By the Committee on Health Regulation; and Senator Ring

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A bill to be entitled

An act relating to electronic health information; amending s. 408.05, F.S.; requiring the State Consumer Health Information and Policy Advisory Council to develop the Agency for Health Care Administration’s strategic plan relating to electronic health records; amending s. 408.051, F.S.; defining the terms “agency” and “health information exchange participation agreement”; creating s. 408.0513, F.S.; requiring the agency to develop uniform elements of a Florida Health Information Exchange Participation Agreement for use by health care providers; requiring the agency to post the agreement on the agency’s Internet website; providing for immunity from civil liability for accessing or releasing certain health records; providing that health care providers are not required to incorporate the uniform elements of the agreement; creating s. 408.0514, F.S.; requiring the agency to coordinate with regional extension centers to implement the use of electronic health records; authorizing the agency to establish guidelines for center services and state Medicaid participation and use of such services; amending s. 408.061, F.S.; deleting a reference to an administrative rule relating to certain data reported by health care facilities; amending s. 408.0611, F.S.; revising provisions relating to a clearinghouse on information on electronic prescribing; requiring the State Consumer Health Information and Policy Advisory

Council or a workgroup representing electronic prescribing and other health information technology stakeholders to participate in quarterly meetings on the implementation of electronic prescribing; requiring the agency to provide a report on the agency’s Internet website; amending s. 408.062, F.S.; requiring the agency to post certain information on health care expenditures on the agency’s Internet website; amending s. 408.063, F.S.; deleting the requirement that the agency annually publish a report on state health expenditures; providing an effective date.

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

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

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

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

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

2. Developing the agency’s strategic plan for the adoption and use of electronic health records, as specified in s. 408.062(5).

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

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

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

408.051 Florida Electronic Health Records Exchange Act.—

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

(a) “Agency” means the Agency for Health Care Administration.

(c)~~(a)~~ “Electronic health record” means a record of an individual’s ~~a person’s~~ medical treatment which is created by a licensed health care provider and stored in an interoperable and accessible digital format.

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

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

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

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

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

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

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

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

408.0513 Florida Health Information Exchange Participation Agreement.—

(1) By July 1, 2011, the agency shall identify and describe elements of a Florida Health Information Exchange Participation Agreement (or Florida HIE Participation Agreement) for use by health care providers in the state which specifies the terms and

conditions for the exchange of health information.

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

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

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

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

408.0514 Regional extension centers.—

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

(2) The agency may establish guidelines for services

provided to Medicaid providers by regional extension centers and conditions for state Medicaid participation and use of such services.

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

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

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

(a) Data submitted by health care facilities, including ~~the~~ facilities as defined in chapter 395, must ~~shall~~ include, but is ~~are~~ not limited to: case-mix data;~~,~~ patient admission and discharge data;~~,~~ hospital emergency department data, which includes ~~shall include~~ the number of patients treated in the hospital's emergency department and ~~of a licensed hospital~~ reported by patient acuity level;~~,~~ data on hospital-acquired infections as specified by rule;~~,~~ data on complications as specified by rule;~~,~~ data on readmissions as specified by rule, which includes ~~with~~ patient and provider-specific identifiers; ~~included,~~ actual charge data by diagnostic groups;~~,~~ financial data;~~,~~ accounting data;~~,~~ operating expenses;~~,~~ expenses incurred for rendering services to patients who cannot or do not pay;~~,~~

interest charges; ~~,~~ depreciation expenses based on the expected useful life of the property and equipment involved; ~~,~~ and demographic data. The agency shall adopt nationally recognized risk adjustment methodologies or software consistent with the standards of the Agency for Healthcare Research and Quality and as selected by the agency for all data submitted under ~~as required by~~ this section. Data may be obtained from documents such as, but not limited to: leases, contracts, debt instruments, itemized patient bills, medical record abstracts, and related diagnostic information. Reported data elements shall be reported electronically, and ~~in accordance with rule 59E-7.012, Florida Administrative Code. Data submitted shall be certified by~~ the chief executive officer or an appropriate and duly authorized representative or employee of the licensed facility must certify that the information submitted is true and accurate.

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

408.0611 Electronic prescribing clearinghouse.—

(3) The agency shall work in collaboration with private sector electronic prescribing initiatives and relevant stakeholders to create a clearinghouse of information on electronic prescribing for health care practitioners, health care facilities, regional health information organizations, health care consumers, ~~and~~ pharmacies, and regional extension centers that promote adoption of electronic health records. ~~These stakeholders shall include organizations that represent health care practitioners, organizations that represent health care facilities, organizations that represent pharmacies,~~

~~organizations that operate electronic prescribing networks, organizations that create electronic prescribing products, and regional health information organizations.~~ Specifically, the agency shall~~, by October 1, 2007~~:

(a) Provide on its website:

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

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

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

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

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

(4) Pursuant to s. 408.061, the agency shall monitor the implementation of electronic prescribing by health care practitioners, health care facilities, and pharmacies. By January 31 of each year, the agency shall report metrics on the ~~progress of~~ implementation of electronic prescribing on the agency’s Internet website ~~to the Governor and the Legislature~~. The information reported must ~~pursuant to this subsection shall~~

include federal and private sector electronic prescribing initiatives and, to the extent that data is readily available from organizations that operate electronic prescribing networks, the number of health care practitioners using electronic prescribing and the number of prescriptions electronically transmitted.

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

408.062 Research, analyses, studies, and reports.—

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

(e) Total health care expenditures in the state according to the sources of payment and the type of expenditure <u>shall be published on the agency’s Internet website</u>.

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

408.063 Dissemination of health care information.—

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

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

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

<u>(5)</u>~~(6)~~ ~~The staff of the~~ Agency <u>staff</u> may conduct or sponsor consumer information and education seminars at locations throughout the state and ~~may~~ hold public hearings to solicit

consumer concerns or complaints relating to health care costs and make recommendations to the agency for study, action, or investigation.

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