

## **BILL ANALYSIS**

Senate Research Center  
88R22848 SHH-F

C.S.S.B. 1467  
By: Hancock  
Health & Human Services  
4/17/2023  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Recently, the federal 21st Century Cures Act (Cures Act) changed the way physicians communicate with their patients when serious or even tragic test results are received. While patients deserve to receive test results as quickly as possible, this new federal overreach often prevents patients from receiving these serious results in a respectful way from their physicians. According to the Office of the National Coordinator for Health Information Technology (ONC), any delay by a health care provider in posting electronic health information (EHI), such as test results, to a patient portal would likely be considered interference under the Cures Act. As a result, EHI is being posted immediately to patient portals as it becomes available, and patients are often receiving test results with serious implications before the physician even becomes aware of, or has an opportunity to review, the results.

Patients who learn of cancer or other life-changing test results through impersonal electronic means, rather than from their physician, often experience heightened stress, anxiety, and uncertainty. In some cases, a patient's concerns may be based on their misunderstanding or misinterpretation of the test results and could have been avoided altogether had the results been shared by the patient's physician instead. Fortunately, states can remedy this unfortunate scenario by adopting law that requires the release of EHI to be handled differently.

S.B. 1467 addresses the issue by providing that, for sensitive test results only, the results may not be disclosed to a patient by certain electronic means until at least three days after the sensitive test results are finalized. This bill in no way prevents a physician from sharing test results immediately with the patient over the phone, through video conference, or in person. This brief pause gives physicians and patients an opportunity to have critical, informed discussions at the time that the test results are shared.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1467 amends current law relating to the disclosure of certain medical information by electronic means.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle I, Title 2, Health and Safety Code, by adding Chapter 183, as follows:

#### **CHAPTER 183. DISCLOSURE OF CERTAIN MEDICAL INFORMATION BY ELECTRONIC MEANS**

Sec. 183.001. DEFINITIONS. Defines "electronic health record," "electronic means," "patient," "patient representative," and "sensitive test result."

Sec. 183.002. SENSITIVE TEST RESULTS DISCLOSED BY ELECTRONIC MEANS.

(a) Prohibits a person from disclosing sensitive test results by electronic means to a patient or patient representative before the third day after the date the test results are finalized.

(b) Requires a person who administers or controls the electronic health record of a patient to ensure compliance with the prohibition imposed by Subsection (a).

(c) Provides that a person is not subject to a civil, criminal, or administrative liability or professional disciplinary action for failure to comply with Section 159.006(d)(2), Occupations Code, or this section.

SECTION 2. Amends Section 159.006(d), Occupations Code, as follows:

(d) Requires a physician to provide the information requested under Section 159.006 (Information Furnished by Physician):

(1) creates this subdivision from existing text and makes nonsubstantive changes; and

(2) in accordance with Section 183.002, Health and Safety Code, if applicable.

SECTION 3. Makes application of Chapter 183, Health and Safety Code, as added by this Act, prospective.

SECTION 4. Makes application of Section 159.006, Occupations Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2023.