

SECOND REGULAR SESSION

HOUSE BILL NO. 1579

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JONES.

4789H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 191.237, RSMo, and to enact in lieu thereof three new sections relating to health information organizations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 191.237, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 191.236, 191.237, and 191.238, to read as follows:

191.236. As used in sections 191.236 to 191.238, the following terms shall mean:

(1) "Approved health information organization", a health information organization approved under section 191.238;

(2) "Fine or penalty", any civil or criminal penalty or fine, tax, salary or wage withholding, or surcharge established by law or by rule promulgated by a state agency under chapter 536;

(3) "Health care system", any public or private entity whose function or purpose is the management, processing, or enrollment of individuals for or payment for, in full or in part, health care services, health care data, or health care information for its participants;

(4) "Health information organization", an organization that oversees and governs the exchange of health-related information among organizations according to nationally recognized standards.

191.237. 1. No law or rule promulgated by an agency of the state of Missouri may impose a fine or penalty against a health care provider, hospital, or health care system for failing to participate in any particular health information organization.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4 2. A health information organization shall not restrict the exchange of state agency data
5 or standards-based clinical summaries for patients for federal Health Insurance Portability and
6 Accountability Act (HIPAA) allowable uses. Charges for such service shall not exceed the cost
7 of the actual technology connection or recurring maintenance thereof.

8 3. [As used in this section, the following terms shall mean:

9 (1) "Fine or penalty", any civil or criminal penalty or fine, tax, salary or wage
10 withholding, or surcharge established by law or by rule promulgated by a state agency pursuant
11 to chapter 536;

12 (2) "Health care system", any public or private entity whose function or purpose is the
13 management of, processing of, or enrollment of individuals for or payment for, in full or in part,
14 health care services or health care data or health care information for its participants;

15 (3) "Health information organization", an organization that oversees and governs the
16 exchange of health-related information among organizations according to nationally recognized
17 standards.] **All approved health information organizations shall exchange standards-based
18 clinical summaries for patients and all clinical and claims data from any agency within the
19 state with all other approved health information organizations within the state. Failure to
20 exchange such information shall result in the suspension or revocation of approval status
21 by the Missouri health information exchange commission and the immediate termination
22 of any contracts, grants, and any other forms of state funding.**

23 4. **(1) The state, including all administrative agencies and departments, shall not
24 convey state designated entity status to any health information organization. The state
25 shall recognize all approved health information organizations as being equally eligible for
26 any financial support from the state, or assistance or support from the state in securing any
27 other source of funding. The state shall not exchange health information with any
28 nonapproved health information organization unless otherwise required by law.**

29 **(2) Only approved health information organizations shall be qualified to respond
30 to contracting procurement opportunities and shall be awarded contracts, subject to the
31 provisions of chapter 34, provided that, the state shall not award any contract to any health
32 information organization as a single feasible source vendor under section 34.044.**

33 **(3) Beginning August 28, 2016, all existing single feasible source vendor contracts
34 awarded to health information organizations operating within the state shall receive no
35 further appropriations.**

36 5. **The state shall not restrict the availability of or access to any state agency
37 sponsored data sets including, but not limited to, MO HealthNet patient level claims data
38 and MO HealthNet patient level clinical data to any approved health information
39 organization.**

40 **6. A health care provider or nonapproved health information organization may**
41 **disclose protected health information to any state agency for any public health purpose**
42 **that is required by law without authorization from the Missouri health information**
43 **exchange commission. Nothing in sections 191.236 to 191.238 shall be construed to limit**
44 **the use, transfer, or disclosure of protected health information as required or permitted**
45 **by the Health Insurance Portability and Accountability Act (HIPAA) or any other**
46 **provision of law.**

191.238. 1. There is hereby created a "Missouri Health Information Exchange
2 **Commission". The commission shall consist of seven members:**

- 3 **(1) One member of the senate appointed by the president pro tempore of the senate;**
- 4 **(2) One member of the house of representatives appointed by the speaker of the**
5 **house of representatives;**
- 6 **(3) The chair of the joint committee on administrative rules;**
- 7 **(4) One of which shall either be the chair of the house budget committee or the**
8 **chair of the senate appropriations committee on an annual revolving appointment;**
- 9 **(5) A primary care provider appointed by the speaker of the house of**
10 **representatives;**
- 11 **(6) A health systems representative; and**
- 12 **(7) A health information technology professional serving as a chief information**
13 **officer with an understanding of information sharing, Health Insurance Portability and**
14 **Accountability Act (HIPAA) regulations, and data security best practices appointed by the**
15 **president pro tempore of the senate.**

16
17 **The commission members shall be residents of Missouri and shall not have any common**
18 **membership with the entities and individuals appointed to the Missouri health information**
19 **technology advisory board, the Missouri health information organization board of**
20 **directors, the Missouri health connection board of directors, or any entities or individuals**
21 **appointed to any board of any health information organization with an interest in**
22 **providing health information exchange services within the state.**

23 **2. Commission members shall elect annually from the members a chairperson and**
24 **a vice-chairperson.**

25 **3. The term of office for each member of the commission shall coincide with the**
26 **term of his or her elected office if he or she is an elected official. The term of office for**
27 **nonelected members shall be three years, except that of the initial appointments, one**
28 **member shall be appointed for a term of one year and two members shall be appointed for**
29 **a term of two years. Any member may be removed from the commission if four or more**

30 members vote for his or her removal in any regularly held or scheduled emergency
31 meeting. Three months before the expiration of the term of an elected official member
32 appointed by the speaker of the house of representatives or the president pro tempore of
33 the senate, the speaker or the president pro tempore shall appoint a successor whose term
34 begins on January first of the following year. Three months before the expiration of the
35 term of any nonelected member, the members of the current commission shall submit
36 recommendations to the speaker of the house of representatives and the president pro
37 tempore of the senate to fill the position. All nonelected members shall be eligible for
38 reappointment. If there is a vacancy for an elected official member for any cause, the
39 speaker of the house of representatives and the president pro tempore of the senate shall
40 make an appointment to become effective immediately for the unexpired term. If there is
41 a vacancy for a nonelected member for any cause, the chairperson or vice-chairperson shall
42 call an emergency meeting and the commission shall make an appointment for the vacant
43 seat to become effective immediately for the unexpired term.

44 4. Each member of the commission shall serve without compensation but shall be
45 reimbursed for actual and necessary expenses incurred in the performance of his or her
46 duties.

47 5. The commission shall have the authority to:

48 (1) Develop a process by which a health information organization may receive
49 approval status from the commission. The approval process shall include compliance with
50 commonly and equally applied standards designed to ensure the following:

51 (a) Adherence to nationally recognized standards for interoperability between
52 approved health information organizations and the promotion of standards that allow data
53 to flow as seamlessly as possible between the approved health information organizations;

54 (b) Conduct operations in a transparent manner to promote consumer confidence;

55 (c) Adoption and adherence to rules promulgated by the commission regarding
56 access to and use and disclosure of protected health information maintained by or on an
57 approved health information organization;

58 (d) Financial and operational sustainability in the absence of state and federal
59 funding; and

60 (e) Maintenance of policies and procedures to address data security including
61 breaches, mandatory cyber-insurance coverage, data usage policies and guidelines, and
62 oversight processes and internal auditing practices for addressing data requests;

63 (2) Develop a process for the investigation of reported complaints and concerns
64 regarding an approved health information organization, as well as develop and impose the
65 appropriate proactive and remedial measures to address any identified deficiencies; and

66 **(3) Develop a process by which an approved health information organization shall**
67 **be reapproved at appropriate intervals, provided that, the health information organization**
68 **demonstrates continuing compliance with the approval standards under subdivision (1) of**
69 **this subsection. The reapproval process shall include the following:**

70 **(a) An application for reapproval that shall be mailed to each previously approved**
71 **health information organization in the state at its last known address. Failure to receive**
72 **the application form shall not relieve a health information organization of the duty to apply**
73 **for reapproval or the duty to pay any applicable application fees. The application shall**
74 **include, but not be limited to, disclosure of the following:**

75 **a. The applicant organization's name and office address;**

76 **b. A listing of all connections with approved health information organizations in**
77 **this state for the purpose of exchanging standards-based clinical summaries for patients**
78 **and all clinical and claims data from any agency within the state;**

79 **c. The presence of any past or current data security issues and breaches;**

80 **d. Proof of mandatory cyber-insurance coverage;**

81 **e. Copies of all data usage policies and guidelines;**

82 **f. A description of oversight processes and internal auditing processes;**

83 **g. Cash flow projections for the next two years depicting all forms of revenues and**
84 **expenses; and**

85 **h. Financial documents including the most recent audited financial statement, the**
86 **most recent monthly income and balance sheet, and the most recent profit-loss statement;**

87 **(b) Failure to apply for reapproval status by the deadline set by the commission**
88 **shall be cause for immediate suspension of approved status; and**

89 **(c) The commission shall establish application fees as deemed necessary to sustain**
90 **essential administrative functions.**

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