoint at least two ex officio, nonvoting members representing the Department of State Health Services and the certifying entity.

(c) The governor shall appoint as voting board members individuals who represent consumers, clinical laboratories, health benefit plans, hospitals, regional health information exchange initiatives, pharmacies, physicians, rural health providers, or who possess expertise in any other area the governor finds necessary for the successful operation of the corporation.

(d) An individual may not serve on the board of the corporation if the individual serves on the board of any other governmental body in this state.

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

Sec. 182.054. TERMS OF OFFICE. Appointed

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board of 11 directors appointed by the governor, with the advice and consent of the senate.

(b) The governor shall also appoint at least two ex officio, nonvoting members representing the Department of State Health Services.

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(d) An individual may not serve on the board of the corporation if the individual serves on the board of any other governmental body in this state.

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

(f) An individual may not serve on the board of the corporation, in any capacity, if the individual has made a gift or grant, in cash or in kind, to the corporation.

(g) An individual may not serve on the board of the corporation, in any capacity, if the individual is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession or entity that is engaged in the providing of health care, the review or analysis of health care, the payment for health care services or procedures, or the providing of information technology.

Sec. 182.054. TERMS OF OFFICE. Appointed

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members of the board serve two-year terms and may continue to serve until a successor has been appointed by the governor.

Sec. 182.055. EXPENSES. Members of the board serve without compensation but are entitled to reimbursement for actual and necessary expenses in attending meetings of the board or performing other official duties authorized by the presiding officer.

Sec. 182.056. OFFICERS; CONFLICT OF INTEREST.

(a) The governor shall designate a member of the board as presiding officer to serve in that capacity at the pleasure of the governor.

(b) Any board member or a member of a committee formed by the board with direct interest in a matter, personally or through an employer, before the board shall abstain from deliberations and actions on the matter in which the conflict of interest arises and shall further abstain on any vote on the matter, and may not otherwise participate in a decision on the matter.

(c) Each board member shall file a conflict of interest statement and a statement of ownership interests with the board to ensure disclosure of all existing and potential personal interests related to board business.

Sec. 182.057. MEETINGS. (a) The board may meet as

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members of the board serve two-year terms and may continue to serve until a successor has been appointed by the governor.

Sec. 182.055. EXPENSES. Members of the board serve without compensation but are entitled to reimbursement for actual and necessary expenses in attending meetings of the board or performing other official duties authorized by the presiding officer.

Sec. 182.056. OFFICERS; CONFLICT OF INTEREST.

(a) The governor shall designate a member of the board as presiding officer to serve in that capacity at the pleasure of the governor.

(b) Any board member or a member of a committee formed by the board with direct interest in a matter, personally or through an employer, before the board shall abstain from deliberations and actions on the matter in which the conflict of interest arises and shall further abstain on any vote on the matter, and may not otherwise participate in a decision on the matter.

(c) Each board member shall file a conflict of interest statement and a statement of ownership interests with the board to ensure disclosure of all existing and potential personal interests related to board business.

Sec. 182.057. PROHIBITION ON CERTAIN CONTRACTS AND EMPLOYMENT. The board may not compensate, employ, or contract with any individual who serves as a member of the board or advisory council to any other governmental body, including any agency, council, or committee, in this state.

Sec. 182.058. MEETINGS. (a) The board may meet as

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often as necessary, but shall meet at least twice a year.  
(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the authority of the corporation.  
Sec. 182.058. CHIEF EXECUTIVE OFFICER; PERSONNEL. The board may hire a chief executive officer. Under the direction of the board, the chief executive officer shall perform the duties required by this chapter or designated by the board. The chief executive officer may hire additional staff to carry out the responsibilities of the corporation.  
Sec. 182.059. TECHNOLOGY POLICY. The board shall implement a policy requiring the corporation to use appropriate technological solutions to improve the corporation's ability to perform its functions. The policy must ensure that the public is able to interact with the corporation on the Internet.  
Sec. 182.060. LIABILITIES OF AUTHORITY. Liabilities created by the corporation are not debts or obligations of the state, and the corporation may not secure any liability with funds or assets of the state except as otherwise provided by law.  
Sec. 182.061. BOARD MEMBER IMMUNITY. (a) A board member may not be held civilly liable for an act performed, or omission made, in good faith in the performance of the member's powers and duties under this chapter.  
(b) A cause of action does not arise against a member of the board for an act or omission described by Subsection

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often as necessary, but shall meet at least twice a year.  
(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the authority of the corporation.  
Sec. 182.059. CHIEF EXECUTIVE OFFICER; PERSONNEL. The board may hire a chief executive officer. Under the direction of the board, the chief executive officer shall perform the duties required by this chapter or designated by the board. The chief executive officer may hire additional staff to carry out the responsibilities of the corporation.  
Sec. 182.060. TECHNOLOGY POLICY. The board shall implement a policy requiring the corporation to use appropriate technological solutions to improve the corporation's ability to perform its functions. The policy must ensure that the public is able to interact with the corporation on the Internet.  
Sec. 182.061. LIABILITIES OF AUTHORITY. Liabilities created by the corporation are not debts or obligations of the state, and the corporation may not secure any liability with funds or assets of the state except as otherwise provided by law.  
Sec. 182.062. BOARD MEMBER IMMUNITY. (a) A board member may not be held civilly liable for an act performed, or omission made, in good faith in the performance of the member's powers and duties under this chapter.  
(b) A cause of action does not arise against a member of the board for an act or omission described by Subsection

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(a).

[Sections 182.062-182.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 182.101. The corporation may:

(1) establish statewide health information exchange capabilities, including capabilities for electronic laboratory results, diagnostic studies, and medication history delivery, and, where applicable, promote definitions and standards for electronic interactions statewide;

(2) seek funding to:

(A) implement, promote, and facilitate the voluntary exchange of secure electronic health information between and among individuals and entities that are providing or paying for health care services or procedures; and

(B) create incentives to implement, promote, and facilitate the voluntary exchange of secure electronic health information between and among individuals and entities that are providing or paying for health care services or procedures;

(3) establish statewide health information exchange capabilities for streamlining health care administrative functions including:

(A) communicating point of care services, including laboratory results, diagnostic imaging, and prescription histories;

(B) communicating patient identification and emergency room required information in conformity with state and federal privacy laws;

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(a).

[Sections 182.063-182.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 182.101. The corporation may:

(1) establish statewide health information exchange capabilities, including capabilities for electronic laboratory results, diagnostic studies, and medication history delivery, and, where applicable, promote definitions and standards for electronic interactions statewide;

(2) seek funding to:

(A) implement, promote, and facilitate the voluntary exchange of secure electronic health information between and among individuals and entities that are providing or paying for health care services or procedures; and

(B) create incentives to implement, promote, and facilitate the voluntary exchange of secure electronic health information between and among individuals and entities that are providing or paying for health care services or procedures;

(3) establish statewide health information exchange capabilities for streamlining health care administrative functions including:

(A) communicating point of care services, including laboratory results, diagnostic imaging, and prescription histories;

(B) communicating patient identification and emergency room required information in conformity with state and federal privacy laws;

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(C) real time communication of enrollee status in relation to health plan coverage, including enrollee cost-sharing responsibilities; and

(D) current census and status of health plan contracted providers;

(4) support health care quality improvement initiatives relating to physicians by contracting with a certifying entity to provide to licensed physicians, regardless of practice environment, services for:

(A) collection and analysis of clinical data;

(B) reporting of a physician's clinical data and analysis with comparisons to peer group physicians, physician groups, physician teams, and to nationally specialty society adopted quality measurements; and

(C) creation of a tool to measure physician performance compared to peer group physicians on state and specialty levels;

(5) support health care quality improvement initiatives relating to physicians by contracting with a certifying entity to provide to health care related entities services for:

(A) providing access to aggregated, de-identified protected health information data to policymakers;

(B) providing access to aggregated, de-identified protected health information data to local health information exchanges and other users for quality of care studies, disease management, and population health assessments;

(C) supporting public health programs by trending aggregated, de-identified protected health information to

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(C) real-time communication of enrollee status in relation to health plan coverage, including enrollee cost-sharing responsibilities; and

(D) current census and status of health plan contracted providers;

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help assess the health status of populations and providing regular reports of trends and important incidence events to public health avenues for intervention, education, and prevention programs; and  
(D) supporting disaster preparedness and response efforts;

(6) support regional health information exchange initiatives by:

(A) identifying data and messaging standards for health information exchange;

(B) administering programs providing financial incentives, including grants and loans for the creation and support of regional health information networks, subject to available funds;

(C) providing technical expertise where appropriate;

(D) sharing intellectual property developed under Section 182.104;

(E) waiving the corporation's fees associated with intellectual property, data, expertise, and other services or materials provided to regional health information exchanges operated on a nonprofit basis; and

(F) applying operational and technical standards developed by the corporation to existing health information exchanges only on a voluntary basis, except for standards related to ensuring effective privacy and security of individually identifiable health information;

(7) identify standards for streamlining health care administrative functions across payors and providers including electronic patient registration, communication of enrollment in health plans, and information at the

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(4) support regional health information exchange initiatives by:

(A) identifying data and messaging standards for health information exchange;

(B) administering programs providing financial incentives, including grants and loans for the creation and support of regional health information networks, subject to available funds;

(C) providing technical expertise where appropriate;

(D) sharing intellectual property developed under Section 182.105;

(E) waiving the corporation's fees associated with intellectual property, data, expertise, and other services or materials provided to regional health information exchanges operated on a nonprofit basis; and

(F) applying operational and technical standards developed by the corporation to existing health information exchanges only on a voluntary basis, except for standards related to ensuring effective privacy and security of individually identifiable health information;

(5) identify standards for streamlining health care administrative functions across payors and providers, including electronic patient registration, communication of enrollment in health plans, and information at the

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point of care regarding services covered by health plans;  
and  
(8) support the secure, electronic exchange of health information through other strategies identified by the board.

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point of care regarding services covered by health plans;  
and  
(6) support the secure, electronic exchange of health information through other strategies identified by the board.

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Sec. 182.102. PROHIBITED ACTS. (a) The corporation has no authority and shall not engage in any of the following:

- (1) the collection and analysis of clinical data;
- (2) the comparison of physicians to other physicians, including comparisons to peer group physicians, physician groups, and physician teams, and to national specialty society adopted quality measurements;
- (3) the creation of a tool to measure physician performance compared to:
  - (A) peer group physicians on state and specialty levels;
  - or
  - (B) objective standards;
- (4) the providing of access to aggregated, de-identified protected health information to local health information exchanges and other users of quality care studies, disease management and population health assessments;
- (5) providing to public health programs trended, aggregated, de-identified protected health information to help assess the health status of populations and the providing of regular reports of trends and important incidence of events to public health avenues for intervention, education, and prevention programs; or
- (6) the creation of evidence-based standards for the practice of medicine.

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Sec. 182.102. PRIVACY OF INFORMATION. (a) Protected health information and individually identifiable health information collected, assembled, or maintained by the corporation is confidential and is not subject to disclosure under Chapter 552, Government Code.

(b) The corporation shall comply with all state and federal laws and rules relating to the transmission of health information, including the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted under that Act.

(c) The corporation shall develop privacy, security, operational, and technical standards to assist health information networks in the state to ensure effective statewide privacy, data security, efficiency, and interoperability across networks. The network's standards shall be guided by reference to the standards of the Certification Commission for Healthcare Information Technology or the Health Information Technology Standards Panel, or other federally approved certification standards, that exist on May 1, 2007, as to the process of implementation, acquisition, upgrade, or installation of electronic health information technology.

Sec. 182.103. SECURITY COMPLIANCE. The corporation shall:

(1) establish appropriate security standards to protect

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(b) The corporation has no authority and shall not disseminate information, in any manner, to the public that compares, rates, tiers, classifies, measures, or ranks a physician's performance, efficiency, or quality of practice.

Sec. 182.103. PRIVACY OF INFORMATION. (a) Protected health information and individually identifiable health information collected, assembled, or maintained by the corporation is confidential and is not subject to disclosure under Chapter 552, Government Code.

(b) The corporation shall comply with all state and federal laws and rules relating to the transmission of health information, including the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted under that Act.

(c) The corporation shall develop privacy, security, operational, and technical standards to assist health information networks in the state to ensure effective statewide privacy, data security, efficiency, and interoperability across networks. The network's standards shall be guided by reference to the standards of the Certification Commission for Healthcare Information Technology or the Health Information Technology Standards Panel, or other federally approved certification standards, that exist on May 1, 2007, as to the process of implementation, acquisition, upgrade, or installation of electronic health information technology.

Sec. 182.104. SECURITY COMPLIANCE. The corporation shall:

(1) establish appropriate security standards to protect

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both the transmission and the receipt of individually identifiable health information or health care data;

(2) establish appropriate security standards to protect access to any individually identifiable health information or health care data collected, assembled, or maintained by the corporation, or made available to the certifying entity for purposes of performing a contracted function;

(3) establish the highest levels of security and protection for access to and control of individually identifiable health information, including mental health care data and data relating to specific disease status, that is governed by more stringent state or federal privacy laws; and

(4) establish policies and procedures for the corporation for taking disciplinary actions against a board member, employee, certifying entity, or other person with access to individually identifiable health care information that violates state or federal privacy laws related to health care information or data maintained by the corporation.

Sec. 182.104. INTELLECTUAL PROPERTY. The corporation shall take commercially reasonable measures to protect its intellectual property, including obtaining patents, trademarks, and copyrights where appropriate.

Sec. 182.105. ANNUAL REPORT. The corporation shall submit an annual report to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate oversight committee in the senate and the house of representatives. The annual report must include financial information and a progress update on the corporation's efforts to carry out its mission.

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both the transmission and the receipt of individually identifiable health information or health care data;

(2) establish appropriate security standards to protect access to any individually identifiable health information or health care data collected, assembled, or maintained by the corporation;

(3) establish the highest levels of security and protection for access to and control of individually identifiable health information, including mental health care data and data relating to specific disease status, that is governed by more stringent state or federal privacy laws; and

(4) establish policies and procedures for the corporation for taking disciplinary actions against a board member, employee, or other person with access to individually identifiable health care information that violates state or federal privacy laws related to health care information or data maintained by the corporation.

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

Sec. 182.106. ANNUAL REPORT. The corporation shall submit an annual report to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate oversight committee in the senate and the house of representatives. The annual report must include financial information and a progress update on the corporation's efforts to carry out its mission.

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Sec. 182.106. FUNDING. (a) The corporation may be funded through the General Appropriations Act and may request, accept, and use gifts and grants as necessary to implement its functions.

(b) The corporation may assess transaction, convenience, or subscription fees to cover costs associated with implementing its functions. All fees must be voluntary but receipt of services provided by the corporation may be conditioned on payment of fees.

(c) The corporation may participate in other revenue-generating activities that are consistent with the corporation's purposes.

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

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Sec. 182.107. FUNDING. (a) The corporation may be funded through the General Appropriations Act and may request, accept, and use gifts and grants as necessary to implement its functions.

(b) The corporation may assess transaction, convenience, or subscription fees to cover costs associated with implementing its functions. All fees must be voluntary but receipt of services provided by the corporation may be conditioned on payment of fees.

(c) The corporation may participate in other revenue-generating activities that are consistent with the corporation's purposes.

Same as House version.

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