

1-1 By: Nelson, et al. S.B. No. 203
1-2 (In the Senate - Filed February 20, 2015; February 23, 2015,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 23, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 March 23, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 203 By: Zaffirini

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the continuation and functions of the Texas Health
1-22 Services Authority as a quasi-governmental entity and the
1-23 electronic exchange of health care information.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 531.904, Government Code, is amended by
1-26 amending Subsections (c) and (g) and adding Subsections (c-1) and
1-27 (c-2) to read as follows:

1-28 (c) The advisory committee must include the following
1-29 members:

- 1-30 (1) Medicaid providers;
- 1-31 (2) child health plan program providers;
- 1-32 (3) fee-for-service providers;
- 1-33 (4) ~~[at least one representative of the Texas Health~~
1-34 ~~Services Authority established under Chapter 182, Health and Safety~~
1-35 ~~Code,~~

1-36 ~~[(5)]~~ at least one representative of each health and
1-37 human services agency;

1-38 ~~(5) [(6)]~~ at least one representative of a major
1-39 provider association;

1-40 ~~(6) [(7)]~~ at least one representative of a health care
1-41 facility;

1-42 ~~(7) [(8)]~~ at least one representative of a managed
1-43 care organization;

1-44 ~~(8) [(9)]~~ at least one representative of the
1-45 pharmaceutical industry;

1-46 ~~(9) [(10)]~~ at least one representative of Medicaid
1-47 recipients and child health plan enrollees;

1-48 ~~(10) [(11)]~~ at least one representative of a local or
1-49 regional health information exchange; and

1-50 ~~(11) [(12)]~~ at least one representative who is skilled
1-51 in pediatric medical informatics.

1-52 (c-1) Notwithstanding Subsection (c), the advisory
1-53 committee must include at least one representative of the Texas
1-54 Health Services Authority established under Chapter 182, Health and
1-55 Safety Code. This subsection expires September 1, 2021.

1-56 (c-2) Notwithstanding Subsection (c), on and after
1-57 September 1, 2021, the advisory committee must include at least one
1-58 representative of the private nonprofit organization with relevant
1-59 knowledge and experience in establishing statewide health
1-60 information exchange capabilities designated under Section

2-1 182.108(j), Health and Safety Code.

2-2 (g) The advisory committee shall collaborate with the Texas
2-3 Health Services Authority to ensure that the health information
2-4 exchange system is interoperable with, and not an impediment to,
2-5 the electronic health information infrastructure that the
2-6 authority assists in developing. This subsection expires September
2-7 1, 2021.

2-8 SECTION 2. Section 181.206, Health and Safety Code, is
2-9 amended by amending Subsection (a) and adding Subsection (a-1) to
2-10 read as follows:

2-11 (a) The commission, in coordination with the attorney
2-12 general[~~, the Texas Health Services Authority,~~] and the Texas
2-13 Department of Insurance:

2-14 (1) may request that the United States secretary of
2-15 health and human services conduct an audit of a covered entity, as
2-16 that term is defined by 45 C.F.R. Section 160.103, in this state to
2-17 determine compliance with the Health Insurance Portability and
2-18 Accountability Act and Privacy Standards; and

2-19 (2) shall periodically monitor and review the results
2-20 of audits of covered entities in this state conducted by the United
2-21 States secretary of health and human services.

2-22 (a-1) Notwithstanding Subsection (a), the commission shall
2-23 also coordinate with the Texas Health Services Authority when
2-24 requesting an audit or monitoring and reviewing the results of an
2-25 audit under Subsection (a). This subsection expires September 1,
2-26 2021.

2-27 SECTION 3. Section 181.207, Health and Safety Code, is
2-28 amended to read as follows:

2-29 Sec. 181.207. FUNDING. (a) The commission and the Texas
2-30 Department of Insurance[~~, in consultation with the Texas Health~~
2-31 ~~Services Authority,~~] shall apply for and actively pursue available
2-32 federal funding for enforcement of this chapter.

2-33 (b) Notwithstanding Subsection (a), the commission and the
2-34 Texas Department of Insurance shall consult with the Texas Health
2-35 Services Authority when applying for or pursuing federal funding
2-36 under Subsection (a). This subsection expires September 1, 2021.

2-37 SECTION 4. The heading to Chapter 182, Health and Safety
2-38 Code, is amended to read as follows:

2-39 CHAPTER 182. ELECTRONIC EXCHANGE OF HEALTH INFORMATION [~~TEXAS~~
2-40 ~~HEALTH SERVICES AUTHORITY~~]

2-41 SECTION 5. Subchapter A, Chapter 182, Health and Safety
2-42 Code, is amended by adding Section 182.003 to read as follows:

2-43 Sec. 182.003. EXPIRATION OF SUBCHAPTER. This subchapter
2-44 expires September 1, 2021.

2-45 SECTION 6. Section 182.052, Health and Safety Code, is
2-46 amended to read as follows:

2-47 Sec. 182.052. EXPIRATION OF SUBCHAPTER [~~APPLICATION OF~~
2-48 ~~SUNSET ACT~~]. This subchapter [~~The corporation is subject to~~
2-49 ~~Chapter 325, Government Code. Unless continued in existence as~~
2-50 ~~provided by that chapter, the corporation is abolished and this~~
2-51 ~~chapter] expires September 1, 2021 [2015. The governor may order~~
2-52 ~~the dissolution of the corporation at any time the governor~~
2-53 ~~declares that the purposes of the corporation have been fulfilled~~
2-54 ~~or that the corporation is inoperative or abandoned].~~

2-55 SECTION 7. Section 182.053, Health and Safety Code, is
2-56 amended by amending Subsections (a) and (b) and adding Subsections
2-57 (b-1) and (h) to read as follows:

2-58 (a) The corporation is governed by a board of 12 [~~11~~]
2-59 directors appointed by the governor, with the advice and consent of
2-60 the senate.

2-61 (b) The governor shall also appoint at least two ex officio,
2-62 nonvoting members representing the health and human services
2-63 agencies as state agency data resources [~~Department of State Health~~
2-64 ~~Services~~].

2-65 (b-1) The governor shall appoint as a voting board member
2-66 one individual who represents Texas local health information
2-67 exchanges.

2-68 (h) In this section, "health and human services agencies"
2-69 includes the:

- 3-1 (1) department;
- 3-2 (2) Department of Aging and Disability Services;
- 3-3 (3) Department of Assistive and Rehabilitative
- 3-4 Services;
- 3-5 (4) Department of Family and Protective Services; and
- 3-6 (5) Health and Human Services Commission.

3-7 SECTION 8. Section 182.101, Health and Safety Code, is
3-8 amended to read as follows:

3-9 Sec. 182.101. GENERAL POWERS AND DUTIES. (a) The
3-10 corporation may:

3-11 (1) establish statewide health information exchange
3-12 capabilities, including capabilities for electronic laboratory
3-13 results, diagnostic studies, and medication history delivery, and,
3-14 where applicable, promote definitions and standards for electronic
3-15 interactions statewide;

3-16 (2) seek funding to:

3-17 (A) implement, promote, and facilitate the
3-18 voluntary exchange of secure electronic health information between
3-19 and among individuals and entities that are providing or paying for
3-20 health care services or procedures; and

3-21 (B) create incentives to implement, promote, and
3-22 facilitate the voluntary exchange of secure electronic health
3-23 information between and among individuals and entities that are
3-24 providing or paying for health care services or procedures;

3-25 (3) establish statewide health information exchange
3-26 capabilities for streamlining health care administrative functions
3-27 including:

3-28 (A) communicating point of care services,
3-29 including laboratory results, diagnostic imaging, and prescription
3-30 histories;

3-31 (B) communicating patient identification and
3-32 emergency room required information in conformity with state and
3-33 federal privacy laws;

3-34 (C) real-time communication of enrollee status
3-35 in relation to health plan coverage, including enrollee
3-36 cost-sharing responsibilities; and

3-37 (D) current census and status of health plan
3-38 contracted providers;

3-39 (4) support regional health information exchange
3-40 initiatives by:

3-41 (A) identifying data and messaging standards for
3-42 health information exchange;

3-43 (B) administering programs providing financial
3-44 incentives, including grants and loans for the creation and support
3-45 of regional health information networks, subject to available
3-46 funds;

3-47 (C) providing technical expertise where
3-48 appropriate;

3-49 (D) sharing intellectual property developed
3-50 under Section 182.105;

3-51 (E) waiving the corporation's fees associated
3-52 with intellectual property, data, expertise, and other services or
3-53 materials provided to regional health information exchanges
3-54 operated on a nonprofit basis; and

3-55 (F) applying operational and technical standards
3-56 developed by the corporation to existing health information
3-57 exchanges only on a voluntary basis, except for standards related
3-58 to ensuring effective privacy and security of individually
3-59 identifiable health information;

3-60 (5) identify standards for streamlining health care
3-61 administrative functions across payors and providers, including
3-62 electronic patient registration, communication of enrollment in
3-63 health plans, and information at the point of care regarding
3-64 services covered by health plans; and

3-65 (6) support the secure, electronic exchange of health
3-66 information through other strategies identified by the board.

3-67 (b) This section expires September 1, 2021.

3-68 SECTION 9. Section 182.102, Health and Safety Code, is
3-69 amended by adding Subsection (c) to read as follows:

4-1 (c) This section expires September 1, 2021.
4-2 SECTION 10. Section 182.103, Health and Safety Code, is
4-3 amended by adding Subsection (d) to read as follows:
4-4 (d) This section expires September 1, 2021.
4-5 SECTION 11. Section 182.104, Health and Safety Code, is
4-6 amended to read as follows:
4-7 Sec. 182.104. SECURITY COMPLIANCE. (a) The corporation
4-8 shall:
4-9 (1) establish appropriate security standards to
4-10 protect both the transmission and the receipt of individually
4-11 identifiable health information or health care data;
4-12 (2) establish appropriate security standards to
4-13 protect access to any individually identifiable health information
4-14 or health care data collected, assembled, or maintained by the
4-15 corporation;
4-16 (3) establish the highest levels of security and
4-17 protection for access to and control of individually identifiable
4-18 health information, including mental health care data and data
4-19 relating to specific disease status, that is governed by more
4-20 stringent state or federal privacy laws; and
4-21 (4) establish policies and procedures for the
4-22 corporation for taking disciplinary actions against a board member,
4-23 employee, or other person with access to individually identifiable
4-24 health care information that violates state or federal privacy laws
4-25 related to health care information or data maintained by the
4-26 corporation.
4-27 (b) This section expires September 1, 2021.
4-28 SECTION 12. Section 182.105, Health and Safety Code, is
4-29 amended to read as follows:
4-30 Sec. 182.105. INTELLECTUAL PROPERTY. (a) The corporation
4-31 shall take commercially reasonable measures to protect its
4-32 intellectual property, including obtaining patents, trademarks,
4-33 and copyrights where appropriate.
4-34 (b) This section expires September 1, 2021.
4-35 SECTION 13. Section 182.106, Health and Safety Code, is
4-36 amended to read as follows:
4-37 Sec. 182.106. ANNUAL REPORT. (a) The corporation shall
4-38 submit an annual report to the governor, the lieutenant governor,
4-39 the speaker of the house of representatives, and the appropriate
4-40 oversight committee in the senate and the house of
4-41 representatives. The annual report must include financial
4-42 information and a progress update on the corporation's efforts to
4-43 carry out its mission.
4-44 (b) This section expires September 1, 2021.
4-45 SECTION 14. Section 182.107, Health and Safety Code, is
4-46 amended by adding Subsection (d) to read as follows:
4-47 (d) This section expires September 1, 2021.
4-48 SECTION 15. (a) Section 182.108, Health and Safety Code, is
4-49 amended by adding Subsection (f) to read as follows:
4-50 (f) Subsections (a)-(e) and this subsection expire
4-51 September 1, 2021.
4-52 (b) Effective September 1, 2021, Section 182.108, Health
4-53 and Safety Code, is amended by adding Subsections (g), (h), (i),
4-54 (j), (k), and (l) to read as follows:
4-55 (g) The privacy and security standards for the electronic
4-56 sharing of protected health information adopted under this section
4-57 and in effect on September 1, 2021, continue until amended by rule
4-58 by the Health and Human Services Commission.
4-59 (h) In amending standards under Subsection (g), the Health
4-60 and Human Services Commission shall seek the assistance of a
4-61 private nonprofit organization with relevant knowledge and
4-62 experience in establishing statewide health information exchange
4-63 capabilities.
4-64 (i) Standards amended under Subsection (g) must be designed
4-65 to:
4-66 (1) comply with the Health Insurance Portability and
4-67 Accountability Act and Privacy Standards and Chapter 181;
4-68 (2) comply with any other state and federal law
4-69 relating to the security and confidentiality of information

5-1 electronically maintained or disclosed by a covered entity;
 5-2 (3) ensure the secure maintenance and disclosure of
 5-3 individually identifiable health information;
 5-4 (4) include strategies and procedures for disclosing
 5-5 individually identifiable health information; and
 5-6 (5) support a level of system interoperability with
 5-7 existing health record databases in this state that is consistent
 5-8 with emerging standards.

5-9 (j) The Health and Human Services Commission shall
 5-10 designate a private nonprofit organization with relevant knowledge
 5-11 and experience in establishing statewide health information
 5-12 exchange capabilities to establish a process by which a covered
 5-13 entity may apply for certification by the designated private
 5-14 nonprofit organization of a covered entity's past compliance with
 5-15 standards adopted under this section. If a private nonprofit
 5-16 organization with relevant knowledge and experience in
 5-17 establishing statewide health information exchange capabilities
 5-18 does not exist, the Health and Human Services Commission shall
 5-19 either:

5-20 (1) establish the process described by this
 5-21 subsection; or
 5-22 (2) designate another entity with relevant knowledge
 5-23 to establish the process described by this subsection.

5-24 (k) The entity that establishes the process under
 5-25 Subsection (j) shall publish the standards adopted under this
 5-26 section on the entity's Internet website.

5-27 (l) In this section:

5-28 (1) "Covered entity" has the meaning assigned by
 5-29 Section [181.001](#).

5-30 (2) "Disclose" has the meaning assigned by Section
 5-31 [181.001](#).

5-32 (3) "Health Insurance Portability and Accountability
 5-33 Act and Privacy Standards" has the meaning assigned by Section
 5-34 [181.001](#).

5-35 (4) "Individually identifiable health information"
 5-36 means individually identifiable health information as that term is
 5-37 defined by the privacy rule of the Health Insurance Portability and
 5-38 Accountability Act and Privacy Standards.

5-39 (5) "Protected health information" means protected
 5-40 health information as that term is defined by the privacy rule of
 5-41 the Health Insurance Portability and Accountability Act and Privacy
 5-42 Standards.

5-43 SECTION 16. Except as otherwise provided by this Act, this
 5-44 Act takes effect September 1, 2015.

5-45 * * * * *