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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/04/2010	.	
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The Committee on Health Regulation (Gardiner) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
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:~~



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13 1. Developing ~~To develop~~ a mission statement, goals, and a
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 the agency's strategic plan for the adoption
19 and use of electronic health records, as specified in s.
20 408.062(5).

21 ~~3.2. Developing~~ ~~To develop~~ a review process that ensures ~~to~~
22 ~~ensure~~ cooperative planning among agencies that collect or
23 maintain health-related data.

24 ~~4.3. Establishing~~ ~~To create~~ ad hoc, issue-oriented
25 technical workgroups as needed ~~on an as-needed basis~~ to make
26 recommendations to the council.

27 Section 2. Subsection (2) of section 408.051, Florida
28 Statutes, is amended to read:

29 408.051 Florida Electronic Health Records Exchange Act.—

30 (2) DEFINITIONS.—As used in this section and ss. 408.0512-
31 408.0514, the term:

32 (a) "Agency" means the Agency for Health Care
33 Administration.

34 (b) ~~(e)~~ "Certified electronic health record technology"
35 means a qualified electronic health record that is certified
36 pursuant to s. 3001(c)(5) of the Public Health Service Act as
37 meeting standards adopted under s. 3004 of that ~~such~~ act which
38 are applicable to the type of record involved, such as an
39 ambulatory electronic health record for office-based physicians
40 or an inpatient hospital electronic health record for hospitals.

41 (c) ~~(a)~~ "Electronic health record" means a record of an



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42 individual's ~~a person's~~ medical treatment which is created by a
43 licensed health care provider and stored in an interoperable and
44 accessible digital format.

45 (d) "Health information exchange participation agreement"
46 means a comprehensive, multiparty trust agreement that can be
47 used by health care providers and other organizations, both
48 public and private, that wish to participate in a health
49 information exchange network. The agreement provides the legal
50 framework that governs participation in the network by requiring
51 the signatories to abide by a common set of terms and conditions
52 to support the secure, interoperable exchange of health care
53 data among authorized participants.

54 (e) ~~(d)~~ "Health record" means any information, recorded in
55 any form or medium, which relates to the past, present, or
56 future health of an individual for the primary purpose of
57 providing health care and health-related services.

58 (f) ~~(e)~~ "Identifiable health record" means a ~~any~~ health
59 record that identifies the patient or for ~~with respect to~~ which
60 there is a reasonable basis to believe the information can be
61 used to identify the patient.

62 (g) ~~(f)~~ "Patient" means an individual who has sought, is
63 seeking, is undergoing, or has undergone care or treatment in a
64 health care facility or by a health care provider.

65 (h) ~~(g)~~ "Patient representative" means a parent of a minor
66 patient, a court-appointed guardian for the patient, a health
67 care surrogate, or a person holding a power of attorney or
68 notarized consent appropriately executed by the patient granting
69 permission for ~~to~~ a health care facility or health care provider
70 to disclose the patient's health care information to that



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71 person. In the case of a deceased patient, the term also means
72 the personal representative of the estate of the deceased
73 patient; the deceased patient's surviving spouse, surviving
74 parent, or surviving adult child; the parent or guardian of a
75 surviving minor child of the deceased patient; the attorney for
76 the patient's surviving spouse, parent, or adult child; or the
77 attorney for the parent or guardian of a surviving minor child.

78 (i) ~~(b)~~ "Qualified electronic health record" means an
79 electronic record of health-related information concerning an
80 individual which includes patient demographic and clinical
81 health information, such as medical history and problem lists,
82 and which has the capacity to provide clinical decision support,
83 to support physician order entry, to capture and query
84 information relevant to health care quality, and to exchange
85 electronic health information with, and integrate such
86 information from, other sources.

87 Section 3. Section 408.0513, Florida Statutes, is created
88 to read:

89 408.0513 Florida Health Information Exchange Participation
90 Agreement.—

91 (1) By July 1, 2011, the agency shall identify and describe
92 elements of a Florida Health Information Exchange Participation
93 Agreement (or Florida HIE Participation Agreement) for use by
94 health care providers in the state which specifies the terms and
95 conditions for the exchange of health information.

96 (2) The agency shall adopt by rule the elements for a
97 Florida HIE Participation Agreement and make the uniform
98 elements available on the agency's Internet website, pursuant to
99 s. 408.05. The elements of the agreement must include a



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100 requirement to use the universal patient authorization form, as
101 provided in s. 408.051(4), when such form is adopted by rule.

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

108 (4) A health care provider is not required under this
109 section to incorporate one or more of the uniform elements
110 adopted and distributed by the agency in a Florida HIE
111 Participation Agreement.

112 Section 4. Section 408.0514, Florida Statutes, is created
113 to read:

114 408.0514 Regional extension centers.—

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

123 (2) The agency may establish guidelines for services
124 provided to Medicaid providers by regional extension centers and
125 conditions for state Medicaid participation and use of such
126 services.

127 Section 5. Paragraph (a) of subsection (1) of section
128 408.061, Florida Statutes, is amended to read:



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129 408.061 Data collection; uniform systems of financial
130 reporting; information relating to physician charges;
131 confidential information; immunity.—

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

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



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

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

171 408.0611 Electronic prescribing clearinghouse.—

172 (3) The agency shall work in collaboration with private
173 sector electronic prescribing initiatives and relevant
174 stakeholders to create a clearinghouse of information on
175 electronic prescribing for health care practitioners, health
176 care facilities, regional health information organizations,
177 health care consumers, and pharmacies, and regional extension
178 centers that promote adoption of electronic health records.
179 ~~These stakeholders shall include organizations that represent~~
180 ~~health care practitioners, organizations that represent health~~
181 ~~care facilities, organizations that represent pharmacies,~~
182 ~~organizations that operate electronic prescribing networks,~~
183 ~~organizations that create electronic prescribing products, and~~
184 ~~regional health information organizations. Specifically, the~~
185 agency shall, ~~by October 1, 2007:~~

186 (a) Provide on its website:



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187 1. Information regarding the process of electronic
188 prescribing and the availability of electronic prescribing
189 products, including no-cost or low-cost products;

190 2. Information regarding the advantages of electronic
191 prescribing, including using medication history data to prevent
192 drug interactions, prevent allergic reactions, and deter doctor
193 and pharmacy shopping for controlled substances;

194 3. Links to federal and private sector websites that
195 provide guidance on selecting an appropriate electronic
196 prescribing product; and

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

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

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



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216 transmitted.

217 Section 7. Paragraph (e) of subsection (1) of section
218 408.062, Florida Statutes, is amended to read:

219 408.062 Research, analyses, studies, and reports.—

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

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

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

230 408.063 Dissemination of health care information.—

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

233 ~~(a) The contribution of health care dollars made by all~~
234 ~~payors.~~

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

237 (5)(6) The staff of the Agency staff may conduct or sponsor
238 consumer information and education seminars at locations
239 throughout the state and ~~may~~ hold public hearings to solicit
240 consumer concerns or complaints relating to health care costs
241 and make recommendations to the agency for study, action, or
242 investigation.

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

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245 ===== T I T L E A M E N D M E N T =====

246 And the title is amended as follows:

247 Delete everything before the enacting clause

248 and insert:

249 A bill to be entitled

250 An act relating to electronic health information;
251 amending s. 408.05, F.S.; requiring the State Consumer
252 Health Information and Policy Advisory Council to
253 develop the Agency for Health Care Administration's
254 strategic plan relating to electronic health records;
255 amending s. 408.051, F.S.; defining the terms "agency"
256 and "health information exchange participation
257 agreement"; creating s. 408.0513, F.S.; requiring the
258 agency to develop uniform elements of a Florida Health
259 Information Exchange Participation Agreement for use
260 by health care providers; requiring the agency to post
261 the agreement on the agency's Internet website;
262 providing for immunity from civil liability for
263 accessing or releasing certain health records;
264 providing that health care providers are not required
265 to incorporate the uniform elements of the agreement;
266 creating s. 408.0514, F.S.; requiring the agency to
267 coordinate with regional extension centers to
268 implement the use of electronic health records;
269 authorizing the agency to establish guidelines for
270 center services and state Medicaid participation and
271 use of such services; amending s. 408.061, F.S.;

272 deleting a reference to an administrative rule
273 relating to certain data reported by health care



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274 facilities; amending s. 408.0611, F.S.; revising
275 provisions relating to a clearinghouse on information
276 on electronic prescribing; requiring the State
277 Consumer Health Information and Policy Advisory
278 Council or a workgroup representing electronic
279 prescribing and other health information technology
280 stakeholders to participate in quarterly meetings on
281 the implementation of electronic prescribing;
282 requiring the agency to provide a report on the
283 agency's Internet website; amending s. 408.062, F.S.;
284 requiring the agency to post certain information on
285 health care expenditures on the agency's Internet
286 website; amending s. 408.063, F.S.; deleting the
287 requirement that the agency annually publish a report
288 on state health expenditures; providing an effective
289 date.

290
291 WHEREAS, the use of electronic health information
292 technology has improved the quality of health care, and

293 WHEREAS, coordinating federally funded training and
294 outreach activities with a state-based health information
295 technology program will advance the adoption and meaningful use
296 of electronic health records, and

297 WHEREAS, the Agency for Health Care Administration is
298 responsible for developing a strategy for the implementation of
299 an electronic health information network in this state, NOW,
300 THEREFORE,