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LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 1/RR/RM	.	Floor: SA1/RC
04/30/2010 04:21 PM	.	04/29/2010 05:02 PM
	.	

Senator Ring moved the following:

Senate Amendment (with title amendment)

Delete lines 44 - 261

and insert:

Section 1. Subsection (7) and paragraph (h) of subsection (8) of section 408.05, Florida Statutes, are amended to read:

408.05 Florida Center for Health Information and Policy Analysis.—

(7) BUDGET; FEES.—

~~(a) The Legislature intends that funding for the Florida Center for Health Information and Policy Analysis be appropriated from the General Revenue Fund.~~

(a) ~~(b)~~ The Florida Center for Health Information and Policy



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14 Analysis may apply for and receive and accept grants, gifts, and
15 other payments, including property and services, from any
16 governmental or other public or private entity or person and
17 make arrangements as to the use of same, including the
18 undertaking of special studies and other projects relating to
19 health-care-related topics. ~~Funds obtained pursuant to this~~
20 ~~paragraph may not be used to offset annual appropriations from~~
21 ~~the General Revenue Fund.~~

22 (b) ~~(c)~~ The center may charge such reasonable fees for
23 services as the agency prescribes by rule. The established fees
24 may not exceed the reasonable cost for such services. ~~Fees~~
25 ~~collected may not be used to offset annual appropriations from~~
26 ~~the General Revenue Fund.~~

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

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

31 1. Developing ~~To develop~~ a mission statement, goals, and a
32 plan of action for the identification, collection,
33 standardization, sharing, and coordination of health-related
34 data across federal, state, and local government and private
35 sector entities.

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

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

42 Section 2. Subsection (2) of section 408.051, Florida



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43 Statutes, is reordered and amended to read:

44 408.051 Florida Electronic Health Records Exchange Act.—

45 (2) DEFINITIONS.—As used in this section and ss. 408.0512-
46 408.0514, the term:

47 (a) "Agency" means the Agency for Health Care
48 Administration.

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

53 (j) ~~(b)~~ "Qualified electronic health record" means an
54 electronic record of health-related information concerning an
55 individual which includes patient demographic and clinical
56 health information, such as medical history and problem lists,
57 and which has the capacity to provide clinical decision support,
58 to support physician order entry, to capture and query
59 information relevant to health care quality, and to exchange
60 electronic health information with, and integrate such
61 information from, other sources.

62 (b) ~~(e)~~ "Certified electronic health record technology"
63 means a qualified electronic health record that is certified
64 pursuant to s. 3001(c)(5) of the Public Health Service Act as
65 meeting standards adopted under s. 3004 of that ~~such~~ act which
66 are applicable to the type of record involved, such as an
67 ambulatory electronic health record for office-based physicians
68 or an inpatient hospital electronic health record for hospitals.

69 (d) "Health care provider" means any person or organization
70 that furnishes, bills, or is paid for health care services in
71 the normal course of business.



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72 (e) "Health information exchange participation agreement"
73 means a comprehensive, multiparty trust agreement that can be
74 used by health care providers and other organizations, both
75 public and private, that wish to participate in a health
76 information exchange network. The agreement provides the legal
77 framework that governs participation in the network by requiring
78 the signatories to abide by a common set of terms and conditions
79 to support the secure, interoperable exchange of health care
80 data among authorized participants.

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

85 (g)~~(e)~~ "Identifiable health record" means a ~~any~~ health
86 record that identifies the patient or for ~~with respect to~~ which
87 there is a reasonable basis to believe the information can be
88 used to identify the patient.

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

92 (i)~~(g)~~ "Patient representative" means a parent of a minor
93 patient, a court-appointed guardian for the patient, a health
94 care surrogate, or a person holding a power of attorney or
95 notarized consent appropriately executed by the patient granting
96 permission for ~~to~~ a health care facility or health care provider
97 to disclose the patient's health care information to that
98 person. In the case of a deceased patient, the term also means
99 the personal representative of the estate of the deceased
100 patient; the deceased patient's surviving spouse, surviving



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101 parent, or surviving adult child; the parent or guardian of a
102 surviving minor child of the deceased patient; the attorney for
103 the patient's surviving spouse, parent, or adult child; or the
104 attorney for the parent or guardian of a surviving minor child.

105 Section 3. Section 408.0513, Florida Statutes, is created
106 to read:

107 408.0513 Florida Health Information Exchange Participation
108 Agreement.—

109 (1) By July 1, 2011, the agency shall identify and describe
110 elements of a Florida Health Information Exchange Participation
111 Agreement (or Florida HIE Participation Agreement) for use by
112 health care providers and other organizations which specifies
113 the terms and conditions for the exchange of health information.

114 (2) The agency shall adopt by rule the elements for a
115 Florida HIE Participation Agreement and make the uniform
116 elements available on the agency's Internet website, pursuant to
117 s. 408.05. The elements of the agreement must include a
118 requirement to use the universal patient authorization form, as
119 provided in s. 408.051(4), when such form is adopted by rule.

120 (3) A health care provider that participates in the
121 exchange of health information in reliance on a Florida HIE
122 Participation Agreement containing all of the uniform elements
123 does not violate any right of confidentiality and is immune from
124 civil liability for accessing or releasing an identifiable
125 health record under the agreement if the exchange of an
126 identifiable health record comports with the requirements of the
127 Health Insurance Portability and Accountability Act (HIPAA)
128 privacy rule and state law.

129 (4) A health care provider is not required under this



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130 section to incorporate one or more of the uniform elements
131 adopted and distributed by the agency in an agreement to
132 participate in the exchange of health information.

133 Section 4. Section 408.0514, Florida Statutes, is created
134 to read:

135 408.0514 Regional extension centers.-

136 (1) The agency shall coordinate with federally funded
137 regional extension centers operating in this state to increase
138 provider readiness in implementing the use of electronic health
139 records in order to enable provider participation in health
140 information exchange and electronic prescribing, including, but
141 not limited to, readiness to prepare, use, and report
142 performance measures required to qualify for federal and state
143 electronic health record adoption incentive programs.

144 (2) The agency may establish guidelines for services
145 provided to Medicaid providers by regional extension centers and
146 conditions for state Medicaid participation and use of such
147 services.

148 Section 5. Paragraph (a) of subsection (1) of section
149 408.061, Florida Statutes, is amended to read:

150 408.061 Data collection; uniform systems of financial
151 reporting; information relating to physician charges;
152 confidential information; immunity.-

153 (1) The agency shall require the submission by health care
154 facilities, health care providers, and health insurers of data
155 necessary to carry out the agency's duties. Specifications for
156 data to be collected under this section shall be developed by
157 the agency with the assistance of technical advisory panels
158 including representatives of affected entities, consumers,



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159 purchasers, and such other interested parties as may be
160 determined by the agency.

161 (a) Data submitted by health care facilities, including ~~the~~
162 facilities as defined in chapter 395, must ~~shall~~ include, but is
163 ~~are~~ not limited to: case-mix data;; patient admission and
164 discharge data;; hospital emergency department data, which
165 includes ~~shall include~~ the number of patients treated in the
166 hospital's emergency department and ~~of a licensed hospital~~
167 reported by patient acuity level;; data on hospital-acquired
168 infections as specified by rule;; data on complications as
169 specified by rule;; data on readmissions as specified by rule,
170 which includes ~~with~~ patient and provider-specific identifiers;;
171 ~~included~~ actual charge data by diagnostic groups;; financial
172 data;; accounting data;; operating expenses;; expenses incurred
173 for rendering services to patients who cannot or do not pay;;
174 interest charges;; depreciation expenses based on the expected
175 useful life of the property and equipment involved;; and
176 demographic data. The agency shall adopt nationally recognized
177 risk adjustment methodologies or software consistent with the
178 standards of the Agency for Healthcare Research and Quality and
179 as selected by the agency for all data submitted under ~~as~~
180 ~~required by~~ this section. Data may be obtained from documents
181 such as, but not limited to: leases, contracts, debt
182 instruments, itemized patient bills, medical record abstracts,
183 and related diagnostic information. Reported data elements shall
184 be reported electronically, and ~~in accordance with rule 59E-~~
185 ~~7.012, Florida Administrative Code. Data submitted shall be~~
186 ~~certified by~~ the chief executive officer or an appropriate and
187 duly authorized representative or employee of the licensed



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188 facility must certify that the information submitted is true and
189 accurate.

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

192 408.0611 Electronic prescribing clearinghouse.—

193 (3) The agency shall work in collaboration with private
194 sector electronic prescribing initiatives and relevant
195 stakeholders to create a clearinghouse of information on
196 electronic prescribing for health care practitioners, health
197 care facilities, regional health information organizations,
198 health care consumers, and pharmacies, and regional extension
199 centers that promote adoption of electronic health records.

200 ~~These stakeholders shall include organizations that represent~~
201 ~~health care practitioners, organizations that represent health~~
202 ~~care facilities, organizations that represent pharmacies,~~
203 ~~organizations that operate electronic prescribing networks,~~
204 ~~organizations that create electronic prescribing products, and~~
205 ~~regional health information organizations.~~ Specifically, the
206 agency shall, ~~by October 1, 2007:~~

207 (a) Provide on its website:

208 1. Information regarding the process of electronic
209 prescribing and the availability of electronic prescribing
210 products, including no-cost or low-cost products;

211 2. Information regarding the advantages of electronic
212 prescribing, including using medication history data to prevent
213 drug interactions, prevent allergic reactions, and deter doctor
214 and pharmacy shopping for controlled substances;

215 3. Links to federal and private sector websites that
216 provide guidance on selecting an appropriate electronic



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217 prescribing product; and

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

220 (b) Convene quarterly meetings of the State Consumer Health
221 Information and Policy Advisory Council or a workgroup
222 representing electronic prescribing and other health information
223 technology stakeholders to assess and accelerate the
224 implementation of electronic prescribing.

225 (4) Pursuant to s. 408.061, the agency shall monitor the
226 implementation of electronic prescribing by health care
227 practitioners, health care facilities, and pharmacies. By
228 January 31 of each year, the agency shall report metrics on the
229 ~~progress of~~ implementation of electronic prescribing on the
230 agency's Internet website to the Governor and the Legislature.
231 The information reported must ~~pursuant to this subsection~~ shall
232 include federal and private sector electronic prescribing
233 initiatives and, to the extent that data is readily available
234 from organizations that operate electronic prescribing networks,
235 the number of health care practitioners using electronic
236 prescribing and the number of prescriptions electronically
237 transmitted.

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

240 408.062 Research, analyses, studies, and reports.—

241 (1) The agency shall conduct research, analyses, and
242 studies relating to health care costs and access to and quality
243 of health care services as access and quality are affected by
244 changes in health care costs. Such research, analyses, and
245 studies shall include, but not be limited to:



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

249 (5) The agency shall develop and implement a strategy for
250 the adoption and use of electronic health records, including the
251 development, implementation, and use of a single statewide
252 infrastructure necessary for an electronic health information
253 network for the sharing of electronic health records among
254 health care facilities, health care providers, and health
255 insurers.

256 (a) The agency shall contract with a vendor who has
257 expertise in designing infrastructure that exchanges health
258 information through an integrated solution using network
259 security engineering which secures both the network and
260 sensitive health care information while empowering patients to
261 have control over how their information is shared. The
262 infrastructure must be interoperable with the established
263 National Health Information Network using national standards and
264 leveraging ongoing federal investments to ensure meaningful use
265 of health information. The infrastructure must be open source,
266 giving the highest priority to privacy, security, and
267 interoperability with existing and future electronic patient
268 medical records.

269 (b) The agency may develop rules to facilitate the
270 functionality and protect the confidentiality of electronic
271 health records. The agency shall report to the Governor, the
272 Speaker of the House of Representatives, and the President of
273 the Senate on legislative recommendations to protect the
274 confidentiality of electronic health records.



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

277 408.063 Dissemination of health care information.—

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

280 ~~(a) The contribution of health care dollars made by all~~
281 ~~payors.~~

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

284 (5)(6) ~~The staff of the Agency~~ staff may conduct or sponsor
285 consumer information and education seminars at locations
286 throughout the state and ~~may~~ hold public hearings to solicit
287 consumer concerns or complaints relating to health care costs
288 and make recommendations to the agency for study, action, or
289 investigation.

290
291 ===== T I T L E A M E N D M E N T =====

292 And the title is amended as follows:

293 Delete lines 2 - 40

294 and insert:

295 An act relating to electronic health information;
296 amending s. 408.05, F.S.; removing a statement of
297 legislative intent; removing certain restrictions on
298 the use of certain funds and fees received by the
299 Florida Center for Health Information and Policy
300 Analysis; revising provisions relating to the duties
301 and responsibilities of the State Consumer Health
302 Information and Policy Advisory Council; amending s.
303 408.051, F.S.; defining the terms "agency," "health



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304 care provider," and "health information exchange
305 participation agreement"; creating s. 408.0513, F.S.;
306 requiring the agency to develop uniform elements of a
307 Florida Health Information Exchange Participation
308 Agreement for use by health care providers; requiring
309 the agency to post the agreement on the agency's
310 Internet website; providing for immunity from civil
311 liability for accessing or releasing certain health
312 records; providing that health care providers are not
313 required to incorporate the uniform elements of the
314 agreement; creating s. 408.0514, F.S.; requiring the
315 agency to coordinate with regional extension centers
316 to implement the use of electronic health records;
317 authorizing the agency to establish guidelines for
318 center services and state Medicaid participation and
319 use of such services; amending s. 408.061, F.S.;
320 deleting a reference to an administrative rule
321 relating to certain data reported by health care
322 facilities; amending s. 408.0611, F.S.; revising
323 provisions relating to a clearinghouse on information
324 on electronic prescribing; requiring the State
325 Consumer Health Information and Policy Advisory
326 Council or a workgroup representing electronic
327 prescribing and other health information technology
328 stakeholders to participate in quarterly meetings on
329 the implementation of electronic prescribing;
330 requiring the agency to provide a report on the
331 agency's Internet website; amending s. 408.062, F.S.;
332 requiring the agency to post certain information on



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333 health care expenditures on the agency's Internet
334 website; directing the agency to contract for the
335 development of a single statewide infrastructure for
336 exchanging health information; amending s. 408.063,
337 F.S.; deleting the requirement that the agency
338 annually publish a report on state health
339 expenditures; providing an effective date.
340

341 WHEREAS, the use of electronic health information
342 technology has improved the quality of health care, and

343 WHEREAS, coordinating federally funded training and
344 outreach activities with a state-based health information
345 technology program will advance the adoption and meaningful use
346 of electronic health records, and

347 WHEREAS, the Agency for Health Care Administration is
348 responsible for developing a strategy for the implementation of
349 an electronic health information network in this state, NOW,
350 THEREFORE,