

By: Nelson

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 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.