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LEGISLATIVE ACTION

Senate

House

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Floor: 1/RE/3R

04/26/2010 12:44 PM

Senator Ring moved the following:

Senate Amendment (with title amendment)

Delete lines 44 - 261

and insert:

Section 1. Paragraph (h) of subsection (8) of section 408.05, Florida Statutes, is amended to read:

408.05 Florida Center for Health Information and Policy Analysis.—

(8) STATE CONSUMER HEALTH INFORMATION AND POLICY ADVISORY COUNCIL.—

(h) The council's duties and responsibilities include, but are not limited to, ~~the following~~:

1. Developing ~~To develop~~ a mission statement, goals, and a



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14 plan of action for the identification, collection,
15 standardization, sharing, and coordination of health-related
16 data across federal, state, and local government and private
17 sector entities.

18 2. Developing ~~To develop~~ a review process that ensures ~~to~~
19 ~~ensure~~ cooperative planning among agencies that collect or
20 maintain health-related data.

21 3. Establishing ~~To create~~ ad hoc, issue-oriented technical
22 workgroups as needed ~~on an as-needed basis~~ to make
23 recommendations to the council.

24 Section 2. Subsection (2) of section 408.051, Florida
25 Statutes, is reordered and amended to read:

26 408.051 Florida Electronic Health Records Exchange Act.—

27 (2) DEFINITIONS.—As used in this section and ss. 408.0512-
28 408.0514, the term:

29 (a) "Agency" means the Agency for Health Care
30 Administration.

31 (c) ~~(a)~~ "Electronic health record" means a record of an
32 individual's a person's medical treatment which is created by a
33 licensed health care provider and stored in an interoperable and
34 accessible digital format.

35 (j) ~~(b)~~ "Qualified electronic health record" means an
36 electronic record of health-related information concerning an
37 individual which includes patient demographic and clinical
38 health information, such as medical history and problem lists,
39 and which has the capacity to provide clinical decision support,
40 to support physician order entry, to capture and query
41 information relevant to health care quality, and to exchange
42 electronic health information with, and integrate such



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43 information from, other sources.

44 (b)-(e) "Certified electronic health record technology"
45 means a qualified electronic health record that is certified
46 pursuant to s. 3001(c)(5) of the Public Health Service Act as
47 meeting standards adopted under s. 3004 of that such act which
48 are applicable to the type of record involved, such as an
49 ambulatory electronic health record for office-based physicians
50 or an inpatient hospital electronic health record for hospitals.

51 (d) "Health care practitioner" or "health care provider"
52 means any person licensed under chapter 457; chapter 458;
53 chapter 459; chapter 460; chapter 461; chapter 462; chapter 463;
54 chapter 464; chapter 465; chapter 466; chapter 467; part I, part
55 II, part III, part V, part X, part XIII, or part XIV of chapter
56 468; chapter 478; chapter 480; part III or part IV of chapter
57 483; chapter 484; chapter 486; chapter 490; or chapter 491.

58 (e) "Health information exchange participation agreement"
59 means a comprehensive, multiparty trust agreement that can be
60 used by health care providers and other organizations, both
61 public and private, that wish to participate in a health
62 information exchange network. The agreement provides the legal
63 framework that governs participation in the network by requiring
64 the signatories to abide by a common set of terms and conditions
65 to support the secure, interoperable exchange of health care
66 data among authorized participants.

67 (f)-(d) "Health record" means any information, recorded in
68 any form or medium, which relates to the past, present, or
69 future health of an individual for the primary purpose of
70 providing health care and health-related services.

71 (g)-(e) "Identifiable health record" means a ~~any~~ health



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72 record that identifies the patient or for ~~with respect to~~ which
73 there is a reasonable basis to believe the information can be
74 used to identify the patient.

75 (h) ~~(f)~~ "Patient" means an individual who has sought, is
76 seeking, is undergoing, or has undergone care or treatment in a
77 health care facility or by a health care provider.

78 (i) ~~(g)~~ "Patient representative" means a parent of a minor
79 patient, a court-appointed guardian for the patient, a health
80 care surrogate, or a person holding a power of attorney or
81 notarized consent appropriately executed by the patient granting
82 permission for ~~to~~ a health care facility or health care provider
83 to disclose the patient's health care information to that
84 person. In the case of a deceased patient, the term also means
85 the personal representative of the estate of the deceased
86 patient; the deceased patient's surviving spouse, surviving
87 parent, or surviving adult child; the parent or guardian of a
88 surviving minor child of the deceased patient; the attorney for
89 the patient's surviving spouse, parent, or adult child; or the
90 attorney for the parent or guardian of a surviving minor child.

91 Section 3. Section 408.0513, Florida Statutes, is created
92 to read:

93 408.0513 Florida Health Information Exchange Participation
94 Agreement.—

95 (1) By July 1, 2011, the agency shall identify and describe
96 elements of a Florida Health Information Exchange Participation
97 Agreement (or Florida HIE Participation Agreement) for use by
98 health care providers and other organizations which specifies
99 the terms and conditions for the exchange of health information.

100 (2) The agency shall adopt by rule the elements for a



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101 Florida HIE Participation Agreement and make the uniform
102 elements available on the agency's Internet website, pursuant to
103 s. 408.05. The elements of the agreement must include a
104 requirement to use the universal patient authorization form, as
105 provided in s. 408.051(4), when such form is adopted by rule.

106 (3) A health care provider that participates in the
107 exchange of health information in reliance on a Florida HIE
108 Participation Agreement containing all of the uniform elements
109 does not violate any right of confidentiality and is immune from
110 civil liability for accessing or releasing an identifiable
111 health record under the agreement.

112 (4) A health care provider is not required under this
113 section to incorporate one or more of the uniform elements
114 adopted and distributed by the agency in an agreement to
115 participate in the exchange of health information.

116 Section 4. Section 408.0514, Florida Statutes, is created
117 to read:

118 408.0514 Regional extension centers.-

119 (1) The agency shall coordinate with federally funded
120 regional extension centers operating in this state to increase
121 provider readiness in implementing the use of electronic health
122 records in order to enable provider participation in health
123 information exchange and electronic prescribing, including, but
124 not limited to, readiness to prepare, use, and report
125 performance measures required to qualify for federal and state
126 electronic health record adoption incentive programs.

127 (2) The agency may establish guidelines for services
128 provided to Medicaid providers by regional extension centers and
129 conditions for state Medicaid participation and use of such



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130 services.

131 Section 5. Paragraph (a) of subsection (1) of section
132 408.061, Florida Statutes, is amended to read:

133 408.061 Data collection; uniform systems of financial
134 reporting; information relating to physician charges;
135 confidential information; immunity.—

136 (1) The agency shall require the submission by health care
137 facilities, health care providers, and health insurers of data
138 necessary to carry out the agency's duties. Specifications for
139 data to be collected under this section shall be developed by
140 the agency with the assistance of technical advisory panels
141 including representatives of affected entities, consumers,
142 purchasers, and such other interested parties as may be
143 determined by the agency.

144 (a) Data submitted by health care facilities, including ~~the~~
145 facilities as defined in chapter 395, must ~~shall~~ include, but is
146 ~~are~~ not limited to: case-mix data;; patient admission and
147 discharge data;; hospital emergency department data, which
148 includes ~~shall include~~ the number of patients treated in the
149 hospital's emergency department and ~~of a licensed hospital~~
150 reported by patient acuity level;; data on hospital-acquired
151 infections as specified by rule;; data on complications as
152 specified by rule;; data on readmissions as specified by rule,
153 which includes ~~with~~ patient and provider-specific identifiers;
154 ~~included~~ actual charge data by diagnostic groups;; financial
155 data;; accounting data;; operating expenses;; expenses incurred
156 for rendering services to patients who cannot or do not pay;;
157 interest charges;; depreciation expenses based on the expected
158 useful life of the property and equipment involved;; and



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159 demographic data. The agency shall adopt nationally recognized
160 risk adjustment methodologies or software consistent with the
161 standards of the Agency for Healthcare Research and Quality and
162 as selected by the agency for all data submitted under ~~as~~
163 ~~required by~~ this section. Data may be obtained from documents
164 such as, but not limited to: leases, contracts, debt
165 instruments, itemized patient bills, medical record abstracts,
166 and related diagnostic information. Reported data elements shall
167 be reported electronically, and ~~in accordance with rule 59E-~~
168 ~~7.012, Florida Administrative Code. Data submitted shall be~~
169 ~~certified by~~ the chief executive officer or an appropriate and
170 duly authorized representative or employee of the licensed
171 facility must certify that the information submitted is true and
172 accurate.

173 Section 6. Subsections (3) and (4) of section 408.0611,
174 Florida Statutes, are amended to read:

175 408.0611 Electronic prescribing clearinghouse.—

176 (3) The agency shall work in collaboration with private
177 sector electronic prescribing initiatives and relevant
178 stakeholders to create a clearinghouse of information on
179 electronic prescribing for health care practitioners, health
180 care facilities, regional health information organizations,
181 health care consumers, and pharmacies, and regional extension
182 centers that promote adoption of electronic health records.
183 ~~These stakeholders shall include organizations that represent~~
184 ~~health care practitioners, organizations that represent health~~
185 ~~care facilities, organizations that represent pharmacies,~~
186 ~~organizations that operate electronic prescribing networks,~~
187 ~~organizations that create electronic prescribing products, and~~



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188 ~~regional health information organizations.~~ Specifically, the
189 agency shall, ~~by October 1, 2007:~~

190 (a) Provide on its website:

191 1. Information regarding the process of electronic
192 prescribing and the availability of electronic prescribing
193 products, including no-cost or low-cost products;

194 2. Information regarding the advantages of electronic
195 prescribing, including using medication history data to prevent
196 drug interactions, prevent allergic reactions, and deter doctor
197 and pharmacy shopping for controlled substances;

198 3. Links to federal and private sector websites that
199 provide guidance on selecting an appropriate electronic
200 prescribing product; and

201 4. Links to state, federal, and private sector incentive
202 programs for the implementation of electronic prescribing.

203 (b) Convene quarterly meetings of the State Consumer Health
204 Information and Policy Advisory Council or a workgroup
205 representing electronic prescribing and other health information
206 technology stakeholders to assess and accelerate the
207 implementation of electronic prescribing.

208 (4) Pursuant to s. 408.061, the agency shall monitor the
209 implementation of electronic prescribing by health care
210 practitioners, health care facilities, and pharmacies. By
211 January 31 of each year, the agency shall report metrics on the
212 ~~progress of implementation of electronic prescribing on the~~
213 ~~agency's Internet website to the Governor and the Legislature.~~
214 The information reported must pursuant to this subsection shall
215 include federal and private sector electronic prescribing
216 initiatives and, to the extent that data is readily available



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217 from organizations that operate electronic prescribing networks,
218 the number of health care practitioners using electronic
219 prescribing and the number of prescriptions electronically
220 transmitted.

221 Section 7. Paragraph (e) of subsection (1) and subsection
222 (5) of section 408.062, Florida Statutes, are amended to read:

223 408.062 Research, analyses, studies, and reports.—

224 (1) The agency shall conduct research, analyses, and
225 studies relating to health care costs and access to and quality
226 of health care services as access and quality are affected by
227 changes in health care costs. Such research, analyses, and
228 studies shall include, but not be limited to:

229 (e) Total health care expenditures in the state according
230 to the sources of payment and the type of expenditure shall be
231 published on the agency's Internet website.

232 (5) The agency shall develop and implement a strategy for
233 the adoption and use of electronic health records, including the
234 development, implementation, and use of a single statewide
235 infrastructure necessary for an electronic health information
236 network for the sharing of electronic health records among
237 health care facilities, health care providers, and health
238 insurers.

239 (a) The agency shall contract with a vendor who has
240 expertise in designing infrastructure that exchanges health
241 information through an integrated solution using network
242 security engineering which secures both the network and
243 sensitive health care information while empowering patients to
244 have control over how their information is shared. The
245 infrastructure must be interoperable with the established



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246 National Health Information Network using national standards and
247 leveraging ongoing federal investments to ensure meaningful use
248 of health information. The infrastructure must be open source,
249 giving the highest priority to privacy, security, and
250 interoperability with existing and future electronic patient
251 medical records.

252 (b) The agency may develop rules to facilitate the
253 functionality and protect the confidentiality of electronic
254 health records. The agency shall report to the Governor, the
255 Speaker of the House of Representatives, and the President of
256 the Senate on legislative recommendations to protect the
257 confidentiality of electronic health records.

258 Section 8. Subsections (5) and (6) of section 408.063,
259 Florida Statutes, are amended to read:

260 408.063 Dissemination of health care information.—

261 ~~(5) The agency shall publish annually a comprehensive~~
262 ~~report of state health expenditures. The report shall identify:~~

263 ~~(a) The contribution of health care dollars made by all~~
264 ~~payors.~~

265 ~~(b) The dollars expended by type of health care service in~~
266 ~~Florida.~~

267 ~~(5)~~(6) ~~The staff of the Agency~~ staff may conduct or sponsor
268 consumer information and education seminars at locations
269 throughout the state and ~~may~~ hold public hearings to solicit
270 consumer concerns or complaints relating to health care costs
271 and make recommendations to the agency for study, action, or
272 investigation.

273
274 ===== T I T L E A M E N D M E N T =====



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275 And the title is amended as follows:
276 Delete lines 2 - 40
277 and insert:
278 An act relating to electronic health information;
279 amending s. 408.05, F.S.; revising provisions relating
280 to the duties and responsibilities of the State
281 Consumer Health Information and Policy Advisory
282 Council; amending s. 408.051, F.S.; defining the terms
283 "agency," "health care practitioner," and "health
284 information exchange participation agreement";
285 creating s. 408.0513, F.S.; requiring the agency to
286 develop uniform elements of a Florida Health
287 Information Exchange Participation Agreement for use
288 by health care providers; requiring the agency to post
289 the agreement on the agency's Internet website;
290 providing for immunity from civil liability for
291 accessing or releasing certain health records;
292 providing that health care providers are not required
293 to incorporate the uniform elements of the agreement;
294 creating s. 408.0514, F.S.; requiring the agency to
295 coordinate with regional extension centers to
296 implement the use of electronic health records;
297 authorizing the agency to establish guidelines for
298 center services and state Medicaid participation and
299 use of such services; amending s. 408.061, F.S.;
300 deleting a reference to an administrative rule
301 relating to certain data reported by health care
302 facilities; amending s. 408.0611, F.S.; revising
303 provisions relating to a clearinghouse on information



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304 on electronic prescribing; requiring the State
305 Consumer Health Information and Policy Advisory
306 Council or a workgroup representing electronic
307 prescribing and other health information technology
308 stakeholders to participate in quarterly meetings on
309 the implementation of electronic prescribing;
310 requiring the agency to provide a report on the
311 agency's Internet website; amending s. 408.062, F.S.;
312 requiring the agency to post certain information on
313 health care expenditures on the agency's Internet
314 website; directing the agency to contract for the
315 development of a single statewide infrastructure for
316 exchanging health information; amending s. 408.063,
317 F.S.; deleting the requirement that the agency
318 annually publish a report on state health
319 expenditures; providing an effective date.WHEREAS, the
320 use of electronic health information technology has
321 improved the quality of health care, andWHEREAS,
322 coordinating federally funded training and outreach
323 activities with a state-based health information
324 technology program will advance the adoption and
325 meaningful use of electronic health records,
326 andWHEREAS, the Agency for Health Care Administration
327 is responsible for developing a strategy for the
328 implementation of an electronic health information
329 network in this state, NOW, THEREFORE,