



## **FACT SHEET**

### **Texas House Bill 300**

**November 7, 2011**

#### **Background and Definitions**

In June of 2011, Texas House Bill 300 was passed unanimously by both houses of the Legislature and signed by Governor Rick Perry. The bill places stricter requirements on patient health privacy covered entities. Texas law defines “covered entities” as health plans, health care clearinghouses, and health care providers that “transmit any health information in electronic form.”<sup>1</sup> However, HB 300 encompasses an expanded definition of covered entities and includes any entity that:

- Engages, in whole or in part, and with real or constructive knowledge, in the practice of assembling, collecting, analyzing, using, evaluating, storing, or transmitting protected health information;
- Comes into possession of protected health information; and
- Obtains or stores protected health information.<sup>2</sup>

#### **Requirements for Covered Entities Regarding Access to and Use of Protected Health Information**

Exceeding HIPAA Privacy Rule requirements, the bill as passed places the following requirements on covered entities around protected health information (PHI):

- Covered entities must provide customized employee training regarding the maintenance and protection of electronic PHI, set deadlines for completion, and maintain records of completion of said training. Training will be required every two years.
- Patients must be provided with electronic copies (unless the patient is willing to accept this in another form) of their health information within fifteen days of the patient’s written request for the records. This is stricter than HIPAA’s requirement of thirty days.
- Covered entities are required to provide patients notice that their PHI is subject to electronic disclosure.
- A covered entity is prohibited from disclosing a patient’s PHI to any other person in exchange direct or indirect payment—however, covered entities may disclose a patient’s PHI to other covered entities for treatment, payment, health care operations, insurance or HMO functions, or as authorized or required by federal or state law.

#### **Requirements for Texas State Agencies**

- The Health and Human Services Commissioner, in consultation with the Texas Health Services Authority (THSA), the Texas Medical Board and the Texas Department of Insurance is charged with recommending a standard electronic format for the release of requested health records, in accordance with federal law (if feasible).
- The Health and Human Services Commission, in consultation with the THSA and Texas Medical Board “shall review the security and accessibility of protected health information maintained by an unsustainable covered entity” and present recommendations by December of 2012—this includes recommending which state agency to which PHI from an unsustainable covered entity should be transferred for storage.
- The Attorney General must create a website describing patient privacy rights under state and federal law and publish an annual report detailing privacy complaints filed with state agencies during the previous year. In the report, patient PHI must be de-identified.
- The THSA (the state-designated entity for health information exchange) is charged with the development of privacy and security standards for the electronic sharing of PHI.

Individuals must be informed of a breach of their PHI—this is consistent with HITECH requirements—and failure to do so will result in financial penalty and potential felony charges. This pertains to any business handling PHI, not just covered entities as defined by statute. The law will take effect September 1, 2012.

For more information, please contact Tom Keefe, Senior Director of State Government Affairs at [tkeefe@himss.org](mailto:tkeefe@himss.org), or Stephanie Jamison, HIMSS Director of Government Services at [sjamison@himss.org](mailto:sjamison@himss.org).

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<sup>1</sup> TX HB 300 – Language as Enacted <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=df0027416b572e71022f1aae261876de&rgn=div8&view=text&node=45:1.0.1.3.74.1.27.3&idno=45>

<sup>2</sup> TX Statute Definitions: <http://codes.lp.findlaw.com/txstatutes/HS/2/I/181/A/181.001>