

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 1550

INTRODUCER: Senator Artiles

SUBJECT: Florida Center for Health Information and Technology

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Pre-meeting
2.			AP	
3.			RC	

I. Summary:

SB 1550 requires the Agency for Health Care Administration (AHCA) to contract with a vendor to investigate and report to the Legislature by March 1, 2018, on the development of systems that will use existing public and private health care data sources to provide health care providers with real-time access to information about their patients' health records, ensure that health care services are clinically appropriate, and ensure cost avoidance by eliminating duplicative and overused services. The provisions in this bill are repealed on July 1, 2018.

The bill takes effect July 1, 2017.

II. Present Situation:

Florida Center for Health Information and Transparency

The Florida Center, housed within the AHCA, collects, compiles, coordinates, analyzes, indexes, and disseminates health-related data and statistics.¹ The information and data it collects include:

- Health resources, including licensed health care practitioners, by specialty and type of practice;
- Health service inventories, acute care, long-term care, and other institutional care facilities and specific services provided by hospitals, nursing homes, home health agencies, and other licensed health care;
- Service utilization for licensed health care facilities;
- Health care costs and financing, including trends in health care prices and costs, the sources of payment for health care services, and federal, state, and local expenditures for health care;
- The extent of public and private health insurance coverage in this state; and

¹ Section 408.05(1), F.S.

- Specific quality-of-care initiatives involving various health care providers available to the public.²

The Florida Center makes all information available to the public through www.FloridaHealthFinder.gov.

Electronic Health Records

An electronic health record (EHR) is a record of a person's medical treatment which is created by a licensed health care practitioner and stored in an interoperable accessible digital format.³ The Health Insurance Portability and Accountability (HIPAA) Security Rule establishes national standards for the security and privacy of personal health information (PHI) that a covered entity creates, receives, maintains, or transmits in electric form.⁴ A covered entity must:

- Ensure the confidentiality, integrity, and availability of all electronic PHI it creates, receives, maintains, or transmits;
- Identify and protect against reasonably anticipated threats to security or integrity of the information;
- Protect against reasonably anticipated, impermissible uses or disclosures; and
- Ensure compliance of its workforce.⁵

The Florida Electronic Health Records Exchange Act

Section 408.051, F.S., establishes the Florida Health Records Exchange Act. The act requires a healthcare provider that receives an authorization form containing a request for the release of an identifiable health record to accept the form as a valid authorization to release the record.⁶ Any release of health information after the receipt of an authorization form completed and submitted as prescribed by the Agency for Health Care Administration (AHCA) creates a rebuttable presumption that the release was appropriate.⁷ Additionally, the act shields a health care provider that acts in good faith to release or access an identifiable health record without the patient's consent for the use in treatment of an emergency medical condition when the health care provider is unable to obtain the patient's or the patient's representative's consent when the patient requires immediate medical attention.⁸

In addition to the provisions contained within the Florida Electronic Health Records Exchange Act, s. 408.062(5), F.S., requires the AHCA to develop and implement a strategy for the adoption and use of electronic health records, including the development of an electronic health

² Section 408.05(2), F.S.

³ Section 408.051(2)(a), F.S.

⁴ HHS.gov, "The Security Rule," available <https://www.hhs.gov/hipaa/for-professionals/security/index.html> (last visited March 29, 2017). Covered entities include health care practitioners, health plans, and health care clearinghouses, as well of the business associates of these entities.

⁵ HHS.gov, "Summary of the HIPAA Security Rule," available at <https://www.hhs.gov/hipaa/for-professionals/security/laws-regulations/index.html> (last visited March 29, 2017).

⁶ Section 408.051(4)(c), F.S.

⁷ Section 408.051(4)(e), F.S.; however, pursuant to s. 408.051(4)(d), F.S., the use of the form adopted by the AHCA is not required to authorize release of protected health information.

⁸ Section 408.051(3), F.S.

information network for the sharing of electronic health records among health care facilities, health care providers, and health insurers.

Federal Requirements for the Meaningful Use of EHR

In order to qualify for EHR Incentive Programs⁹ offered by the Federal Centers for Medicare and Medicaid Services (CMS) hospitals and eligible professionals¹⁰ (EP) must attest to demonstrating the meaningful use of EHR. Meaningful use is defined as using EHR to:

- Improve quality, safety, efficiency, and reduce health disparities;
- Engage patients and family;
- Improve care coordination, and population and public health; and
- Maintain privacy and security of patient health information.

Meaningful use sets specific objectives that EPs and hospitals must achieve to qualify for incentives and these objectives have evolved in three stages over five years:

- Stage 1, from 2011-2012, included data capture and sharing;
- Stage 2, in 2014-2015, included advanced clinical processes; and
- Stage 3, in 2016, included improved outcomes.¹¹

Health Information Databases

A number of commercial products provide a health care practitioner with real time patient eligibility information, centralized claim filings, preauthorization services, and medical necessity validation.¹² However, the availability of such databases varies depending on geographic location, and the participating health insurers vary. The NORC at the University of Chicago¹³ is an independent research organization that performs ongoing work in health care delivery and financing, including access to insurance, payment, and delivery system reform, and offers expertise in acquiring and analyzing health care claims data and national health-related datasets.¹⁴ However, there is not a publicly accessible database that provides information on

⁹ For a description of the EHR Incentive Programs, see <https://www.healthit.gov/providers-professionals/ehr-incentive-programs>, (last visited on March 30, 2017).

¹⁰ Eligible professionals are doctors of medicine, osteopathy, dental surgery, dental medicine, podiatry, and optometry and chiropractors. See <https://www.cms.gov/regulations-and-guidance/legislation/ehrincentiveprograms/eligibility.html>, (last visited on March 30, 2017)

¹¹ See <https://www.healthit.gov/providers-professionals/meaningful-use-definition-objectives>, (last visited on March 30, 2017). For more details on the objectives see <https://www.healthit.gov/providers-professionals/how-attain-meaningful-use>, (last visited March 30, 2017).

¹² For example, see Ability Network, (<https://abilitynetwork.com/about/>); Transunion, Inc. (https://www.transunion.com/product/insurance-eligibility-verification?utm_source=Google&utm_medium=ppc&utm_keyword=%252Bhealthcare%2520%252Beligibility&utm_source=Google&utm_medium=cpc&utm_content=%252Bhealthcare%2520%252Beligibility&utm_campaign=628735576&gclid=CMHM4ryhz9ICFY4vgQodrZyBgQ); and SSI Group, Inc. (<http://thessigroup.com/access-management/>) (last visited March 29, 2017).

¹³ NORC at University of Chicago was originally founded as the National Opinion Research Center. Since the original name no longer reflected its mission and the global nature of its work, the business name was established as NORC (not an acronym) in 2010. See NORC at the University of Chicago, "About Our Name," available at <http://www.norc.org/Pages/about-our-name.aspx> (last visited March 29, 2017).

¹⁴ NORC at the University of Chicago, "Health Care," available at <http://www.norc.org/Research/Departments/Pages/health-care.aspx> (last visited March 10, 2017).

patient eligibility, claims data, and information regarding the clinical indications for the provision of specific medical services to a specific patient.

III. Effect of Proposed Changes:

SB 1550 amends s. 408.05, F.S., to require that the AHCA contract with a vendor to investigate and report to the Legislature on opportunities for, and best practices in, the development of systems that will leverage existing public and private health care data sources in order to:

- Provide health care providers with real-time access to information about their patients' health records, including public and private insurance eligibility, across delivery systems and geographic locations;
- Ensure that health care services, including Medicaid services, are clinically appropriate;
- Ensure cost avoidance through elimination of duplicative services and overutilization of services.

The bill requires that the AHCA submit the report to the Legislature by March 1, 2018 and its provisions are repealed on July 1, 2018.

The bill's provisions take effect on July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 1550 may have an indeterminate negative fiscal impact to the AHCA for contracting with a vendor to develop the report required in the bill.

VI. Technical Deficiencies:

The title for SB 1550 is “An act relating to the Florida Center for Health Information and Technology.” The actual title of the Florida Center is the “Florida Center for Health Information and Transparency.” The bill’s title should be amended to refer to the “Florida Center for Health Information and Transparency.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 408.05 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.