



# Health Care Privacy and Security in Texas Presentation to the House Business and Industry Interim Committee Hearing

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## What is the Texas e-Health Alliance?

- State's leading advocate, from local communities to the national level, for the use of health information technology to improve the health system for patients
- 501(c)6 non-profit started in 2009
- Serves as a trade association for HIT companies

## What is e-Health?

- E-health is the transfer of health resources and health care by electronic means

Texas responded to the passage of the Health Insurance Portability and Accountability Act by Congress in 1996 by creating the Texas Medical Records Privacy Act:

- SB11 in 2001 and SB 1136 in 2003 authored by Senator Jane Nelson
  - concerned about gaps in federal policy
  - concern was valid; HIPAA unenforced in many ways until recently
  - Texas MRPA considered more aggressive than HIPAA

## Chapter 181 of the Health and Safety Code:

- Contained a broader definition of covered entity that includes almost all entities that come into contact with protected health information, with a handful of named exceptions,
- Required patient consent for certain marketing activities,
- Prohibited re-identifying deidentified patient data without the consent of the patient and
- Allowed the attorney general to institute an action for injunctive relief or to assess civil penalties.

# HIPAA Amended in 2009

- Passage of the HITECH Act in 2009 at the federal level created incentives for electronic health records and health information exchanges, and added new provisions to HIPAA
- Texas Legislature responded in 2011 with HB 300 by Representative Lois Kolkhorst, sponsored in the Senate by Senator Jane Nelson
  - HB 300 strengthened penalties for wrongful disclosures, prohibited the sale of data, set a floor for consent to share PHI, and set standards for the training of health care professionals on privacy and security
  - HB 300 also directed the Texas Health Services Authority to create a voluntary certification program, now known as SECURETexas, wherein Texas covered entities may certify their past compliance with state and federal medical privacy and security law.

## “I think they mean it.” The new medical records privacy law in Texas



By B. Joyce Yeager, CIPP/US

Revisions to the Texas Medical Records Privacy statute, which take effect on Sept. 1, expand existing requirements for those who have access to medical information pertaining to others. [House Bill 300](#) (HB 300) provides that covered entities, as defined in the statute, must comply with expanded responsibilities pertaining to health information. The act imposes upon these covered entities additional duties beyond those that are dictated by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). Because the state statute affords additional protections beyond those provided by HIPAA, no federal preemption issue should exist.

Penalties for failure to comply are substantial and include civil monetary penalties, the potential for loss of professional licensing and even the potential for state law criminal felony prosecution. Entities and individuals within the state who have access to medical information of others have significant new responsibilities. It appears as though the legislature is serious about the protection of state residents' personal medical information and identifying demographics.



# Closing Thoughts- Cybersecurity in Health Care

## Considerations:

- Ransomware is on the rise, primarily driven by the increased value of PHI
- Cyber threats are growing more sophisticated
- Health care providers and system often have outdated infrastructure that is vulnerable to attack

## Solutions:

- Regular training on privacy and security for staff is essential
- Providers need to think preventatively and then act quickly when an incident occurs
- Keeping software and hardware infrastructure current helps mitigate vulnerabilities



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