

By: Davis of Harris

H.B. No. 3235

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the exchange of secure electronic health information
3 between the Health and Human Services Commission and local or
4 regional health information exchanges and the development of a
5 health passport for Medicaid recipients.

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

7 SECTION 1. Subchapter B, Chapter 531, Government Code, is
8 amended by adding Section 531.02416 to read as follows:

9 Sec. 531.02416. ELECTRONIC HEALTH INFORMATION EXCHANGE
10 PROCEDURES. (a) The commission shall establish procedures for the
11 exchange of secure electronic health information between the
12 commission and local or regional health information exchanges.

13 (b) A local or regional health information exchange that
14 exchanges electronic health information under this section must
15 possess a functioning health information exchange database that
16 exchanges secure electronic health information among hospitals,
17 clinics, physicians' offices, and other health care providers that
18 are not each owned by a single entity or included in a single
19 operational unit or network. The information exchanged by the
20 local or regional health information exchange must include health
21 information for patients receiving services from state and federal
22 health and human services programs administered by the commission.

23 (c) In developing procedures under this section, the
24 commission shall:

1 (1) establish specific written guidelines, in
2 conjunction with interested health information exchanges,
3 specifying which health care providers will use which data elements
4 obtained from the commission and for what purposes, including
5 purposes related to reducing costs, improving access, and improving
6 quality of care for patients; and

7 (2) ensure compliance with all state and federal laws
8 and rules related to the transmission of health information,
9 including state privacy laws and the Health Insurance Portability
10 and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.) and
11 rules adopted under that Act.

12 (d) The procedures under this section must at a minimum
13 address the exchange of a patient's medication history. The
14 procedures may also address the exchange of additional health care
15 information.

16 SECTION 2. Subchapter B, Chapter 531, Government Code, is
17 amended by adding Section 531.096 to read as follows:

18 Sec. 531.096. HEALTH PASSPORT. (a) The commission, with
19 the assistance of physicians and other health care providers
20 experienced with the use of electronic health records, shall
21 develop and provide a health passport for each person who:

22 (1) is receiving medical assistance under the state
23 Medicaid program through a managed care plan, as defined by Section
24 533.001; and

25 (2) is not provided a health passport under another
26 law of this state.

27 (a-1) Notwithstanding Subsection (a), the commission is not

1 required to provide a health passport for each person described by
2 that subsection until September 1, 2014. Beginning as soon as
3 feasible after September 1, 2009, the commission shall provide a
4 health passport to each child entitled to a health passport under
5 Subsection (a), or if initial provision of health passports to all
6 children is impossible, to selected categories of children.
7 Thereafter, at intervals occurring as soon as possible, the
8 commission shall expand the provision of health passports to
9 additional children and finally to adults. This subsection expires
10 September 1, 2014.

11 (b) Information that is accessible through the health
12 passport provided under this section must be maintained in an
13 electronic format that uses the commission's existing computer
14 resources to the greatest extent possible.

15 (c) The executive commissioner shall adopt rules specifying
16 the information required to be included in the health passport. The
17 required information may include:

18 (1) the name and address of each of the person's
19 physicians and health care providers;

20 (2) a record of each visit to a physician or other
21 health care provider, including routine checkups;

22 (3) an immunization record;

23 (4) a list of the person's known health problems and
24 allergies;

25 (5) information on all medications prescribed to the
26 person in adequate detail to permit refills of prescriptions,
27 including the disease or condition that each medication treats; and

1 (6) any other available health history that physicians
2 and other health care providers who provide care for the person
3 determine is important.

4 (d) The system used to access the health passport must be
5 secure and maintain the confidentiality of the person's health
6 records. To the extent that this section authorizes the use or
7 disclosure of protected health information by a covered entity, as
8 those terms are defined by the privacy rule of the Administrative
9 Simplification subtitle of the Health Insurance Portability and
10 Accountability Act of 1996 (Pub. L. No. 104-191) contained in 45
11 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, the
12 covered entity shall ensure that the use or disclosure complies
13 with all applicable requirements, standards, or implementation
14 specifications of the privacy rule.

15 (e) The commission shall provide training or instructional
16 materials regarding use of a health passport to adults who receive
17 health passports, parents, guardians, and caretakers of children
18 who receive health passports, physicians, and other health care
19 providers.

20 (f) The commission shall make health passport information
21 available in printed and electronic formats to the following
22 individuals when a person loses eligibility for Medicaid, unless
23 the commission is required to provide a health passport under
24 another program:

25 (1) the person, if the person is an adult or a child
26 who has had the disabilities of minority removed; or

27 (2) the person's parent, legal guardian, or other

1 caretaker, if the person is a child.

2 (g) The commission shall coordinate the health passports
3 and procedures adopted for the Medicaid program under this section
4 with the health passport and procedures adopted under Section
5 266.006, Family Code, for a child in the foster care system to
6 ensure that a child's health passport is transferable between the
7 Medicaid program and that system.

8 SECTION 3. Section 32.102(b), Human Resources Code, as
9 added by Chapter 268 (S.B. 10), Acts of the 80th Legislature,
10 Regular Session, 2007, is amended to read as follows:

11 (b) If the executive commissioner determines that a need
12 exists for the use of health information technology in the medical
13 assistance program and that the technology is cost-effective, the
14 Health and Human Services Commission may, for the purposes
15 prescribed by Subsection (a):

16 (1) acquire and implement the technology; or

17 (2) evaluate the feasibility of developing and, if
18 feasible, develop, the technology through the use or expansion of
19 other systems or technologies the commission uses for other
20 purposes, including:

21 (A) the technologies used in the pilot program
22 implemented under Section 531.1063, Government Code; and

23 (B) a [the] health passport developed under
24 Section 266.006, Family Code, or Section 531.096, Government Code,
25 for persons receiving medical assistance not provided a health
26 passport under either of those provisions.

27 SECTION 4. Not later than the 60th day after the effective

1 date of this Act, the Health and Human Services Commission shall
2 establish the procedures required under Section 531.02416,
3 Government Code, as added by this Act.

4 SECTION 5. Not later than December 1, 2010, the Health and
5 Human Services Commission shall:

6 (1) assess, in conjunction with health information
7 exchanges that exchange information under the procedures
8 established under Section 531.02416, Government Code, as added by
9 this Act, the benefits to the state, patients, and health care
10 providers of exchanging secure health information with local or
11 regional health information exchanges;

12 (2) include, as part of the assessment required by
13 Subdivision (1) of this section, a return on investment analysis
14 for the guidelines developed under Section 531.02416(c)(1),
15 Government Code, as added by this Act; and

16 (3) report the commission's findings to the standing
17 committees of the senate and house of representatives having
18 primary jurisdiction over health and human services issues.

19 SECTION 6. If before implementing any provision of this Act
20 a state agency determines that a waiver or authorization from a
21 federal agency is necessary for implementation of that provision,
22 the agency affected by the provision shall request the waiver or
23 authorization and may delay implementing that provision until the
24 waiver or authorization is granted.

25 SECTION 7. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2009.