

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1121
SPONSOR(S): Grimsley
TIED BILLS: HB 1123

Florida Health Information Network Corporation
IDEN./SIM. BILLS: SB 2348

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Health Quality</u>	<u>8 Y, 0 N</u>	<u>Lowell</u>	<u>Lowell</u>
2) <u>Healthcare Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

House Bill 1121 creates s. 408.064, F.S., forming the Florida Health Information Network Corporation as a public/private partnership that will establish a secure, privacy-protected, and integrated statewide network for the communication of electronic health information. The not-for-profit corporation will be managed by an uncompensated board of directors that will consist of 15 members.

The agency is required to develop a plan and performance standards for the formation and operation of the network and must contract with the corporation to implement the plan for the period of July 1, 2007, through June 30, 2010.

The primary duty of the Florida Health Information Network Corporation is implementing and overseeing a statewide health information network. Among the other duties given to the corporation, the Florida Health Information Network Corporation is charged with developing and enforcing interoperability, privacy, and security standards, fostering the creation and expansion of regional health information organizations, and recruiting participants into the network.

The bill requires the Florida Health Information Network to develop a business plan to operate the network without state funding after June 30, 2010. The business plan must be submitted to the Governor and the Legislature by January 2, 2009.

The Agency for Health Care Administration must review the operation and use of the network and make recommendations for the network's continued development by June 30, 2009 to the Governor and the Legislature.

This bill will require a General Revenue appropriation of \$9,443,598 in Fiscal Year 2007-08 in order to contract with the Florida Health Information Network Corporation to begin the implementation of the network. The fiscal impact to complete the development of the network will be \$8,742,898 in FY 2008-09 and \$7,726,898 in FY 2009-10.

The effective date of this bill is July 1, 2007.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – this bill creates the Florida Health Information Network Corporation as a not-for-profit corporation and requires the corporation to develop a business plan to operate the network without state funding after June 30, 2010.

Empower families – full implementation of the network will likely reduce the cost, and increase the quality, of health care by promoting continuity of care among providers and potentially reducing unnecessary treatments.

Maintain public security – full implementation of the network will likely encourage widespread adoption of electronic medical records, enhancing the security and accessibility of these records during and following natural or manmade disasters.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Widespread adoption of electronic medical records holds the promise of improving patient safety and reducing the cost of health care by preventing unnecessary procedures. However, in a recent report, the National Center for Health Statistics (NCHS) within the United States Centers for Disease Control and Prevention noted that adoption of information technology within the health care sector is trailing behind other sectors in the economy of the United States¹. The adoption of electronic medical records (EMRs) by hospitals and physicians has been particularly slow. As part of its annual National Health Care Survey, NCHS found that, from 2001 through 2003:

- The most frequent IT application used in physician offices was an electronic billing system. Nearly three-fourths (73 percent) of physicians submitted claims electronically. Electronic submission of claims was more likely among physicians in the Midwest and South, in nonmetropolitan areas, among physicians under 50 years of age, and for physicians with 10 or more managed care contracts. Physicians in medical specialties such as psychiatry, dermatology, or sports medicine (among others) were least likely to submit claims electronically.
- EMRs were used more frequently in hospital settings (31 percent in emergency departments) than in physician offices (17 percent). Among physician office practices, there were no statistically significant differences in EMR use by region, metropolitan status, specialty, physician age, type of practice, or number of managed care contracts.

Health information technology at the federal level

On April 27, 2004, President George W. Bush issued an Executive Order² in order to encourage the development of a nationwide interoperable health information technology infrastructure. The Executive Order directed the Secretary of Health and Human Services to establish within the Office of the Secretary the position of National Health Information Technology Coordinator (“national coordinator”). The National Coordinator is tasked with developing, maintaining, and implementing a strategic plan to guide the nationwide implementation of interoperable health information technology in both the public and private health care sectors in order to reduce medical errors, improve quality, and produce greater value for health care expenditures. The National Coordinator is expected to publish its strategic plan by Spring, 2007.

¹ C.W. Burt and E. Hing, *Use of Computerized Clinical Support Systems in Medical Settings: United States, 2001–03*, Advance Data from Vital and Health Statistics no. 353, March 15, 2005.

² *Executive Order: Incentives for the Use of Health Information Technology and Establishing the Position of the National Health Information Technology Coordinator* (visited March 5, 2007) <http://www.whitehouse.gov/news/releases/2004/04/20040427-4.html>

In order to further the President's initiative, on September 13, 2005, Secretary Michael Leavitt, United States Department of Health and Human Services, created the American Health Information Community (AHIC). The AHIC is chartered with two primary goals:

- Recommend to the Secretary specific actions to achieve a common interoperability framework for health information technology; and
- Serve as a forum for participation for a broad range of stakeholders to provide input on achieving widespread adoption of interoperable health information technology.

The AHIC has identified four initial areas with potential for early advancement:

- Consumer Empowerment - Make available a consumer-directed and secure electronic record of health care registration information and a medication history for patients.
- Chronic Care - Allow the widespread use of secure messaging, as appropriate, as a means of communication between doctors and patients about care delivery.
- Biosurveillance - Enable the transfer of standardized and anonymized health data from the point of health care delivery to authorized public health agencies within 24 hours of its collection.
- Electronic Health Records - Create an electronic health record that includes laboratory results and interpretations, that is standardized, widely available and secure.³

The AHIC expects to deliver its recommendations in these four areas in calendar year 2007.

On August 22, 2006, President Bush signed an Executive Order⁴ in order to "promote quality and efficient delivery of health care through the use of health information technology, transparency regarding health care quality and price, and better incentives for program beneficiaries, enrollees, and providers." With regard to the use of health information technology, the Executive Order specifically directed federal agencies, as they implement, acquire, or upgrade health information technology systems used for the direct exchange of health information between agencies and with non-Federal entities, to utilize, where available, health information technology systems and products that meet recognized interoperability standards.

Among the federal agencies, the Veterans Health Administration (VHA) within the United States Department of Veterans Affairs is the most advanced in adopting health information technology. The VHA employs more than 180,000 health care practitioners in more than 1,000 facilities yet, according to a 2003 article in the International Journal of Medical Informatics⁵, has computerized medical documentation and ordering at every facility. According to the article, during September 2002 alone, providers entered 90.6% of all inpatient and outpatient pharmacy orders nationwide.

Health information technology in Florida

On May 4, 2004, Governor Jeb Bush signed Executive Order Number 04-93⁶, creating the Governor's Health Information Infrastructure Advisory Board ("board"). The Executive Order stated that the board must "advise and support the Agency for Health Care Administration ("Agency") as it develops and implements a strategy for the adoption and use of electronic health records and creates a plan to promote the development and implementation of a Florida health information infrastructure." The board continues in existence until all of its objectives are achieved, but no later than June 30, 2007. The Executive Order named W. Michael Heekin as Chair of the Board.

³ *American Health Information Community: Background* (visited March 5, 2007)

<http://www.os.dhhs.gov/healthit/community/background>

⁴ *Executive Order: Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs* (visited March 5, 2007) <http://www.whitehouse.gov/news/releases/2006/08/20060822-2.html>

⁵ S.H. Brown et al., *International Journal of Medical Informatics* 69 (2003).

⁶ Executive Order Number 04-93 (2004), available at http://ahca.myflorida.com/dhit/pdf/executive_order.pdf

The board's interim report issued in 2005 called for, among other recommendations, the immediate development of the Florida Health Information Network (FHIN) in order to encourage the adoption of electronic health records.⁷

The agency's strategy in building the FHIN starts in the local community by encouraging local stakeholders to begin the electronic exchange of health records, otherwise generally known as Regional Health Information Organizations (RHIOs). To that end, the 2005 Legislature appropriated \$1.5 million in Fiscal Year 2005-06 to AHCA for a FHIN grants program in order to encourage the development of RHIOs, subject to Legislative Budget Commission approval⁸. In 2006, the Legislature appropriated an additional \$2 million in Fiscal Year 2006-07 for RHIO grants. According to the agency, these grants are awarded in three categories:

- Planning Grants - Support engaging appropriate health care stakeholders to develop a strategic plan for health information exchange in their communities;
- Implementation Grants - Support projects that demonstrate health information exchange among two or more competing provider organizations; and
- Training Grants - Support practitioner training designed to increase physician and dentist use of electronic health record systems.

In Fiscal Year 2005-06, nine grant projects were awarded during January through June 30, 2006. These include five planning grants, three implementation grants and one technical assistance grant. In Fiscal Year 2006-07, the agency awarded an additional seven grants.

According to the agency, ten RHIOs are operating throughout the state, each with varying degrees of capacity for electronically exchanging health records:

- Big Bend RHIO;
- Central Florida RHIO;
- Community Health Information Organization;
- Escambia HIN;
- Jacksonville Health Information Network;
- Palm Beach County Community Health Alliance;
- Pinellas RHIO;
- Space Coast Health Information Network;
- South Florida HII; and
- Tampa Bay RHIO.

Not-For-Profit Corporations

Chapter 617, F.S., governs the creation and operation of not-for-profit corporations in the state. Under s. 617.01401(5), F.S., a "corporation not for profit" is defined to mean a corporation no part of the income or profit of which is distributable to its members, directors, or officers. "Board of directors" is defined in s. 617.01401(2), F.S., to mean the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated, including, but not limited to, managers or trustees. Section 617.0302, F.S., specifies the powers of not-for-profit corporations, which includes, among other powers, the power to acquire, enjoy, utilize, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests thereunder or therein.

Effect of Proposed Changes

⁷ Governor's Health Information Infrastructure Advisory Board, *First Interim Report to Governor Jeb Bush*, available at http://ahca.myflorida.com/dhit/pdf/interim_rept_gov.pdf

⁸ See also s. 408.05(4)(b), F.S. (directing the Agency to "administer, manage, and monitor grants to not-for-profit organizations, regional health information organizations, public health departments, or state agencies that submit proposals for planning, implementation, or training projects to advance the development of a health information network.")

House Bill 1121 creates s. 408.064, F.S., forming the Florida Health Information Network Corporation (“corporation”) as a public/private partnership that will establish a secure, privacy-protected, and integrated statewide network (“network”) for the communication of electronic health information. The not-for-profit corporation is managed by an uncompensated board of directors, which will consist of the following 15 members:

- The Secretary of Agency for Health Care Administration or the secretary's designee;
- The Secretary of the Department of Health or the secretary's designee;
- The Secretary of the Department of Elderly Affairs or the secretary's designee; and
- Twelve members from the private or public sector, three of whom shall be appointed by the Governor, four of whom shall be appointed by the President of the Senate, four of whom shall be appointed by the Speaker of the House of Representatives, and one member who shall be appointed by the Chief Financial Officer.

Appointed members serve a term of four years, except that the initial appointees of the Governor are staggered.

The corporation is expressly subject to public records and public meetings laws under chapter 119, F.S. and chapter 286, F.S., respectively.

The agency is required to develop a plan and performance standards for the formation and operation of the network and must contract with the corporation to implement the plan for the period of July 1, 2007, through June 30, 2010. In implementing the network, the corporation is directed to:

- Develop and maintain the technical infrastructure necessary to perform the functions of the network;
- Implement a marketing program to promote widespread use of the network;
- Develop and implement specific programs or strategies that address the creation, development, and expansion of RHIOs and the recruitment of participants in the network;
- Develop and enforce interoperability, operational, and technical standards among regional and local health information networks;
- Develop an annual budget that includes funding from public and private entities, including user fees;
- Develop and enforce privacy and security standards for participation in the network;
- Ensure the technological standards of the network are aligned with widely adopted standards or standards accepted by a recognized organization that establishes national standards for electronic information networks; and
- Recommend reform of state law to reduce barriers to participation in the network.

The bill requires the Florida Health Information Network to develop a business plan to operate the network without state funding after June 30, 2010. The business plan must be submitted to the Governor and the Legislature by January 2, 2009.

The Agency for Health Care Administration must review the operation and use of the network and make recommendations for the network’s continued development by June 30, 2009 to the Governor and the Legislature.

The corporation is required to seek funding through public and private entities to accomplish its duties. Funds appropriated for the Florida Health Information Network grants program are prohibited from being used to directly fund the operation of the corporation.

The effective date of the bill is July 1, 2007.

C. SECTION DIRECTORY:

Section 1. Creates s. 408.064, F.S., relating to the Florida Health Information Network Corporation.

Section 2. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the agency, the fiscal impact in FY 2007-08 will be \$9,443,598; in FY 2008-09, \$8,742,898; and in FY 2009-10, \$7,726,898. General Revenue Funds will be required to implement the provisions of this bill. Specifically, the funds will be used for the following activities:

FHIN Proposal Goals, 2007-2008	Budget
FHIN Administrative Support	\$2,576,898
Build Main FHIN Server (Budget is based on build-it scenario)	\$4,733,200
Integrate AHCA Inpatient/Outpatient/ED databases	\$600,000
Develop Web Portal	\$800,000
Create FHIN Web Portal Provider Workgroup to determine priorities for website	\$221,000
Communication and Training plans	\$512,500
Total Budget	\$9,443,598

FHIN Proposal Goals, 2008-2009	Budget
FHIN Administrative Support	\$2,576,898
Build edge server to manage access to state agency databases (DOH), county health departments and Florida RHIOs and maintain existing servers	\$3,625,000
Integrate DOH SHOTS database, additional Payor databases and RHIOs in Tallahassee, Tampa and Palm Beach	\$1,600,000
Expand web portal for access by providers	\$500,000
Create FHIN Data Integration State Agency Workgroup	\$16,000
Communication, Training and Evaluation	\$425,000
Total Budget	\$8,742,898

FHIN Proposal Goals, 2009-2010	Budget
FHIN Administrative Support	\$2,060,898
Maintain servers managing access to state agency databases (DOH), Payors and RHIOs, and add other health care servers	\$950,000
Develop MPI and RLS for additional databases from DOH County Health Departments, four RHIOs and one federal agency	\$2,150,000
Integrate DOH, RHIO and DOD databases; create interactive queries	\$1,500,000
Expand web portal for access by providers, adding access interfaces	\$500,000
Maintain FHIN Data Integration State Agency Workgroup and include Federal stakeholders	\$16,000
Communication, Training and Evaluation	\$550,000
Total Budget	\$7,726,898

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The creation of a statewide network for the exchange of electronic medical records may result in substantial savings to patients, providers, and payors, particularly with respect to increased efficiency and reduction of unnecessary treatments.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to affect municipal or county government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rule-making authority is required as a result of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

"The FHIN is the single most transformative initiative possible to improve quality and efficiency in the entire health care sector - both government and private."

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES