

CHAPTER 330

AN ACT concerning health information technology and supplementing Title 17B of the New Jersey Statutes and Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.26:1A-132 Short title.

1. This act shall be known and may be cited as the “New Jersey Health Information Technology Act.”

C.26:1A-133 Findings, declarations relative to health information technology.

2. The Legislature finds and declares that:

a. It is in the public interest for New Jersey residents to have all appropriate personal health information available to them and to their treating health care professionals in a medical office, hospital emergency room, other health care facility setting, or pharmacy;

b. Natural disasters and other public health emergencies have demonstrated the need for timely, secure, and accessible health information, in particular for our most vulnerable populations, including senior citizens, persons with disabilities, and those with limited financial means;

c. Health information technology has great potential as one means of furthering progress towards achieving affordable, safe, and accessible health care for all persons by: ensuring that health information is available at the point of care for all patients, while protecting the confidentiality and privacy of the information; improving safety, reducing medical errors, and avoiding duplicative and unnecessary medical tests and procedures; improving coordination of care among hospitals, clinics, nursing homes, home health agencies, pharmacies, and health care professionals; and providing consumers with their own health information in order to encourage greater participation in decisions concerning their own health care;

d. The federal Department of Health and Human Services has estimated that health information technology, in addition to improving the quality of chronic care management and reducing medical errors, could achieve potential savings of almost 10% of total health care spending in the United States;

e. The many different and conflicting standards for collecting and reporting personal health information within the health care community currently hinder the appropriate sharing of patient health care information, and health information technology can eliminate these different standards;

f. State leadership can promote public policy, encourage coordinated efforts in the private health care sector, further public and private partnerships, and maximize federal and regional financial participation, in support of adopting an electronic health information infrastructure;

g. It is desirable to implement an electronic health information infrastructure in the context of a Statewide health information technology plan that includes standards and protocols designed to promote patient education, patient privacy, physician best practices, electronic connectivity to health care data, and generally a more efficient and less costly means of delivering quality health care in New Jersey, in order to provide for an interoperative environment among health care providers, health care payers, employers, and patients in New Jersey;

h. It is time for this State to clearly and unequivocally move its public policy in the direction of establishing an electronic health information infrastructure through a vehicle that

provides for a collaborative planning and implementation strategy and includes the relevant public and private stakeholders in developing and achieving a sustainable model for an electronic health information network for New Jersey; and

i. In order to conserve and efficiently use funds for the effective delivery of quality medical care to all persons, it is the policy of the State to lessen the expenditure of resources on unnecessarily repeated medical tests, while maintaining the highest quality of medical care for our citizens.

C.26:1A-134 Definitions relative to health information technology.

3. As used in this act:

“Health information technology” means technology that is used to electronically collect, store, retrieve, and transfer clinical, administrative, and financial health information.

“Interoperative” means that entities are able to exchange data accurately, effectively, securely, and consistently with different information technology systems, software applications, and networks in such a way that the clinical or operational purposes and meaning of the data are preserved and unaltered.

“Office for e-HIT” means the Office for the Development, Implementation, and Deployment of Electronic Health Information Technology, established in the Department of Banking and Insurance, pursuant to section 8 of this act (C.17:1D-1).

“Plan” means the Statewide health information technology plan that is developed and implemented pursuant to this act.

C.26:1A-135 Statewide health care information infrastructure.

4. It is the public policy of this State to promote, encourage, facilitate, and support the development, utilization, and improvement of health information technology and electronic health records, including the effectuation of a secure, integrated and interoperative Statewide health care information infrastructure in accordance with a Statewide health information technology plan that is developed and implemented pursuant to this act.

C.26:1A-136 New Jersey Health Information Technology Commission.

5. a. There is established the New Jersey Health Information Technology Commission. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is established within the Department of Health and Senior Services, but, notwithstanding the establishment, the commission shall be independent of any supervision or control by the department or any board or officer thereof.

b. The commission shall collaborate with the Office for e-HIT established pursuant to section 8 of this act (C.17:1D-1), concerning all activities related to the development, implementation, and oversight of the plan.

The commission shall be responsible for approving the Statewide health information technology plan.

c. In providing advice on the development of the plan, the commission shall, at a minimum, consider the following:

(1) the importance of the education of the general public and health care professionals about the value of an electronic health infrastructure for improving the delivery of patient care;

(2) the means for the creation of an effective, efficient, Statewide use of electronic health information in patient care, health care policymaking, clinical research, health care financing, and continuous quality improvements;

(3) the means for the promotion of the use of national standards for the development of an interoperative system, including provisions relating to security, privacy, data content, structures and format, vocabulary, and transmission protocols;

(4) the nature of proper strategic investments in equipment and other infrastructure elements that will facilitate the ongoing development of a Statewide infrastructure;

(5) funding needs for the ongoing development of health information technology projects;

(6) actions needed to incorporate existing health care information technology initiatives into the plan in order to avoid incompatible systems and duplicative efforts;

(7) the proper means for the review and integration of the recommendations, findings, and conclusions of the New Jersey Health Information Security and Privacy Collaboration;

(8) the importance of recommending steps for the proper resolution of issues related to data ownership, governance, and confidentiality and security of patient information;

(9) the importance of promoting the deployment of health information technology in primary care provider settings; and

(10) the roles that the development and use of open-source electronic medical record software and the use of application service provider software can play in effectuating the purposes of paragraph (9) of this subsection.

d. The commission shall review the plan submitted by the Office for e-HIT and notify it of any changes needed to approve the plan.

C.26:1A-137 Membership of commission; terms; authority.

6. a. The New Jersey Health Information Technology Commission shall be comprised of 19 members as follows:

(1) the Commissioners of Health and Senior Services, Banking and Insurance, Children and Families, and Human Services, and the State Treasurer, or their designees, who shall serve ex officio; and

(2) 14 public members, who shall be appointed by the Governor no later than the 60th day after the effective date of this act, as follows: three physicians engaged in private practice in this State, one of whom is a pediatrician and one a psychiatrist; two persons who represent acute care hospitals in this State, one of whom represents a teaching hospital and the other a non-teaching hospital; a registered professional nurse practicing in this State; a pharmacist practicing in this State; a person who represents a clinical laboratory operating in this State; an attorney practicing in this State with demonstrated expertise in health privacy issues; a person who represents a health insurance carrier operating in this State; a person who represents a Quality Improvement Organization located in New Jersey that contracts with the federal Centers for Medicare and Medicaid Services to improve the efficiency and effectiveness, economy, and quality of services provided to Medicare beneficiaries; and three members of the public with a demonstrated professional expertise in issues relating to the work of the commission, including one member with expertise in electronic health information technology.

(3) The Governor shall designate a public member as chair of the commission.

b. The public members shall serve for a term of three years; except that, of the public members first appointed, five shall serve for a term of three years, five for a term of two years, and four for a term of one year. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

c. The commission shall organize as soon as may be practicable, but no later than the 45th day after the appointment of its members. The public members shall serve without

compensation, but may be reimbursed for necessary expenses incurred in the performance of their duties.

d. A majority of the total authorized membership of the commission shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the commission at any meeting of the commission by the affirmative vote of a majority of the quorum of the members who are present. A vacancy in the membership of the commission shall not impair the right of a quorum of the members to exercise all the powers and perform all the duties of the commission.

e. The commission shall meet and confer with the Office for e-HIT at least quarterly and may meet at other times at the call of the commission chair. The meetings of the commission shall comply with the provisions of the "Senator Byron M. Baer Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.).

f. In addition to any other powers authorized by law, the commission shall have the authority, in accordance with State law, to:

- (1) make and enter into contracts to purchase services and supplies;
- (2) develop and submit a proposed budget, not to exceed \$1 million annually;
- (3) apply for, receive, and expend grants from governmental or private nonprofit sources;
- (4) recommend to the Department of Banking and Insurance the necessary charges and assessments to be levied to collect payments from persons and entities for the provision of services or as the Office for e-HIT otherwise determines necessary to effectuate the purposes of this act;
- (5) receive and expend appropriations;
- (6) provide such other services and perform such other functions as the commission deems necessary to fulfill its responsibilities under this act; and
- (7) appoint, retain, or employ consultants on a contract basis or otherwise, who are deemed necessary, and as may be within the limits of funds appropriated or otherwise made available to it for its purposes.

g. In collaboration with the Office for e-HIT, the commission shall, no later than 18 months after its initial meeting and annually thereafter, submit a joint report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), concerning its activities and the status of, and actions taken regarding development, implementation, and oversight of the Statewide health information technology plan. The commission shall include in that report any findings and recommendations that it desires to make, along with any legislative bills that it desires to recommend for adoption by the Legislature.

h. The commission shall develop and submit a proposed budget to the Commissioner of Health and Senior Services to effectuate its duties as set forth in this act.

The budget shall be subject to approval by the Commissioner of Health and Senior Services.

i. The commission shall appoint a full-time executive director, who shall serve as secretary to the commission. The executive director shall serve at the pleasure of the commission and shall be qualified by training and experience to perform the duties of the position. The executive director shall be in the unclassified service of the Civil Service and may hire properly qualified employees, within the limits of funds appropriated or otherwise made available to the commission, who shall also be employed in the unclassified service of the Civil Service; except that employees performing stenographic or clerical duties shall be in the career service and appointed pursuant to Title 11A of the New Jersey Statutes.

C.26:1A-138 Certification of amount allocable to expenses of the commission.

7. The New Jersey Health Information Technology Commission shall annually, on or before October 1, certify to the State Treasurer and the Commissioner of Banking and Insurance an amount allocable to the expenses of the commission for the preceding fiscal year, not to exceed \$1 million annually, which amount shall be transferred to the commission by the State Treasurer from the amounts assessed and collected by the Department of Banking and Insurance pursuant to section 9 of P.L.2007, c.330 (C.17:1D-2).

C.17:1D-1 Office for e-HIT.

8. a. There is established in the Department of Banking and Insurance the Office for the Development, Implementation, and Deployment of Electronic Health Information Technology in New Jersey, to be known as the Office for e-HIT.

b. The Office for e-HIT, in collaboration with the Health Information Technology Commission, shall develop, implement, and oversee the operation of a Statewide health information technology plan. The plan shall provide for, but not be limited to, a mechanism designed to support the establishment of a secure, integrated, interoperative, and Statewide electronic health information infrastructure for the sharing of electronic health information and electronic health records among health care facilities, health care professionals, public and private payers, and patients, which complies with all State and federal privacy requirements and links all components of the health care delivery system through secure and appropriate exchanges of health information for the purpose of enhancing health care quality, patient safety, communication of patient information, disease management capabilities, patient and provider satisfaction, clinical and administrative cost reductions, fraud and abuse prevention and detection, and public health emergency preparedness. The plan shall also provide for the designation of a custodian for all protected health information that meets federal and State privacy and security laws and is accredited by a national standard setting organization recognized by the department.

c. The Office for e-HIT shall submit the plan to the Health Information Technology Commission for the commission's review and approval.

d. In collaboration with the commission, the Office for e-HIT shall, no later than 18 months after its initial meeting and annually thereafter, submit a joint report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), concerning its activities and the status, and actions taken regarding development, implementation, and oversight, of the Statewide health information technology plan. The office shall include in that report any findings and recommendations that it desires to make, along with any legislative bills that it desires to recommend for adoption by the Legislature.

C.17:1D-2 Funding of commission budget.

9. The Department of Banking and Insurance shall fund the approved budget of the commission established pursuant to section 6 of P.L.2007, c.330 (C.26:1A-137) from fines, sanctions, and civil penalties assessed by the department on entities regulated by the department pursuant to subtitle 3 of Title 17 of the Revised Statutes, Title 17B of the New Jersey Statutes, and P.L.1973, c.337 (C.26:2J-1 et seq.).

C.17:1D-3 Rules, regulations.

10. The Office for e-HIT in the Department of Banking and Insurance, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations necessary to effectuate the purposes of this act.

11. This act shall take effect on the 180th day after enactment; except that the Commissioner of Banking and Insurance may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of the act, and sections 5, 6, 7 and 9 of this act shall expire five years after the date of enactment.

Approved January 13, 2008.