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H.B. No. 2641

A BILL TO BE ENTITLED

AN ACT

relating to the exchange of health information in this state;
creating a criminal offense.

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

SECTION 1. Section 531.0162, Government Code, is amended by
adding Subsections (e), (f), (g), and (h) to read as follows:

(e) The executive commissioner shall ensure that:

(1) all information systems available for use by the
commission or a health and human services agency in sending
protected health information to a health care provider or receiving
protected health information from a health care provider, and for
which planning or procurement begins on or after September 1, 2015,
are capable of sending or receiving that information in accordance
with the applicable data exchange standards developed by the
appropriate standards development organization accredited by the
American National Standards Institute;

(2) if national data exchange standards do not exist
for a system described by Subdivision (1), the commission makes
every effort to ensure the system is interoperable with the
national standards for electronic health record systems; and

(3) the commission and each health and human services
agency establish an interoperability standards plan for all
information systems that exchange protected health information
with health care providers.

1 (f) Not later than December 1 of each even-numbered year,
2 the executive commissioner shall report to the governor and the
3 Legislative Budget Board on the commission's and the health and
4 human services agencies' measurable progress in ensuring that the
5 information systems described in Subsection (e) are interoperable
6 with one another and meet the appropriate standards specified by
7 that subsection. The report must include an assessment of the
8 progress made in achieving commission goals related to the exchange
9 of health information, including facilitating care coordination
10 among the agencies, ensuring quality improvement, and realizing
11 cost savings.

12 (g) The executive commissioner by rule may develop and the
13 commission may implement a system to reimburse providers of health
14 care services under the state Medicaid program for review and
15 transmission of electronic health information if feasible and
16 cost-effective.

17 (h) In this section, "health care provider" and "provider of
18 health care services" includes a physician.

19 SECTION 2. Section [81.044](#)(a), Health and Safety Code, as
20 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
21 2015, is amended to read as follows:

22 (a) The executive commissioner shall prescribe the form and
23 method of reporting under this chapter, which may be in writing, by
24 telephone, by electronic data transmission, through a health
25 information exchange as defined by Section 182.151 if requested and
26 authorized by the person required to report, or by other means.

27 SECTION 3. Section [82.008](#)(a), Health and Safety Code, as

amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) To ensure an accurate and continuing source of data concerning cancer, each health care facility, clinical laboratory, and health care practitioner shall furnish to the department, on request, data the executive commissioner considers necessary and appropriate that is derived from each medical record pertaining to a case of cancer that is in the custody or under the control of the health care facility, clinical laboratory, or health care practitioner. The department may not request data that is more than three years old unless the department is investigating a possible cancer cluster. At the request and with the authorization of the applicable health care facility, clinical laboratory, or health care practitioner, data may be furnished to the department through a health information exchange as defined by Section 182.151.

SECTION 4. Section 161.007(d), Health and Safety Code, is amended to read as follows:

(d) A health care provider who administers an immunization to an individual younger than 18 years of age shall provide data elements regarding an immunization to the department. A health care provider who administers an immunization to an individual 18 years of age or older may submit data elements regarding an immunization to the department. At the request and with the authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151. The data elements shall be submitted in a format prescribed by the department. The department shall verify consent

1 before including the information in the immunization registry. The
2 department may not retain individually identifiable information
3 about an individual for whom consent cannot be verified.

4 SECTION 5. Section 161.00705(a), Health and Safety Code, is
5 amended to read as follows:

6 (a) The department shall maintain a registry of persons who
7 receive an immunization, antiviral, and other medication
8 administered to prepare for a potential disaster, public health
9 emergency, terrorist attack, hostile military or paramilitary
10 action, or extraordinary law enforcement emergency or in response
11 to a declared disaster, public health emergency, terrorist attack,
12 hostile military or paramilitary action, or extraordinary law
13 enforcement emergency. A health care provider who administers an
14 immunization, antiviral, or other medication shall provide the data
15 elements to the department. At the request and with the
16 authorization of the health care provider, the data elements may be
17 provided through a health information exchange as defined by
18 Section 182.151.

19 SECTION 6. Section 161.00706(b), Health and Safety Code, is
20 amended to read as follows:

21 (b) A health care provider, on receipt of a request under
22 Subsection (a)(1), shall submit the data elements to the department
23 in a format prescribed by the department. At the request and with
24 the authorization of the health care provider, the data elements
25 may be submitted through a health information exchange as defined
26 by Section 182.151. The department shall verify the person's
27 request before including the information in the immunization

1 registry.

2 SECTION 7. Section 161.0073(c), Health and Safety Code, is
3 amended to read as follows:

4 (c) A person required to report information to the
5 department for registry purposes or authorized to receive
6 information from the registry may not disclose the individually
7 identifiable information of an individual to any other person
8 without the written or electronic consent of the individual or the
9 individual's legally authorized representative, except as provided
10 by Sections 161.007, 161.00705, 161.00706, and 161.008, of this
11 code, Chapter 159, Occupations Code, or Section 602.053, Insurance
12 Code.

13 SECTION 8. Section 161.008, Health and Safety Code, is
14 amended by adding Subsection (i) to read as follows:

15 (i) At the request and with the authorization of the
16 applicable health care provider, immunization history or data may
17 be submitted to or obtained by the department through a health
18 information exchange as defined by Section 182.151.

19 SECTION 9. Chapter 182, Health and Safety Code, is amended
20 by adding Subchapter D to read as follows:

21 SUBCHAPTER D. HEALTH INFORMATION EXCHANGES

22 Sec. 182.151. DEFINITION. In this subchapter, "health
23 information exchange" means an organization that:

24 (1) assists in the transmission or receipt of
25 health-related information among organizations transmitting or
26 receiving the information according to nationally recognized
27 standards and under an express written agreement with the

organizations;

(2) as a primary business function, compiles or organizes health-related information designed to be securely transmitted by the organization among physicians, other health care providers, or entities within a region, state, community, or hospital system; or

(3) assists in the transmission or receipt of electronic health-related information among physicians, other health care providers, or entities within:

(A) a hospital system;

(B) a physician organization;

(C) a health care collaborative, as defined by Section 848.001, Insurance Code;

(D) an accountable care organization participating in the Pioneer Model under the initiative by the Innovation Center of the Centers for Medicare and Medicaid Services; or

(E) an accountable care organization participating in the Medicare Shared Savings Program under 42 U.S.C. Section 1395jjj.

Sec. 182.152. AUTHORITY OF HEALTH INFORMATION EXCHANGE.

(a) Notwithstanding Sections 81.046, 82.009, 161.0073, and 161.008, a health information exchange may access and transmit health-related information under Sections 81.044(a), 82.008(a), 161.007(d), 161.00705(a), 161.00706(b), and 161.008(i) if the access or transmittal is:

(1) made for the purpose of assisting in the reporting

1 of health-related information to the appropriate agency;

2 (2) requested and authorized by the appropriate health
3 care provider, practitioner, physician, facility, clinical
4 laboratory, or other person who is required to report
5 health-related information;

6 (3) made in accordance with the applicable consent
7 requirements for the immunization registry under Subchapter A,
8 Chapter 161, if the information being accessed or transmitted
9 relates to the immunization registry; and

10 (4) made in accordance with the requirements of this
11 subchapter and all other state and federal law.

12 (b) A health information exchange may only use and disclose
13 the information that it accesses or transmits under Subsection (a)
14 in compliance with this subchapter and all applicable state and
15 federal law, and may not exchange, sell, trade, or otherwise make
16 any prohibited use or disclosure of the information.

17 Sec. 182.153. COMPLIANCE WITH LAW; SECURITY. A health
18 information exchange that collects, transmits, disseminates,
19 accesses, or reports health-related information under this
20 subchapter shall comply with all applicable state and federal law,
21 including secure electronic data submission requirements.

22 Sec. 182.154. CRIMINAL PENALTY. (a) A person who collects,
23 transmits, disseminates, accesses, or reports information under
24 this subchapter on behalf of or as a health information exchange
25 commits an offense if the person, with the intent to violate this
26 subchapter, allows health-related information in the possession of
27 a health information exchange to be used or disclosed in a manner

1 that violates this subchapter.

2 (b) An offense under this section is a Class A misdemeanor.

3 Sec. 182.155. IMMUNITIES AND DEFENSES CONTINUED.

4 Collecting, transmitting, disseminating, accessing or reporting
5 information through a health information exchange does not alone
6 deprive a physician or health care provider of an otherwise
7 applicable immunity or defense.

8 SECTION 10. Section [531.02176](#), Government Code, is
9 repealed.

10 SECTION 11. This Act takes effect September 1, 2015.