

1-1 By: Paul (Senate Sponsor - Hancock) H.B. No. 4210
 1-2 (In the Senate - Received from the House May 12, 2021;
 1-3 May 14, 2021, read first time and referred to Committee on Business
 1-4 & Commerce; May 21, 2021, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0, one
 1-6 present not voting; May 21, 2021, 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 H.B. No. 4210 By: Hancock

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

1-21 relating to the authority of entities regulated by the Texas
 1-22 Department of Insurance to conduct business electronically.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 35.001, Insurance Code, is amended by
 1-25 adding Subdivision (4-a) to read as follows:

1-26 (4-a) "Plan sponsor" means a person, other than a
 1-27 regulated entity, who establishes, adopts, or maintains a health
 1-28 benefit plan, including a vision or dental benefit plan, that
 1-29 covers residents of this state, including a plan established,
 1-30 adopted, or maintained by an employer or jointly by an employer and
 1-31 one or more employee organizations, an association, a committee, a
 1-32 joint board of trustees, or any similar group of representatives
 1-33 who establish, adopt, or maintain a plan.

1-34 SECTION 2. Section 35.003, Insurance Code, is amended to
 1-35 read as follows:

1-36 Sec. 35.003. ELECTRONIC TRANSACTIONS AUTHORIZED. (a)
 1-37 Subject to Section 35.004, a [A] regulated entity may conduct
 1-38 business electronically to the same extent that the entity is
 1-39 authorized to conduct business otherwise if before the conduct of
 1-40 business:

1-41 (1) each party to the business agrees to conduct the
 1-42 business electronically; or
 1-43 (2) each other party to the business has been given
 1-44 notice by the entity that the business will be conducted
 1-45 electronically and has not requested that the business be conducted
 1-46 in nonelectronic form.

1-47 (b) If a regulated entity provides notice under Subsection
 1-48 (a)(2) and the other party does not opt out of conducting business
 1-49 electronically, the other party is considered to have agreed to
 1-50 conduct business electronically for purposes of Chapter 322,
 1-51 Business & Commerce Code.

1-52 SECTION 3. Sections 35.004(c) and (d), Insurance Code, are
 1-53 amended to read as follows:

1-54 (c) A written communication may be delivered by electronic
 1-55 means to a party by a regulated entity under this section if:

1-56 (1) the party:
 1-57 (A) affirmatively consented to delivery by
 1-58 electronic means and has not withdrawn the consent; or
 1-59 (B) if affirmative consent is not sought, has not
 1-60 requested that written communication be delivered to the party in

2-1 paper or another nonelectronic form instead of by electronic means;
2-2 (2) the party, before giving consent or receiving
2-3 written communication by electronic means, is provided with a clear
2-4 and conspicuous statement informing the party of:

2-5 (A) any right or option the party may have for the
2-6 written communication to be provided or made available in paper or
2-7 another nonelectronic form;

2-8 (B) the right of the party to withdraw consent
2-9 under this section or to request written communication be delivered
2-10 to the party in nonelectronic form, if the party's affirmative
2-11 consent is not sought, and any conditions or consequences imposed
2-12 if consent is withdrawn or delivery in nonelectronic form is
2-13 requested;

2-14 (C) whether the party's consent to delivery by
2-15 electronic means or the party's request or the absence of the
2-16 party's request for delivery in nonelectronic form applies:

2-17 (i) only to a specific transaction for
2-18 which the written communication must be given; or

2-19 (ii) to identified categories of written
2-20 communications that may be delivered by electronic means during the
2-21 course of the relationship between the party and the regulated
2-22 entity;

2-23 (D) the means [~~after consent is given,~~] by which
2-24 a party may obtain a paper copy of a written communication delivered
2-25 by electronic means; and

2-26 (E) the procedure a party must follow to:

2-27 (i) withdraw consent under this section or
2-28 to otherwise request delivery of written communication in
2-29 nonelectronic form, as applicable; and

2-30 (ii) update information needed for the
2-31 regulated entity to contact the party electronically; and

2-32 (3) the party:

2-33 (A) before giving consent or receiving written
2-34 communication by electronic means, is provided with a statement
2-35 identifying the hardware and software requirements for the party's
2-36 access to and retention of a written communication delivered by
2-37 electronic means; and

2-38 (B) if affirmative consent is sought, consents
2-39 electronically or confirms consent electronically in a manner that
2-40 reasonably demonstrates that the party can access a written
2-41 communication in the electronic form used to deliver the
2-42 communication.

2-43 (d) After consent of the party is given or the opportunity
2-44 to request delivery of written communication in nonelectronic form
2-45 is given, as applicable, in the event a change in the hardware or
2-46 software requirements to access or retain a written communication
2-47 delivered by electronic means creates a material risk that the
2-48 party may not be able to access or retain a subsequent written
2-49 communication to which the consent applies, the regulated entity
2-50 shall:

2-51 (1) provide the party with a statement:

2-52 (A) identifying the revised hardware and
2-53 software requirements for access to and retention of a written
2-54 communication delivered by electronic means; and

2-55 (B) disclosing the right of the party to withdraw
2-56 consent or to otherwise request delivery in nonelectronic form, as
2-57 applicable, without the imposition of any condition or consequence
2-58 that was not disclosed under Subsection (c)(2)(B); and

2-59 (2) comply with Subsection (c)(3).

2-60 SECTION 4. Chapter 35, Insurance Code, is amended by adding
2-61 Section 35.0041 to read as follows:

2-62 Sec. 35.0041. CONSENT TO ELECTRONIC DELIVERY BY PLAN
2-63 SPONSOR. (a) The plan sponsor of a health benefit plan, including
2-64 a vision or dental benefit plan, may, on behalf of a party enrolled
2-65 in the plan, give the consent required by Section 35.004(c)(1).

2-66 (b) Before consenting on behalf of a party, a plan sponsor
2-67 must:

2-68 (1) provide the party with the statements required by
2-69 Sections 35.004(c)(2) and (c)(3)(A);

