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By:  Kolkhorst S.B. No. 1188

A BILL TO BE ENTITLED

AN ACT

relating to electronic health record requirements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subtitle I, Title 2, Health and Safety Code, is amended by adding Chapter 183 to read as follows:

CHAPTER 183. ELECTRONIC HEALTH RECORDS

Sec. 183.001.  DEFINITIONS. In this chapter:

(1)  "Biological sex" means the biological trait that determines whether a sexually reproducing organism produces male or female gametes.

(2)  "Female" means an individual whose reproductive system is developed to produce ova.

(3)  "Governmental entity" means this state, an agency of the executive, legislative, or judicial branch of state government, or a political subdivision of this state. The term includes a local health department.

(4)  "Health care practitioner" means an individual who is licensed, certified, or otherwise authorized to provide health care services in this state.

(5)  "Male" means an individual whose reproductive system is developed to produce sperm.

(6)  "Medical facility" means:

(A)  a facility licensed or registered by a state agency to provide medical care and other health care services; or

(B)  a health care facility in this state that provides medical care and other health care services and that receives reimbursement under the state Medicaid program or receives any other state funding, including pass-through federal money provided to a state agency for grant awards.

(7)  "Sexual development disorder" means a congenital condition associated with atypical development of internal or external genital structures. The term includes a chromosomal, gonadal, and anatomic abnormality.

Sec. 183.002.  REQUIREMENTS FOR ELECTRONIC HEALTH RECORD STORAGE. (a) Each medical facility, health care practitioner, and governmental entity shall store all electronic health record information of residents of this state only at a location in the United States.

(b)  Each medical facility, health care practitioner, and governmental entity shall ensure electronic health record information of residents of this state, other than open data, is inaccessible to any person located outside of the United States.

Sec. 183.003.  REQUIRED MEDICAL HISTORY INFORMATION IN ELECTRONIC HEALTH RECORD. A medical facility, health care practitioner, or governmental entity shall ensure each electronic health record maintained for an individual includes the individual's medical history and any communications between the practitioner and a specialty health care practitioner related to the individual's metabolic health and diet in the treatment of a chronic disease or illness.

Sec. 183.004.  INFORMATION RESTRICTIONS IN ELECTRONIC HEALTH RECORD. A medical facility, health care practitioner, or governmental entity may not collect or store any information regarding an individual's credit score or voter registration status in the individual's electronic health record.

Sec. 183.005.  ARTIFICIAL INTELLIGENCE IN ELECTRONIC HEALTH RECORD. A health care practitioner who uses artificial intelligence for diagnostic or other purposes, including the use of artificial intelligence for recommendations on a diagnosis or course of treatment based on a patient's medical record, shall review all information obtained through the artificial intelligence process to ensure the accuracy of the information for that patient before entering the information in the patient's electronic health record.

Sec. 183.006.  ACCESS TO ELECTRONIC HEALTH RECORD OF MINOR. (a) In this section, "minor" means an individual under 18 years of age who has not had the disabilities of minority removed for general purposes.

(b)  A medical facility, health care practitioner, or governmental entity shall ensure each electronic health record system the facility, practitioner, or entity uses to store electronic health records of minors automatically allows a minor's parent, guardian, or conservator to fully access the minor's electronic health record unless access to all or a portion of the record is restricted under state or federal law or by a court order.

Sec. 183.007.  ELECTRONIC HEALTH RECORD REQUIREMENTS REGARDING BIOLOGICAL SEX. (a) Notwithstanding any other law, the commission, the Texas Medical Board, and the Texas Department of Insurance shall jointly ensure that:

(1)  each electronic health record prepared or maintained by a medical facility, health care practitioner, or governmental entity in this state includes a separate space for the health care practitioner to document:

(A)  an individual's biological sex as either male or female based on the individual's observed biological sex recorded by a health care practitioner at birth; and

(B)  information on any sexual development disorder of the individual, whether identified at birth or later in the individual's life; and

(2)  any algorithm or decision assistance tool included in an electronic health record to assist a health care practitioner in making medical treatment decisions is based on an individual's biological sex as recorded in the space described by Subdivision (1)(A).

(b)  This section does not prohibit an electronic health record from including spaces for recording other information related to an individual's biological sex or gender identity.

Sec. 183.008.  AMENDING CERTAIN BIOLOGICAL SEX INFORMATION IN ELECTRONIC HEALTH RECORDS. (a) A medical facility, health care practitioner, or governmental entity may amend on an electronic health record an individual's biological sex as recorded in the space described by Section 183.007(a)(1)(A) only if:

(1)  the amendment is to correct a clerical error; or

(2)  the individual is diagnosed with a sexual development disorder and the amendment changes the individual's listed biological sex to the opposite biological sex.

(b)  If an individual's biological sex is amended under Subsection (a)(2), the medical facility, health care practitioner, or governmental entity shall include in the individual's electronic health record information on the individual's sexual development disorder in the space described by Section 183.007(a)(1)(B).

Sec. 183.009.  DISCIPLINARY ACTION BY LICENSING AGENCY; MEDICAID REIMBURSEMENT INELIGIBILITY. (a) The appropriate state licensing agency may take disciplinary action against a medical facility or health care practitioner that violates this chapter as if the medical facility or health care practitioner violated an applicable licensing law.

(b)  The commission may not provide Medicaid reimbursement to a medical facility or health care practitioner that violates this chapter and shall disenroll the medical facility or health care practitioner from participation as a Medicaid provider.

Sec. 183.010.  RULES. The commission, the Texas Medical Board, and the Texas Department of Insurance shall adopt rules as necessary to implement this chapter.

SECTION 2.  (a) Except as provided by Subsection (b) of this section, Chapter 183, Health and Safety Code, as added by this Act, applies only to an electronic health record prepared on or after the effective date of this Act.

(b)  Section 183.002, Health and Safety Code, as added by this Act, applies to the storage of an electronic health record on or after January 1, 2026, regardless of the date on which the electronic health record was prepared.

SECTION 3.  This Act takes effect September 1, 2025.