

## AN ACT

relating to electronic health record requirements; authorizing a civil penalty.

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) "Covered entity" has the meaning assigned by Section 181.001. The term includes a health care practitioner. The term does not include:

(A) a home and community support services agency  
licensed under Chapter 142;

(B) a nursing facility licensed under Chapter

(C) a continuing care facility regulated under

Chapter 246;

(D) an assisted living facility licensed under

Chapter 247;

(E) an intermediate care facility licensed under  
Chapter 252;

1                   (F) a day activity and health services facility  
2 licensed under Chapter 103, Human Resources Code; or

3                   (G) a provider under the Texas home living  
4 (TxHmL) or home and community-based services (HCS) waiver program.

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

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

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

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

16                  Sec. 183.002. REQUIREMENTS FOR ELECTRONIC HEALTH RECORD  
17 STORAGE. (a) A covered entity shall ensure that electronic health  
18 records under the control of the entity that contain patient  
19 information are physically maintained in the United States or a  
20 territory of the United States. This subsection applies to:

21                  (1) electronic health records that are stored by a  
22 third-party or subcontracted computing facility or an entity that  
23 provides cloud computing services; and

24                  (2) electronic health records that are stored using a  
25 technology through which patient information may be electronically  
26 retrieved, accessed, or transmitted.

27                  (b) A covered entity shall ensure that the electronic health

1 record information of this state's residents, other than open data,  
2 is accessible only to individuals who require the information to  
3 perform duties within the scope of the individual's employment  
4 related to treatment, payment, or health care operations.

5 (c) Each covered entity shall implement reasonable and  
6 appropriate administrative, physical, and technical safeguards to  
7 protect the confidentiality, integrity, and availability of  
8 electronic health record information.

9 Sec. 183.003. REQUIRED MEDICAL HISTORY INFORMATION IN  
10 ELECTRONIC HEALTH RECORD. A covered entity shall ensure each  
11 electronic health record maintained for an individual includes the  
12 option for a health care practitioner to collect and record  
13 communications between two or more covered entities related to the  
14 individual's metabolic health and diet in the treatment of a  
15 chronic disease or illness.

16 Sec. 183.004. INFORMATION RESTRICTIONS IN ELECTRONIC  
17 HEALTH RECORD. A covered entity may not collect, store, or share  
18 any information regarding an individual's credit score or voter  
19 registration status in the individual's electronic health record.

20 Sec. 183.005. ARTIFICIAL INTELLIGENCE IN ELECTRONIC HEALTH  
21 RECORD. (a) A health care practitioner may use artificial  
22 intelligence for diagnostic purposes, including the use of  
23 artificial intelligence for recommendations on a diagnosis or  
24 course of treatment based on a patient's medical record, if:

25 (1) the practitioner is acting within the scope of the  
26 practitioner's license, certification, or other authorization to  
27 provide health care services in this state, regardless of the use of

1 artificial intelligence;

2 (2) the particular use of artificial intelligence is  
3 not otherwise restricted or prohibited by state or federal law; and

4 (3) the practitioner reviews all records created with  
5 artificial intelligence in a manner that is consistent with medical  
6 records standards developed by the Texas Medical Board.

7 (b) A health care practitioner who uses artificial  
8 intelligence for diagnostic purposes as described by Subsection (a)  
9 must disclose the practitioner's use of that technology to the  
10 practitioner's patients.

11 Sec. 183.006. ACCESS TO ELECTRONIC HEALTH RECORD OF MINOR.

12 (a) In this section, "minor" means an individual 17 years of age or  
13 younger who has not had the disabilities of minority removed for  
14 general purposes.

15 (b) A covered entity shall ensure each electronic health  
16 record system the entity uses to store electronic health records of  
17 minors allows a minor's parent or, if applicable, the minor's  
18 managing conservator or guardian to obtain complete and  
19 unrestricted access to the minor's electronic health record  
20 immediately, unless access to all or part of the record is  
21 restricted under state or federal law or by a court order.

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

26 (1) each electronic health record prepared or  
27 maintained by a covered entity in this state includes a separate

space for the entity 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 includes 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 covered 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 covered entity shall include in the individual's electronic health record information on the individual's sexual development disorder in the space described by

1 Section 183.007(a)(1)(B).

2 Sec. 183.009. INVESTIGATION BY COMMISSION OR REGULATORY  
3 AGENCY. The commission or the appropriate regulatory agency shall  
4 conduct an investigation of any credible allegation of a violation  
5 of this chapter by a covered entity. The commission or agency shall  
6 ensure the investigation is conducted in compliance with all  
7 applicable state and federal laws, including the Health Insurance  
8 Portability and Accountability Act of 1996 (Pub. L. No. 104-191).

9 Sec. 183.010. DISCIPLINARY ACTION BY REGULATORY AGENCY.  
10 The appropriate regulatory agency may take disciplinary action  
11 against a covered entity that violates this chapter three or more  
12 times in the same manner as if the covered entity violated an  
13 applicable licensing or regulatory law. The disciplinary action  
14 may include license, registration, or certification suspension or  
15 revocation for a period the agency determines appropriate.

16 Sec. 183.011. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The  
17 attorney general may institute an action for injunctive relief to  
18 restrain a violation of this chapter.

19 (b) In addition to the injunctive relief provided by  
20 Subsection (a), the attorney general may institute an action for  
21 civil penalties against a covered entity for a violation of this  
22 chapter. A civil penalty assessed under this section may not  
23 exceed:

24 (1) \$5,000 for each violation that is committed  
25 negligently and that occurs in a single year, regardless of how long  
26 the violation continues during that year;

27 (2) \$25,000 for each violation that is committed

1 knowingly or intentionally and that occurs in a single year,  
2 regardless of how long the violation continues during that year; or  
3 (3) \$250,000 for each violation in which the covered  
4 entity knowingly or intentionally used protected health  
5 information for financial gain.

6 Sec. 183.012. MEMORANDUM OF UNDERSTANDING; RULES. The  
7 executive commissioner, the Texas Medical Board, the Texas  
8 Department of Licensing and Regulation, the Texas Department of  
9 Insurance, and each regulatory agency subject to this chapter shall  
10 enter into a memorandum of understanding and, as necessary, adopt  
11 rules to implement this chapter.

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

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

20 SECTION 3. If before implementing any provision of this Act  
21 a state agency determines that a waiver or authorization from a  
22 federal agency is necessary for implementation of that provision,  
23 the agency affected by the provision shall request the waiver or  
24 authorization and may delay implementing that provision until the  
25 waiver or authorization is granted.

26 SECTION 4. This Act takes effect September 1, 2025.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 1188 passed the Senate on April 7, 2025, by the following vote: Yeas 23, Nays 7; and that the Senate concurred in House amendment on May 28, 2025, by the following vote: Yeas 23, Nays 8.

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Secretary of the Senate

I hereby certify that S.B. No. 1188 passed the House, with amendment, on May 23, 2025, by the following vote: Yeas 86, Nays 49, three present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor