

By: Nelson, et al.

S.B. No. 203

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 Subsections (c-1) and
8 (c-2) to 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 (c-2) Notwithstanding Subsection (c), on and after
14 September 1, 2021, the advisory committee must include at least one
15 representative of the private nonprofit organization with relevant
16 knowledge and experience in establishing statewide health
17 information exchange capabilities designated under Section
18 182.108(j), Health and Safety Code.

19 (g) The advisory committee shall collaborate with the Texas
20 Health Services Authority to ensure that the health information
21 exchange system is interoperable with, and not an impediment to,
22 the electronic health information infrastructure that the
23 authority assists in developing. This subsection expires September
24 1, 2021.

25 SECTION 2. Section 181.206, Health and Safety Code, is
26 amended by amending Subsection (a) and adding Subsection (a-1) to
27 read as follows:

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

4 (1) may request that the United States secretary of
5 health and human services conduct an audit of a covered entity, as
6 that term is defined by 45 C.F.R. Section 160.103, in this state to
7 determine compliance with the Health Insurance Portability and
8 Accountability Act and Privacy Standards; and

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

12 (a-1) Notwithstanding Subsection (a), the commission shall
13 also coordinate with the Texas Health Services Authority when
14 requesting an audit or monitoring and reviewing the results of an
15 audit under Subsection (a). This subsection expires September 1,
16 2021.

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

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

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

27 SECTION 4. The heading to Chapter 182, Health and Safety

1 Code, is amended to read as follows:

2 CHAPTER 182. ELECTRONIC EXCHANGE OF HEALTH INFORMATION [~~TEXAS~~
3 ~~HEALTH SERVICES AUTHORITY~~]

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

6 Sec. 182.003. EXPIRATION OF SUBCHAPTER. This subchapter
7 expires September 1, 2021.

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

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

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

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

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

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

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

6 (1) department;

7 (2) Department of Aging and Disability Services;

8 (3) Department of Assistive and Rehabilitative
9 Services;

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

11 (5) Health and Human Services Commission.

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

14 Sec. 182.101. GENERAL POWERS AND DUTIES. (a) The
15 corporation may:

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

21 (2) seek funding to:

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

26 (B) create incentives to implement, promote, and
27 facilitate the voluntary exchange of secure electronic health

1 information between and among individuals and entities that are
2 providing or paying for health care services or procedures;

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

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

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

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

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

17 (4) support regional health information exchange
18 initiatives by:

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

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

25 (C) providing technical expertise where
26 appropriate;

27 (D) sharing intellectual property developed

1 under Section 182.105;

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

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

11 (5) identify standards for streamlining health care
12 administrative functions across payors and providers, including
13 electronic patient registration, communication of enrollment in
14 health plans, and information at the point of care regarding
15 services covered by health plans; and

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

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

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

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

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

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

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

27 Sec. 182.104. SECURITY COMPLIANCE. (a) The corporation

1 shall:

2 (1) establish appropriate security standards to
3 protect both the transmission and the receipt of individually
4 identifiable health information or health care data;

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

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

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

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

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

23 Sec. 182.105. INTELLECTUAL PROPERTY. (a) The corporation
24 shall take commercially reasonable measures to protect its
25 intellectual property, including obtaining patents, trademarks,
26 and copyrights where appropriate.

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

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

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

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

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

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

14 SECTION 15. (a) Section 182.108, Health and Safety Code, is
15 amended by adding Subsection (f) to read as follows:

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

18 (b) Effective September 1, 2021, Section 182.108, Health
19 and Safety Code, is amended by adding Subsections (g), (h), (i),
20 (j), (k), and (l) to read as follows:

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

25 (h) In amending standards under Subsection (g), the Health
26 and Human Services Commission shall seek the assistance of a
27 private nonprofit organization with relevant knowledge and

1 experience in establishing statewide health information exchange
2 capabilities.

3 (i) Standards amended under Subsection (g) must be designed
4 to:

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

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

10 (3) ensure the secure maintenance and disclosure of
11 individually identifiable health information;

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

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

17 (j) The Health and Human Services Commission shall
18 designate a private nonprofit organization with relevant knowledge
19 and experience in establishing statewide health information
20 exchange capabilities to establish a process by which a covered
21 entity may apply for certification by the designated private
22 nonprofit organization of a covered entity's past compliance with
23 standards adopted under this section. If a private nonprofit
24 organization with relevant knowledge and experience in
25 establishing statewide health information exchange capabilities
26 does not exist, the Health and Human Services Commission shall
27 either:

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

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

5 (k) The entity that establishes the process under
6 Subsection (j) shall publish the standards adopted under this
7 section on the entity's Internet website.

8 (1) In this section:

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

11 (2) "Disclose" has the meaning assigned by Section
12 [181.001](#).

13 (3) "Health Insurance Portability and Accountability
14 Act and Privacy Standards" has the meaning assigned by Section
15 [181.001](#).

16 (4) "Individually identifiable health information"
17 means individually identifiable health information as that term is
18 defined by the privacy rule of the Health Insurance Portability and
19 Accountability Act and Privacy Standards.

20 (5) "Protected health information" means protected
21 health information as that term is defined by the privacy rule of
22 the Health Insurance Portability and Accountability Act and Privacy
23 Standards.

24 SECTION 16. Except as otherwise provided by this Act, this
25 Act takes effect September 1, 2015.