

By: Raymond

H.B. No. 1680

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the continuation and functions of the Texas Health  
3 Services Authority as a quasi-governmental entity and the  
4 electronic exchange of health care information.

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

6 SECTION 1. Section 531.904, Government Code, is amended by  
7 amending Subsections (c) and (g) and adding Subsection (c-1) to  
8 read as follows:

9 (c) The advisory committee must include the following  
10 members:

- 11 (1) Medicaid providers;
- 12 (2) child health plan program providers;
- 13 (3) fee-for-service providers;
- 14 (4) ~~[at least one representative of the Texas Health~~  
15 ~~Services Authority established under Chapter 182, Health and Safety~~  
16 ~~Code,~~

17 ~~[(5)]~~ at least one representative of each health and  
18 human services agency;

19 (5) ~~[(6)]~~ at least one representative of a major  
20 provider association;

21 (6) ~~[(7)]~~ at least one representative of a health care  
22 facility;

23 (7) ~~[(8)]~~ at least one representative of a managed  
24 care organization;

1           (8) [~~(9)~~] at least one representative of the  
2 pharmaceutical industry;

3           (9) [~~(10)~~] at least one representative of Medicaid  
4 recipients and child health plan enrollees;

5           (10) [~~(11)~~] at least one representative of a local or  
6 regional health information exchange; and

7           (11) [~~(12)~~] at least one representative who is skilled  
8 in pediatric medical informatics.

9           (c-1) Notwithstanding Subsection (c), the advisory  
10 committee must include at least one representative of the Texas  
11 Health Services Authority established under Chapter 182, Health and  
12 Safety Code. This subsection expires September 1, 2021.

13           (g) The advisory committee shall collaborate with the Texas  
14 Health Services Authority to ensure that the health information  
15 exchange system is interoperable with, and not an impediment to,  
16 the electronic health information infrastructure that the  
17 authority assists in developing. This subsection expires September  
18 1, 2021.

19           SECTION 2. Section [181.206](#), Health and Safety Code, is  
20 amended by amending Subsection (a) and adding Subsection (a-1) to  
21 read as follows:

22           (a) The commission, in coordination with the attorney  
23 general [~~the Texas Health Services Authority,~~] and the Texas  
24 Department of Insurance:

25           (1) may request that the United States secretary of  
26 health and human services conduct an audit of a covered entity, as  
27 that term is defined by 45 C.F.R. Section 160.103, in this state to

1 determine compliance with the Health Insurance Portability and  
2 Accountability Act and Privacy Standards; and

3 (2) shall periodically monitor and review the results  
4 of audits of covered entities in this state conducted by the United  
5 States secretary of health and human services.

6 (a-1) Notwithstanding Subsection (a), the commission shall  
7 also coordinate with the Texas Health Services Authority when  
8 requesting an audit or monitoring and reviewing the results of an  
9 audit under Subsection (a). This subsection expires September 1,  
10 2021.

11 SECTION 3. Section 181.207, Health and Safety Code, is  
12 amended to read as follows:

13 Sec. 181.207. FUNDING. (a) The commission and the Texas  
14 Department of Insurance [~~, in consultation with the Texas Health~~  
15 ~~Services Authority,~~] shall apply for and actively pursue available  
16 federal funding for enforcement of this chapter.

17 (b) Notwithstanding Subsection (a), the commission and the  
18 Texas Department of Insurance shall consult with the Texas Health  
19 Services Authority when applying for or pursuing federal funding  
20 under Subsection (a). This subsection expires September 1, 2021.

21 SECTION 4. The heading to Chapter 182, Health and Safety  
22 Code, is amended to read as follows:

23 CHAPTER 182. ELECTRONIC EXCHANGE OF HEALTH INFORMATION [~~TEXAS~~  
24 ~~HEALTH SERVICES AUTHORITY~~]

25 SECTION 5. Subchapter A, Chapter 182, Health and Safety  
26 Code, is amended by adding Section 182.003 to read as follows:

27 Sec. 182.003. EXPIRATION OF SUBCHAPTER. This subchapter

1 expires September 1, 2021.

2 SECTION 6. Section 182.052, Health and Safety Code, is  
3 amended to read as follows:

4 Sec. 182.052. EXPIRATION OF SUBCHAPTER [~~APPLICATION OF~~  
5 ~~SUNSET ACT~~]. This subchapter [~~The corporation is subject to~~  
6 ~~Chapter 325, Government Code. Unless continued in existence as~~  
7 ~~provided by that chapter, the corporation is abolished and this~~  
8 ~~chapter]~~ expires September 1, 2021 [~~2015. The governor may order~~  
9 ~~the dissolution of the corporation at any time the governor~~  
10 ~~declares that the purposes of the corporation have been fulfilled~~  
11 ~~or that the corporation is inoperative or abandoned)].~~

12 SECTION 7. Section 182.053, Health and Safety Code, is  
13 amended by amending Subsections (a) and (b) and adding Subsections  
14 (b-1) and (h) to read as follows:

15 (a) The corporation is governed by a board of 12 [~~11~~]  
16 directors appointed by the governor, with the advice and consent of  
17 the senate.

18 (b) The governor shall also appoint at least two ex officio,  
19 nonvoting members representing the health and human services  
20 agencies as state agency data resources [~~Department of State Health~~  
21 ~~Services~~].

22 (b-1) The governor shall appoint as a voting board member  
23 one individual who represents Texas local health information  
24 exchanges.

25 (h) In this section, "health and human services agencies"  
26 includes the:

27 (1) department;

1           (2) Department of Aging and Disability Services;

2           (3) Department of Assistive and Rehabilitative  
3 Services;

4           (4) Department of Family and Protective Services; and

5           (5) Health and Human Services Commission.

6           SECTION 8. Section 182.101, Health and Safety Code, is  
7 amended to read as follows:

8           Sec. 182.101. GENERAL POWERS AND DUTIES.    (a) The  
9 corporation may:

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

15           (2) seek funding to:

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

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

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

27           (A) communicating point of care services,

1 including laboratory results, diagnostic imaging, and prescription  
2 histories;

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

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

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

11 (4) support regional health information exchange  
12 initiatives by:

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

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

19 (C) providing technical expertise where  
20 appropriate;

21 (D) sharing intellectual property developed  
22 under Section [182.105](#);

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

27 (F) applying operational and technical standards

1 developed by the corporation to existing health information  
2 exchanges only on a voluntary basis, except for standards related  
3 to ensuring effective privacy and security of individually  
4 identifiable health information;

5 (5) identify standards for streamlining health care  
6 administrative functions across payors and providers, including  
7 electronic patient registration, communication of enrollment in  
8 health plans, and information at the point of care regarding  
9 services covered by health plans; and

10 (6) support the secure, electronic exchange of health  
11 information through other strategies identified by the board.

12 (b) This section expires September 1, 2021.

13 SECTION 9. Section 182.102, Health and Safety Code, is  
14 amended by adding Subsection (c) to read as follows:

15 (c) This section expires September 1, 2021.

16 SECTION 10. Section 182.103, Health and Safety Code, is  
17 amended by adding Subsection (d) to read as follows:

18 (d) This section expires September 1, 2021.

19 SECTION 11. Section 182.104, Health and Safety Code, is  
20 amended to read as follows:

21 Sec. 182.104. SECURITY COMPLIANCE. (a) The corporation  
22 shall:

23 (1) establish appropriate security standards to  
24 protect both the transmission and the receipt of individually  
25 identifiable health information or health care data;

26 (2) establish appropriate security standards to  
27 protect access to any individually identifiable health information

1 or health care data collected, assembled, or maintained by the  
2 corporation;

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

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

14 (b) This section expires September 1, 2021.

15 SECTION 12. Section 182.105, Health and Safety Code, is  
16 amended to read as follows:

17 Sec. 182.105. INTELLECTUAL PROPERTY. (a) The corporation  
18 shall take commercially reasonable measures to protect its  
19 intellectual property, including obtaining patents, trademarks,  
20 and copyrights where appropriate.

21 (b) This section expires September 1, 2021.

22 SECTION 13. Section 182.106, Health and Safety Code, is  
23 amended to read as follows:

24 Sec. 182.106. ANNUAL REPORT. (a) The corporation shall  
25 submit an annual report to the governor, the lieutenant governor,  
26 the speaker of the house of representatives, and the appropriate  
27 oversight committee in the senate and the house of



1 representatives. The annual report must include financial  
2 information and a progress update on the corporation's efforts to  
3 carry out its mission.

4 (b) This section expires September 1, 2021.

5 SECTION 14. Section 182.107, Health and Safety Code, is  
6 amended by adding Subsection (d) to read as follows:

7 (d) This section expires September 1, 2021.

8 SECTION 15. Section 182.108, Health and Safety Code, is  
9 amended by adding Subsections (f), (g), (h), (i), (j), (k), and (l)  
10 to read as follows:

11 (f) Subsections (a)-(e) and this subsection expire  
12 September 1, 2021.

13 (g) The privacy and security standards for the electronic  
14 sharing of protected health information adopted under this section  
15 and in effect on September 1, 2021, continue until amended by rule  
16 by the Health and Human Services Commission.

17 (h) In amending standards under Subsection (g), the Health  
18 and Human Services Commission may seek the assistance of a private  
19 nonprofit organization with relevant knowledge and experience in  
20 establishing statewide health information exchange capabilities.

21 (i) Standards amended under Subsection (g) must be designed  
22 to:

23 (1) comply with the Health Insurance Portability and  
24 Accountability Act and Privacy Standards and Chapter 181;

25 (2) comply with any other state and federal law  
26 relating to the security and confidentiality of information  
27 electronically maintained or disclosed by a covered entity;

1           (3) ensure the secure maintenance and disclosure of  
2 individually identifiable health information;

3           (4) include strategies and procedures for disclosing  
4 individually identifiable health information; and

5           (5) support a level of system interoperability with  
6 existing health record databases in this state that is consistent  
7 with emerging standards.

8           (j) The Health and Human Services Commission shall  
9 designate a private nonprofit organization with relevant knowledge  
10 and experience in establishing statewide health information  
11 exchange capabilities to establish a process by which a covered  
12 entity may apply for certification by the Health and Human Services  
13 Commission of a covered entity's past compliance with standards  
14 adopted under this section. If a private nonprofit organization  
15 with relevant knowledge and experience in establishing statewide  
16 health information exchange capabilities does not exist, the Health  
17 and Human Services Commission shall either:

18           (1) establish the process described by this  
19 subsection; or

20           (2) designate another entity with relevant knowledge  
21 to establish the process described by this subsection.

22           (k) The Health and Human Services Commission shall publish  
23 the standards adopted under this section on the commission's  
24 Internet website.

25           (l) In this section:

26           (1) "Covered entity" has the meaning assigned by  
27 Section [181.001](#).

1           (2) "Disclose" has the meaning assigned by Section  
2 [181.001.](#)

3           (3) "Health Insurance Portability and Accountability  
4 Act and Privacy Standards" has the meaning assigned by Section  
5 [181.001.](#)

6           (4) "Individually identifiable health information"  
7 means individually identifiable health information as that term is  
8 defined by the privacy rule of the Health Insurance Portability and  
9 Accountability Act and Privacy Standards.

10           (5) "Protected health information" means protected  
11 health information as that term is defined by the privacy rule of  
12 the Health Insurance Portability and Accountability Act and Privacy  
13 Standards.

14           SECTION 16. This Act takes effect September 1, 2015.