AN ACT
relating to health information technology and the creation of the
Texas Health Services Authority.

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 182 to read as follows:

CHAPTER 182. TEXAS HEALTH SERVICES AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

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

Sec. 182.002. DEFINITIONS. In this chapter:

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

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

(3) "De-identified protected health information"
means protected health information that is not individually
identifiable health information as that term is defined by the
privacy rule of the Administrative Simplification subtitle of the
L. No. 104-191) contained in 45 C.F.R. Part 160 and 45 C.F.R. Part
164, Subparts A and E.

(4) "Individually identifiable health information"

means individually identifiable health information as that term is
defined by the privacy rule of the Administrative Simplification
subtitle of the Health Insurance Portability and Accountability Act
C.F.R. Part 164, Subparts A and E.

(5) "Physician" means:

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

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

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

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

(E) a medical school or medical and dental unit,
as defined or described by Section 61.003, 61.501, or 74.601,
Education Code, that employs or contracts with physicians to teach
or provide medical services or employs physicians and contracts
with physicians in a practice plan; or

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

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

[Sections 182.003-182.050 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION

Sec. 182.051. TEXAS HEALTH SERVICES AUTHORITY; PURPOSE.

(a) The corporation is established to:

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

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

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

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

(1) the corporation may not be placed in receivership; and
(2) the corporation is not required to make reports to
the secretary of state under Section 22.357, Business Organizations
Code.

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

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

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

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

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

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

(d) An individual may not serve on the board of the
corporation if the individual serves on the board of any other
governmental body in this state.

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

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

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

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

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

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

(b) Any board member or a member of a committee formed by the
board with direct interest in a matter, personally or through an employer, before the board shall abstain from deliberations and actions on the matter in which the conflict of interest arises and shall further abstain on any vote on the matter, and may not otherwise participate in a decision on the matter.

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

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

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

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

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

Sec. 182.060. TECHNOLOGY POLICY. The board shall implement
a policy requiring the corporation to use appropriate technological solutions to improve the corporation's ability to perform its functions. The policy must ensure that the public is able to interact with the corporation on the Internet.

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

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

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

[Sections 182.063-182.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 182.101. The corporation may:

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

(2) seek funding to:

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

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

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

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

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

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

(4) support regional health information exchange initiatives by:

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

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

(C) providing technical expertise where
appropriate;
  (D) sharing intellectual property developed under Section 182.105;
  (E) waiving the corporation's fees associated with intellectual property, data, expertise, and other services or materials provided to regional health information exchanges operated on a nonprofit basis; and
  (F) applying operational and technical standards developed by the corporation to existing health information exchanges only on a voluntary basis, except for standards related to ensuring effective privacy and security of individually identifiable health information;
  (5) identify standards for streamlining health care administrative functions across payors and providers, including electronic patient registration, communication of enrollment in health plans, and information at the point of care regarding services covered by health plans; and
  (6) support the secure, electronic exchange of health information through other strategies identified by the board.

Sec. 182.102. PROHIBITED ACTS. (a) The corporation has no authority and shall not engage in any of the following:
  (1) the collection and analysis of clinical data;
  (2) the comparison of physicians to other physicians, including comparisons to peer group physicians, physician groups, and physician teams, and to national specialty society adopted quality measurements;
  (3) the creation of a tool to measure physician
performance compared to:

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

(B) objective standards;

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

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

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

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

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

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

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

Sec. 182.104. SECURITY COMPLIANCE. The corporation shall:

1. establish appropriate security standards to protect both the transmission and the receipt of individually identifiable health information or health care data;

2. establish appropriate security standards to protect access to any individually identifiable health information or health care data collected, assembled, or maintained by the corporation;

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

4. establish policies and procedures for the corporation for taking disciplinary actions against a board member,
employee, or other person with access to individually identifiable
health care information that violates state or federal privacy laws
related to health care information or data maintained by the
corporation.

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

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

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

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

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

SECTION 2. This Act takes effect immediately if it receives
a vote of two-thirds of all the members elected to each house, as
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

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