

By: Zerwas

H.B. No. 4571

A BILL TO BE ENTITLED

AN ACT

relating to a statewide electronic health records bank.

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

SECTION 1. Subtitle I, Title 2, Health and Safety Code, is amended by adding Chapter 183 to read as follows:

CHAPTER 183. HEALTH RECORDS BOARD

Sec. 183.001. DEFINITIONS. In this chapter:

(1) "Bank" means the statewide electronic health records bank created under this chapter.

(2) "Board" means the Health Records Board created under this chapter.

(3) "Department" means the Department of State Health Services.

(4) "Electronic health record" means the medical record of an individual that is stored in an electronic format.

(5) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(6) "Health care provider" means an individual or facility licensed, certified, or otherwise authorized to administer health care, for profit or otherwise, in the ordinary course of business or professional practice and includes a physician.

(7) "Medical home" means a primary care physician who provides preventive and primary care to a patient on an ongoing

1 basis and coordinates with specialists when health care services  
2 provided by a specialist are needed.

3 Sec. 183.002. COMPOSITION OF BOARD; PRESIDING OFFICER. (a)  
4 The department shall create a Health Records Board. The board is  
5 composed of seven members as follows:

6 (1) the executive director of the Health and Human  
7 Services Commission or the executive director's designee;

8 (2) a representative from the board of directors of  
9 the Texas Health Services Authority or the board's designee; and

10 (3) the following representatives appointed by the  
11 governor:

12 (A) a representative from a licensed hospital;

13 (B) a representative from an appropriate  
14 physician's organization;

15 (C) a representative from a health insurer;

16 (D) a representative from a consumer advisory  
17 organization with a background in health care information  
18 technology; and

19 (E) a representative from an appropriate  
20 academic or research institution.

21 (b) The governor shall appoint a member of the board to  
22 serve as the presiding officer of the board.

23 Sec. 183.003. DEPARTMENT DUTIES. The department shall  
24 provide staff and resources as necessary for the operation of the  
25 board.

26 Sec. 183.004. TERMS; VACANCY. (a) Members of the board  
27 appointed by the governor serve two-year terms expiring February 1

1 of each odd-numbered year.

2 (b) A member may be reappointed.

3 (c) A vacancy on the board shall be filled for the remainder  
4 of the unexpired term in the same manner as provided by Section  
5 183.002.

6 Sec. 183.005. COMPENSATION; REIMBURSEMENT. (a) A member  
7 of the board may not receive compensation for service on the board.

8 (b) A member may be reimbursed for the member's actual and  
9 necessary expenses for meals, lodging, transportation, and  
10 incidental expenses incurred while performing board business,  
11 subject to any applicable limitation on reimbursement prescribed by  
12 the General Appropriations Act.

13 Sec. 183.006. BOARD POWERS AND DUTIES; PLAN OF OPERATION.

14 (a) The board shall develop a plan of operation to:

15 (1) enable a seamless electronic health  
16 infrastructure to support the health care system in this state;

17 (2) improve consumer safety and quality of care  
18 through an electronic health infrastructure to encourage the  
19 utilization of a medical home; and

20 (3) promote, implement, and facilitate the  
21 implementation of the bank to enable the secure exchange of health  
22 information between health care providers and allow a consumer to  
23 access electronic records of all health services and information  
24 prescribed and collected on the consumer during the consumer's  
25 lifetime.

26 (b) In accordance with the plan of operation, the board  
27 shall implement and administer a bank that:

- 1           (1) is web-based;  
2           (2) is accessible through a card issued to consumers  
3 capable of:  
4           (A) electronically verifying eligibility for  
5 medical services in real time;  
6           (B) effectuating automatic check-in of a  
7 consumer at a health care facility;  
8           (C) maintaining real-time electronic payment  
9 information, by health care provider, for services provided to the  
10 consumer; and  
11           (D) accessing a consumer's electronic health  
12 record for the health care provider to assist in the care of the  
13 consumer;  
14           (3) allows health care providers and public and  
15 private consumers and patients to share health information through  
16 electronic means;  
17           (4) complies with state and federal privacy  
18 requirements, including the federal Health Insurance Portability  
19 and Accountability Act (HIPAA);  
20           (5) is operated through a secure means that protects  
21 the privacy of a consumer;  
22           (6) is capable of interoperability with existing  
23 health records databases of other states or the federal government  
24 to enable the consolidation of all health care information  
25 collected on a consumer during the course of the consumer's  
26 lifetime, regardless of the collector;  
27           (7) enables a consumer to electronically communicate

1 with the consumer's medical home regarding appointment requests,  
2 prescription refill requests, e-mail communications, and receipt  
3 of condition education content from a health care provider; and  
4 (8) enhances health care quality, consumer safety,  
5 communication of consumer information, chronic condition  
6 management capabilities, consumer and provider satisfaction,  
7 clinical and administrative cost-effectiveness, and public health  
8 emergency preparedness.

9 Sec. 183.007. PLAN OF OPERATION; AMENDMENTS; APPROVAL. (a)  
10 The board shall submit to the executive commissioner a plan of  
11 operation for the implementation of the bank that complies with the  
12 requirements of Section 183.006(b). The board may submit  
13 amendments to the plan of operation to the executive commissioner.

14 (b) The executive commissioner shall review the plan of  
15 operation, or any amendments to the plan submitted by the board, and  
16 approve the plan or amended plan if the plan or amended plan is  
17 feasible.

18 (c) The board may not implement the plan of operation, or  
19 any amendment to the plan, until the executive commissioner  
20 approves the plan or amendment, as applicable.

21 (d) The executive commissioner shall approve or deny a plan  
22 of operation or amendments to the plan not later than the 30th day  
23 after the date the board submits the plan or amendments. For good  
24 cause shown, the executive commissioner may extend the time to act  
25 under this subsection.

26 Sec. 183.008. IMPLEMENTATION OF BANK. Not later than the  
27 first anniversary of the date the executive commissioner approves a

1 plan of operation under Section 183.007, the board shall implement  
2 the bank according to the plan of operation approved by the  
3 executive commissioner.

4 Sec. 183.009. ENROLLMENT IN BANK. An individual may create  
5 a record in the bank by:

6 (1) completing enrollment and consent forms  
7 prescribed by the board when checking in to a health care facility;

8 or

9 (2) contacting the board directly and providing  
10 necessary information.

11 Sec. 183.010. CONSUMER ACCESS TO RECORDS. (a) A consumer  
12 owns an entire electronic health record created by the consumer in  
13 the bank, and a consumer shall have access to the consumer's record  
14 at any time.

15 (b) A consumer may add personal health information to the  
16 consumer's electronic health record at any time after creating the  
17 record.

18 (c) A consumer may not alter information contained in the  
19 consumer's electronic health record unless an alteration is  
20 approved in the manner specified by the plan of operation. The bank  
21 shall identify an addition or alteration made by a consumer to the  
22 consumer's record to the consumer.

23 (d) A health care provider may access a consumer's  
24 electronic health record if the consumer or the consumer's legal  
25 representative consents to the access.

26 Sec. 183.011. CONSUMER PRIVACY. (a) The board may not  
27 release health information contained in the bank to any person

1 without the consent of the consumer, except that the board may  
2 without the consumer's consent release information to:

3 (1) the consumer's health insurer or health benefit  
4 plan;

5 (2) the consumer's employer; or

6 (3) a state employee for the purposes of:

7 (A) oversight of a state health program,  
8 including a disease management program;

9 (B) tracking infectious diseases in this state;

10 (C) state wellness initiatives and programs; or

11 (D) research of state medical trends.

12 (b) A health care provider may not be required to redact  
13 information disclosed under this section.

14 Sec. 183.012. RULES. The board shall adopt rules necessary  
15 for the administration of the bank.

16 SECTION 2. (a) As soon as practicable after the effective  
17 date of this Act, the Department of State Health Services shall  
18 establish the Health Records Board under Section 183.002, Health  
19 and Safety Code, as added by this Act, and the relevant appointing  
20 authorities shall appoint the members of the board under that  
21 section.

22 (b) Not later than March 1, 2010, the Health Records Board  
23 created under Chapter 183, Health and Safety Code, as added by this  
24 Act, shall adopt the rules required by that chapter.

25 (c) Not later than September 1, 2010, the Health Records  
26 Board shall submit the initial plan of operation for the statewide  
27 electronic health records bank, as required by Chapter 183, Health

1 and Safety Code, as added by this Act.

2           SECTION 3. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2009.