

By the Committees on Health and Human Services Appropriations;
Judiciary; and Health Regulation; and Senator Ring

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1 A bill to be entitled
2 An act relating to electronic health information;
3 amending s. 408.05, F.S.; revising provisions relating
4 to the duties and responsibilities of the State
5 Consumer Health Information and Policy Advisory
6 Council; amending s. 408.051, F.S.; defining the terms
7 "agency," "health care practitioner," and "health
8 information exchange participation agreement";
9 creating s. 408.0513, F.S.; requiring the agency to
10 develop uniform elements of a Florida Health
11 Information Exchange Participation Agreement for use
12 by health care providers; requiring the agency to post
13 the agreement on the agency's Internet website;
14 providing for immunity from civil liability for
15 accessing or releasing certain health records;
16 providing that health care providers are not required
17 to incorporate the uniform elements of the agreement;
18 creating s. 408.0514, F.S.; requiring the agency to
19 coordinate with regional extension centers to
20 implement the use of electronic health records;
21 authorizing the agency to establish guidelines for
22 center services and state Medicaid participation and
23 use of such services; amending s. 408.061, F.S.;
24 deleting a reference to an administrative rule
25 relating to certain data reported by health care
26 facilities; amending s. 408.0611, F.S.; revising
27 provisions relating to a clearinghouse on information
28 on electronic prescribing; requiring the State
29 Consumer Health Information and Policy Advisory

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30 Council or a workgroup representing electronic
31 prescribing and other health information technology
32 stakeholders to participate in quarterly meetings on
33 the implementation of electronic prescribing;
34 requiring the agency to provide a report on the
35 agency's Internet website; amending s. 408.062, F.S.;
36 requiring the agency to post certain information on
37 health care expenditures on the agency's Internet
38 website; directing the agency to contract for the
39 development of a single statewide infrastructure for
40 exchanging health information; amending s. 408.063,
41 F.S.; deleting the requirement that the agency
42 annually publish a report on state health
43 expenditures; providing an effective date.

44
45 WHEREAS, the use of electronic health information
46 technology has improved the quality of health care, and

47 WHEREAS, coordinating federally funded training and
48 outreach activities with a state-based health information
49 technology program will advance the adoption and meaningful use
50 of electronic health records, and

51 WHEREAS, the Agency for Health Care Administration is
52 responsible for developing a strategy for the implementation of
53 an electronic health information network in this state, NOW,
54 THEREFORE,

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Paragraph (h) of subsection (8) of section

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59 408.05, Florida Statutes, is amended to read:

60 408.05 Florida Center for Health Information and Policy
61 Analysis.—

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

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

66 1. Developing ~~To develop~~ a mission statement, goals, and a
67 plan of action for the identification, collection,
68 standardization, sharing, and coordination of health-related
69 data across federal, state, and local government and private
70 sector entities.

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

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

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

79 408.051 Florida Electronic Health Records Exchange Act.—

80 (2) DEFINITIONS.—As used in this section and ss. 408.0512-
81 408.0514, the term:

82 (a) "Agency" means the Agency for Health Care
83 Administration.

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

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88 ~~(j)(b)~~ "Qualified electronic health record" means an
89 electronic record of health-related information concerning an
90 individual which includes patient demographic and clinical
91 health information, such as medical history and problem lists,
92 and which has the capacity to provide clinical decision support,
93 to support physician order entry, to capture and query
94 information relevant to health care quality, and to exchange
95 electronic health information with, and integrate such
96 information from, other sources.

97 ~~(b)(e)~~ "Certified electronic health record technology"
98 means a qualified electronic health record that is certified
99 pursuant to s. 3001(c)(5) of the Public Health Service Act as
100 meeting standards adopted under s. 3004 of that ~~such~~ act which
101 are applicable to the type of record involved, such as an
102 ambulatory electronic health record for office-based physicians
103 or an inpatient hospital electronic health record for hospitals.

104 (d) "Health care practitioner" or "health care provider"
105 means any person licensed under chapter 457; chapter 458;
106 chapter 459; chapter 460; chapter 461; chapter 462; chapter 463;
107 chapter 464; chapter 465; chapter 466; chapter 467; part I, part
108 II, part III, part V, part X, part XIII, or part XIV of chapter
109 468; chapter 478; chapter 480; part III or part IV of chapter
110 483; chapter 484; chapter 486; chapter 490; or chapter 491.

111 (e) "Health information exchange participation agreement"
112 means a comprehensive, multiparty trust agreement that can be
113 used by health care providers and other organizations, both
114 public and private, that wish to participate in a health
115 information exchange network. The agreement provides the legal
116 framework that governs participation in the network by requiring

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117 the signatories to abide by a common set of terms and conditions
118 to support the secure, interoperable exchange of health care
119 data among authorized participants.

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

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

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

131 (i)~~(g)~~ "Patient representative" means a parent of a minor
132 patient, a court-appointed guardian for the patient, a health
133 care surrogate, or a person holding a power of attorney or
134 notarized consent appropriately executed by the patient granting
135 permission for ~~to~~ a health care facility or health care provider
136 to disclose the patient's health care information to that
137 person. In the case of a deceased patient, the term also means
138 the personal representative of the estate of the deceased
139 patient; the deceased patient's surviving spouse, surviving
140 parent, or surviving adult child; the parent or guardian of a
141 surviving minor child of the deceased patient; the attorney for
142 the patient's surviving spouse, parent, or adult child; or the
143 attorney for the parent or guardian of a surviving minor child.

144 Section 3. Section 408.0513, Florida Statutes, is created
145 to read:

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146 408.0513 Florida Health Information Exchange Participation
147 Agreement.—

148 (1) By July 1, 2011, the agency shall identify and describe
149 elements of a Florida Health Information Exchange Participation
150 Agreement (or Florida HIE Participation Agreement) for use by
151 health care providers and other organizations which specifies
152 the terms and conditions for the exchange of health information.

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

159 (3) A health care provider that participates in the
160 exchange of health information in reliance on a Florida HIE
161 Participation Agreement containing all of the uniform elements
162 does not violate any right of confidentiality and is immune from
163 civil liability for accessing or releasing an identifiable
164 health record under the agreement.

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

169 Section 4. Section 408.0514, Florida Statutes, is created
170 to read:

171 408.0514 Regional extension centers.—

172 (1) The agency shall coordinate with federally funded
173 regional extension centers operating in this state to increase
174 provider readiness in implementing the use of electronic health

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175 records in order to enable provider participation in health
176 information exchange and electronic prescribing, including, but
177 not limited to, readiness to prepare, use, and report
178 performance measures required to qualify for federal and state
179 electronic health record adoption incentive programs.

180 (2) The agency may establish guidelines for services
181 provided to Medicaid providers by regional extension centers and
182 conditions for state Medicaid participation and use of such
183 services.

184 Section 5. Paragraph (a) of subsection (1) of section
185 408.061, Florida Statutes, is amended to read:

186 408.061 Data collection; uniform systems of financial
187 reporting; information relating to physician charges;
188 confidential information; immunity.—

189 (1) The agency shall require the submission by health care
190 facilities, health care providers, and health insurers of data
191 necessary to carry out the agency's duties. Specifications for
192 data to be collected under this section shall be developed by
193 the agency with the assistance of technical advisory panels
194 including representatives of affected entities, consumers,
195 purchasers, and such other interested parties as may be
196 determined by the agency.

197 (a) Data submitted by health care facilities, including ~~the~~
198 facilities as defined in chapter 395, must ~~shall~~ include, but is
199 ~~are~~ not limited to: case-mix data;; patient admission and
200 discharge data;; hospital emergency department data, which
201 includes ~~shall include~~ the number of patients treated in the
202 hospital's emergency department and ~~of a licensed hospital~~
203 reported by patient acuity level;; data on hospital-acquired

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204 infections as specified by rule;; data on complications as
205 specified by rule;; data on readmissions as specified by rule,
206 which includes ~~with~~ patient and provider-specific identifiers;
207 ~~included;~~ actual charge data by diagnostic groups;; financial
208 data;; accounting data;; operating expenses;; expenses incurred
209 for rendering services to patients who cannot or do not pay;;
210 interest charges;; depreciation expenses based on the expected
211 useful life of the property and equipment involved;; and
212 demographic data. The agency shall adopt nationally recognized
213 risk adjustment methodologies or software consistent with the
214 standards of the Agency for Healthcare Research and Quality and
215 as selected by the agency for all data submitted under ~~as~~
216 ~~required by~~ this section. Data may be obtained from documents
217 such as, but not limited to: leases, contracts, debt
218 instruments, itemized patient bills, medical record abstracts,
219 and related diagnostic information. Reported data elements shall
220 be reported electronically, and ~~in accordance with rule 59E-~~
221 ~~7.012, Florida Administrative Code. Data submitted shall be~~
222 ~~certified by~~ the chief executive officer or an appropriate and
223 duly authorized representative or employee of the licensed
224 facility must certify that the information submitted is true and
225 accurate.

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

228 408.0611 Electronic prescribing clearinghouse.—

229 (3) The agency shall work in collaboration with private
230 sector electronic prescribing initiatives and relevant
231 stakeholders to create a clearinghouse of information on
232 electronic prescribing for health care practitioners, health

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233 care facilities, regional health information organizations,
234 health care consumers, ~~and pharmacies,~~ and regional extension
235 centers that promote adoption of electronic health records.
236 ~~These stakeholders shall include organizations that represent~~
237 ~~health care practitioners, organizations that represent health~~
238 ~~care facilities, organizations that represent pharmacies,~~
239 ~~organizations that operate electronic prescribing networks,~~
240 ~~organizations that create electronic prescribing products, and~~
241 ~~regional health information organizations.~~ Specifically, the
242 agency shall, ~~by October 1, 2007:~~

243 (a) Provide on its website:

244 1. Information regarding the process of electronic
245 prescribing and the availability of electronic prescribing
246 products, including no-cost or low-cost products;

247 2. Information regarding the advantages of electronic
248 prescribing, including using medication history data to prevent
249 drug interactions, prevent allergic reactions, and deter doctor
250 and pharmacy shopping for controlled substances;

251 3. Links to federal and private sector websites that
252 provide guidance on selecting an appropriate electronic
253 prescribing product; and

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

256 (b) Convene quarterly meetings of the State Consumer Health
257 Information and Policy Advisory Council or a workgroup
258 representing electronic prescribing and other health information
259 technology stakeholders to assess and accelerate the
260 implementation of electronic prescribing.

261 (4) Pursuant to s. 408.061, the agency shall monitor the

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262 implementation of electronic prescribing by health care
263 practitioners, health care facilities, and pharmacies. By
264 January 31 of each year, the agency shall report metrics on the
265 ~~progress of~~ implementation of electronic prescribing on the
266 agency's Internet website ~~to the Governor and the Legislature.~~
267 The information reported must ~~pursuant to this subsection~~ shall
268 include federal and private sector electronic prescribing
269 initiatives and, to the extent that data is readily available
270 from organizations that operate electronic prescribing networks,
271 the number of health care practitioners using electronic
272 prescribing and the number of prescriptions electronically
273 transmitted.

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

276 408.062 Research, analyses, studies, and reports.—

277 (1) The agency shall conduct research, analyses, and
278 studies relating to health care costs and access to and quality
279 of health care services as access and quality are affected by
280 changes in health care costs. Such research, analyses, and
281 studies shall include, but not be limited to:

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

285 (5) The agency shall develop and implement a strategy for
286 the adoption and use of electronic health records, including the
287 development, implementation, and use of a single statewide
288 infrastructure necessary for an electronic health information
289 network for ~~the sharing of~~ electronic health records among
290 health care facilities, health care providers, and health

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291 insurers.

292 (a) The agency shall contract with a vendor who has
293 expertise in designing infrastructure that exchanges health
294 information through an integrated solution using network
295 security engineering which secures both the network and
296 sensitive health care information while empowering patients to
297 have control over how their information is shared. The
298 infrastructure must be interoperable with the established
299 National Health Information Network using national standards and
300 leveraging ongoing federal investments to ensure meaningful use
301 of health information. The infrastructure must be open source,
302 giving the highest priority to privacy, security, and
303 interoperability with existing and future electronic patient
304 medical records.

305 (b) The agency may develop rules to facilitate the
306 functionality and protect the confidentiality of electronic
307 health records. The agency shall report to the Governor, the
308 Speaker of the House of Representatives, and the President of
309 the Senate on legislative recommendations to protect the
310 confidentiality of electronic health records.

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

313 408.063 Dissemination of health care information.—

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

316 ~~(a) The contribution of health care dollars made by all~~
317 ~~payors.~~

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

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320 (5)~~(6)~~ ~~The staff of the~~ Agency staff may conduct or sponsor
321 consumer information and education seminars at locations
322 throughout the state and ~~may~~ hold public hearings to solicit
323 consumer concerns or complaints relating to health care costs
324 and make recommendations to the agency for study, action, or
325 investigation.

326 Section 9. This act shall take effect July 1, 2010.