

1 AN ACT

2 relating to health information technology and the creation of the
3 Texas Health Services Authority.

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

5 SECTION 1. Subtitle I, Title 2, Health and Safety Code, is
6 amended by adding Chapter 182 to read as follows:

7 CHAPTER 182. TEXAS HEALTH SERVICES AUTHORITY

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 182.001. PURPOSE. This chapter establishes the Texas
10 Health Services Authority as a public-private collaborative to
11 implement the state-level health information technology functions
12 identified by the Texas Health Information Technology Advisory
13 Committee by serving as a catalyst for the development of a seamless
14 electronic health information infrastructure to support the health
15 care system in the state and to improve patient safety and quality
16 of care.

17 Sec. 182.002. DEFINITIONS. In this chapter:

18 (1) "Board" means the board of directors of the
19 corporation.

20 (2) "Corporation" means the Texas Health Services
21 Authority.

22 (3) "De-identified protected health information"
23 means protected health information that is not individually
24 identifiable health information as that term is defined by the

1 privacy rule of the Administrative Simplification subtitle of the
2 Health Insurance Portability and Accountability Act of 1996 (Pub.
3 L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part
4 164, Subparts A and E.

5 (4) "Individually identifiable health information"
6 means individually identifiable health information as that term is
7 defined by the privacy rule of the Administrative Simplification
8 subtitle of the Health Insurance Portability and Accountability Act
9 of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. Part 160 and 45
10 C.F.R. Part 164, Subparts A and E.

11 (5) "Physician" means:

12 (A) an individual licensed to practice medicine
13 in this state under the authority of Subtitle B, Title 3,
14 Occupations Code;

15 (B) a professional entity organized in
16 conformity with Title 7, Business Organizations Code, and permitted
17 to practice medicine under Subtitle B, Title 3, Occupations Code;

18 (C) a partnership organized in conformity with
19 Title 4, Business Organizations Code, composed entirely of
20 individuals licensed to practice medicine under Subtitle B, Title
21 3, Occupations Code;

22 (D) an approved nonprofit health corporation
23 certified under Chapter 162, Occupations Code;

24 (E) a medical school or medical and dental unit,
25 as defined or described by Section 61.003, 61.501, or 74.601,
26 Education Code, that employs or contracts with physicians to teach
27 or provide medical services or employs physicians and contracts

1 with physicians in a practice plan; or

2 (F) an entity wholly owned by individuals
3 licensed to practice medicine under Subtitle B, Title 3,
4 Occupations Code.

5 (6) "Protected health information" means protected
6 health information as that term is defined by the privacy rule of
7 the Administrative Simplification subtitle of the Health Insurance
8 Portability and Accountability Act of 1996 (Pub. L. No. 104-191)
9 contained in 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A
10 and E.

11 [Sections 182.003-182.050 reserved for expansion]

12 SUBCHAPTER B. ADMINISTRATION

13 Sec. 182.051. TEXAS HEALTH SERVICES AUTHORITY; PURPOSE.

14 (a) The corporation is established to:

15 (1) promote, implement, and facilitate the voluntary
16 and secure electronic exchange of health information; and

17 (2) create incentives to promote, implement, and
18 facilitate the voluntary and secure electronic exchange of health
19 information.

20 (b) The corporation is a public nonprofit corporation and,
21 except as otherwise provided in this chapter, has all the powers and
22 duties incident to a nonprofit corporation under the Business
23 Organizations Code.

24 (c) The corporation is subject to state law governing
25 nonprofit corporations, except that:

26 (1) the corporation may not be placed in receivership;
27 and

1 (2) the corporation is not required to make reports to
2 the secretary of state under Section 22.357, Business Organizations
3 Code.

4 (d) Except as otherwise provided by law, all expenses of the
5 corporation shall be paid from income of the corporation.

6 (e) The corporation is subject to Chapter 551, Government
7 Code.

8 Sec. 182.052. APPLICATION OF SUNSET ACT. The corporation
9 is subject to Chapter 325, Government Code. Unless continued in
10 existence as provided by that chapter, the corporation is abolished
11 and this chapter expires September 1, 2011. The governor may order
12 the dissolution of the corporation at any time the governor
13 declares that the purposes of the corporation have been fulfilled
14 or that the corporation is inoperative or abandoned.

15 Sec. 182.053. COMPOSITION OF BOARD OF DIRECTORS. (a) The
16 corporation is governed by a board of 11 directors appointed by the
17 governor, with the advice and consent of the senate.

18 (b) The governor shall also appoint at least two ex officio,
19 nonvoting members representing the Department of State Health
20 Services.

21 (c) The governor shall appoint as voting board members
22 individuals who represent consumers, clinical laboratories, health
23 benefit plans, hospitals, regional health information exchange
24 initiatives, pharmacies, physicians, or rural health providers, or
25 who possess expertise in any other area the governor finds
26 necessary for the successful operation of the corporation.

27 (d) An individual may not serve on the board of the

1 corporation if the individual serves on the board of any other
2 governmental body in this state.

3 (e) Appointments to the board shall be made without regard
4 to the race, color, disability, sex, religion, age, or national
5 origin of the appointees.

6 (f) An individual may not serve on the board of the
7 corporation, in any capacity, if the individual has made a gift or
8 grant, in cash or in kind, to the corporation.

9 (g) An individual may not serve on the board of the
10 corporation, in any capacity, if the individual is required to
11 register as a lobbyist under Chapter 305, Government Code, because
12 of the person's activities for compensation on behalf of a
13 profession or entity that is engaged in the providing of health
14 care, the review or analysis of health care, the payment for health
15 care services or procedures, or the providing of information
16 technology.

17 Sec. 182.054. TERMS OF OFFICE. Appointed members of the
18 board serve two-year terms and may continue to serve until a
19 successor has been appointed by the governor.

20 Sec. 182.055. EXPENSES. Members of the board serve without
21 compensation but are entitled to reimbursement for actual and
22 necessary expenses in attending meetings of the board or performing
23 other official duties authorized by the presiding officer.

24 Sec. 182.056. OFFICERS; CONFLICT OF INTEREST. (a) The
25 governor shall designate a member of the board as presiding officer
26 to serve in that capacity at the pleasure of the governor.

27 (b) Any board member or a member of a committee formed by the

1 board with direct interest in a matter, personally or through an
2 employer, before the board shall abstain from deliberations and
3 actions on the matter in which the conflict of interest arises and
4 shall further abstain on any vote on the matter, and may not
5 otherwise participate in a decision on the matter.

6 (c) Each board member shall file a conflict of interest
7 statement and a statement of ownership interests with the board to
8 ensure disclosure of all existing and potential personal interests
9 related to board business.

10 Sec. 182.057. PROHIBITION ON CERTAIN CONTRACTS AND
11 EMPLOYMENT. The board may not compensate, employ, or contract with
12 any individual who serves as a member of the board or advisory
13 council to any other governmental body, including any agency,
14 council, or committee, in this state.

15 Sec. 182.058. MEETINGS. (a) The board may meet as often as
16 necessary, but shall meet at least twice a year.

17 (b) The board shall develop and implement policies that
18 provide the public with a reasonable opportunity to appear before
19 the board and to speak on any issue under the authority of the
20 corporation.

21 Sec. 182.059. CHIEF EXECUTIVE OFFICER; PERSONNEL. The
22 board may hire a chief executive officer. Under the direction of
23 the board, the chief executive officer shall perform the duties
24 required by this chapter or designated by the board. The chief
25 executive officer may hire additional staff to carry out the
26 responsibilities of the corporation.

27 Sec. 182.060. TECHNOLOGY POLICY. The board shall implement

1 a policy requiring the corporation to use appropriate technological
2 solutions to improve the corporation's ability to perform its
3 functions. The policy must ensure that the public is able to
4 interact with the corporation on the Internet.

5 Sec. 182.061. LIABILITIES OF AUTHORITY. Liabilities
6 created by the corporation are not debts or obligations of the
7 state, and the corporation may not secure any liability with funds
8 or assets of the state except as otherwise provided by law.

9 Sec. 182.062. BOARD MEMBER IMMUNITY. (a) A board member
10 may not be held civilly liable for an act performed, or omission
11 made, in good faith in the performance of the member's powers and
12 duties under this chapter.

13 (b) A cause of action does not arise against a member of the
14 board for an act or omission described by Subsection (a).

15 [Sections 182.063-182.100 reserved for expansion]

16 SUBCHAPTER C. POWERS AND DUTIES

17 Sec. 182.101. The corporation may:

18 (1) establish statewide health information exchange
19 capabilities, including capabilities for electronic laboratory
20 results, diagnostic studies, and medication history delivery, and,
21 where applicable, promote definitions and standards for electronic
22 interactions statewide;

23 (2) seek funding to:

24 (A) implement, promote, and facilitate the
25 voluntary exchange of secure electronic health information between
26 and among individuals and entities that are providing or paying for
27 health care services or procedures; and

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

5 (3) establish statewide health information exchange
6 capabilities for streamlining health care administrative functions
7 including:

8 (A) communicating point of care services,
9 including laboratory results, diagnostic imaging, and prescription
10 histories;

11 (B) communicating patient identification and
12 emergency room required information in conformity with state and
13 federal privacy laws;

14 (C) real-time communication of enrollee status
15 in relation to health plan coverage, including enrollee
16 cost-sharing responsibilities; and

17 (D) current census and status of health plan
18 contracted providers;

19 (4) support regional health information exchange
20 initiatives by:

21 (A) identifying data and messaging standards for
22 health information exchange;

23 (B) administering programs providing financial
24 incentives, including grants and loans for the creation and support
25 of regional health information networks, subject to available
26 funds;

27 (C) providing technical expertise where

1 appropriate;

2 (D) sharing intellectual property developed
3 under Section 182.105;

4 (E) waiving the corporation's fees associated
5 with intellectual property, data, expertise, and other services or
6 materials provided to regional health information exchanges
7 operated on a nonprofit basis; and

8 (F) applying operational and technical standards
9 developed by the corporation to existing health information
10 exchanges only on a voluntary basis, except for standards related
11 to ensuring effective privacy and security of individually
12 identifiable health information;

13 (5) identify standards for streamlining health care
14 administrative functions across payors and providers, including
15 electronic patient registration, communication of enrollment in
16 health plans, and information at the point of care regarding
17 services covered by health plans; and

18 (6) support the secure, electronic exchange of health
19 information through other strategies identified by the board.

20 Sec. 182.102. PROHIBITED ACTS. (a) The corporation has no
21 authority and shall not engage in any of the following:

22 (1) the collection and analysis of clinical data;

23 (2) the comparison of physicians to other physicians,
24 including comparisons to peer group physicians, physician groups,
25 and physician teams, and to national specialty society adopted
26 quality measurements;

27 (3) the creation of a tool to measure physician

1 performance compared to:

2 (A) peer group physicians on state and specialty
3 levels; or

4 (B) objective standards;

5 (4) the providing of access to aggregated,
6 de-identified protected health information to local health
7 information exchanges and other users of quality care studies,
8 disease management and population health assessments;

9 (5) providing to public health programs trended,
10 aggregated, de-identified protected health information to help
11 assess the health status of populations and the providing of
12 regular reports of trends and important incidence of events to
13 public health avenues for intervention, education, and prevention
14 programs; or

15 (6) the creation of evidence-based standards for the
16 practice of medicine.

17 (b) The corporation has no authority and shall not
18 disseminate information, in any manner, to the public that
19 compares, rates, tiers, classifies, measures, or ranks a
20 physician's performance, efficiency, or quality of practice.

21 Sec. 182.103. PRIVACY OF INFORMATION. (a) Protected
22 health information and individually identifiable health
23 information collected, assembled, or maintained by the corporation
24 is confidential and is not subject to disclosure under Chapter 552,
25 Government Code.

26 (b) The corporation shall comply with all state and federal
27 laws and rules relating to the transmission of health information,

1 including the Health Insurance Portability and Accountability Act
2 of 1996 (Pub. L. No. 104-191) and rules adopted under that Act.

3 (c) The corporation shall develop privacy, security,
4 operational, and technical standards to assist health information
5 networks in the state to ensure effective statewide privacy, data
6 security, efficiency, and interoperability across networks. The
7 network's standards shall be guided by reference to the standards
8 of the Certification Commission for Healthcare Information
9 Technology or the Health Information Technology Standards Panel, or
10 other federally approved certification standards, that exist on May
11 1, 2007, as to the process of implementation, acquisition, upgrade,
12 or installation of electronic health information technology.

13 Sec. 182.104. SECURITY COMPLIANCE. The corporation shall:

14 (1) establish appropriate security standards to
15 protect both the transmission and the receipt of individually
16 identifiable health information or health care data;

17 (2) establish appropriate security standards to
18 protect access to any individually identifiable health information
19 or health care data collected, assembled, or maintained by the
20 corporation;

21 (3) establish the highest levels of security and
22 protection for access to and control of individually identifiable
23 health information, including mental health care data and data
24 relating to specific disease status, that is governed by more
25 stringent state or federal privacy laws; and

26 (4) establish policies and procedures for the
27 corporation for taking disciplinary actions against a board member,

1 employee, or other person with access to individually identifiable
2 health care information that violates state or federal privacy laws
3 related to health care information or data maintained by the
4 corporation.

5 Sec. 182.105. INTELLECTUAL PROPERTY. The corporation shall
6 take commercially reasonable measures to protect its intellectual
7 property, including obtaining patents, trademarks, and copyrights
8 where appropriate.

9 Sec. 182.106. ANNUAL REPORT. The corporation shall submit
10 an annual report to the governor, the lieutenant governor, the
11 speaker of the house of representatives, and the appropriate
12 oversight committee in the senate and the house of representatives.
13 The annual report must include financial information and a progress
14 update on the corporation's efforts to carry out its mission.

15 Sec. 182.107. FUNDING. (a) The corporation may be funded
16 through the General Appropriations Act and may request, accept, and
17 use gifts and grants as necessary to implement its functions.

18 (b) The corporation may assess transaction, convenience, or
19 subscription fees to cover costs associated with implementing its
20 functions. All fees must be voluntary but receipt of services
21 provided by the corporation may be conditioned on payment of fees.

22 (c) The corporation may participate in other
23 revenue-generating activities that are consistent with the
24 corporation's purposes.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

H.B. No. 1066

- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 1066 was passed by the House on May 9, 2007, by the following vote: Yeas 134, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1066 on May 25, 2007, by the following vote: Yeas 139, Nays 4, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1066 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor