

HOUSE SUBSTITUTE AMENDMENT NO. _____

for

HOUSE _____ AMENDMENT NO. _____

Offered By

AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 580, Page 23,
Section 191.116, Line 59, by inserting after all of said line the following:

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

(1) "Health information exchange activities", the electronic exchange of individually identifiable information among unaffiliated organizations according to nationally recognized standards. The following activities are not considered "health information exchange activities":

(a) Electronic exchange of individually identifiable information among unaffiliated organizations solely for the purposes of an organized health care arrangement as defined under the HIPAA Laws; and

(b) Electronic exchange of individually identifiable information among unaffiliated organizations solely for research purposes;

(2) "Health information organization", any organization that oversees and governs health information exchange activities and whose data centers are located in the United States;

(3) "HIPAA laws", the Health Insurance Portability and Accountability Act of 1996, as amended, the Health Information Technology for Economic and Clinical Health Act, as amended, and implementing regulations;

(4) "Individual", the person who is the subject of the individually identifiable information;

(5) "Individually identifiable information", any information that identifies an individual or there is a reasonable basis to believe can be used to identify the individual including, but not limited to, information created or received by health care providers, health benefit plans, organizations providing social services or assessing social determinants of health, and organizations that provide services to or on behalf of any of the foregoing and health care clearinghouses, and relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual;

(6) "Participant", an individual or entity who accesses, uses, or discloses individually identifiable information through a health information exchange operated by a health information organization including, but not limited to, health care providers, health benefit plans, organizations providing social services or assessing social determinants of health, and organizations that provide services to or on behalf of any of the foregoing.

191.238 1. (1) Notwithstanding any other provision of law to the contrary, any participant

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1 may disclose, access, or use individually identifiable information through a health information
 2 exchange operated by a health information organization pursuant to this chapter and in accordance
 3 with applicable federal laws including, but not limited to, the HIPAA laws, without obtaining
 4 individual consent or authorization.

5 (2) Except as otherwise provided in state or federal law, an individual has the right to opt
 6 out of having the individual's individually identifiable information accessible through a health
 7 information exchange operated by a health information organization under this chapter.

8 (3) A health information organization shall implement policies that meet the requirements
 9 under the HIPAA laws governing the privacy and security of individually identifiable information
 10 that is accessible through the health information exchange.

11 (4) All participants in a health information organization under this section shall comply with
 12 the HIPAA laws, if such participant is subject to the HIPAA laws, and all policies and procedures of
 13 the health information organization with respect to the health information exchange.

14 (5) To the extent any provision of state law, rule or regulation is contrary to, or is more
 15 stringent than the provisions of this section, the provisions of this section shall control with respect
 16 to a participant's disclosure, access, or use of individually identifiable information through a health
 17 information exchange operated by a health information organization under this section.

18 (6) This section shall not limit, change, or otherwise affect the use or disclosure of
 19 individually identifiable information outside of a health information exchange operated by a health
 20 information organization under this section.

21 2. (1) Participants shall maintain a written notice of privacy practices for the health
 22 information exchange that describes all of the following:

23 (a) The categories of individually identifiable information that are accessible through the
 24 health information exchange;

25 (b) The purposes for which access to individually identifiable information is provided
 26 through the health information exchange;

27 (c) Except as otherwise provided in state or federal law, that an individual has the right to
 28 opt out of having the individual's individually identifiable information accessible through the health
 29 information exchange; and

30 (d) An explanation as to how an individual may opt out of having the individual's
 31 individually identifiable information accessible through the health information exchange.

32 (2) The notice of privacy practices maintained by participants may reference a publicly
 33 accessible website or websites that contain some or all of the information described in subdivision
 34 (1) of this subsection, such as a current list of participants and the permitted purposes for accessing
 35 individually identifiable information through the health information exchange.

36 (3) Participants shall post their current notice of privacy practices on its website in a
 37 conspicuous manner.

38 3. (1) A health information organization shall not be considered a health care provider, as
 39 that term is defined in section 538.205, based on its health information exchange activities and shall
 40 not be subject to liability for damages or costs of any nature, in law or in equity, arising out of
 41 chapter 538 and the common law of Missouri when carrying out health information exchange
 42 activities pursuant to this section.

43 (2) Participants in a health information exchange operated by a health information
 44 organization pursuant to this chapter shall not be liable in any action for damages or costs of any
 45 nature, in law or equity, which result solely from that participant's use or failure to use the health
 46 information exchange or participant's disclosure of individually identifiable information through the
 47 health information exchange in accordance with the requirements of this chapter.

48 (3) No person shall be subject to antitrust or unfair competition liability based solely on
 49 participation in a health information exchange operated by a health information organization under

1 this chapter and performs health information exchange activities under this section.

2 (4) All employees, officers, and members of the governing board of a health information
 3 organization that operates a health information exchange under this chapter, whether temporary or
 4 permanent, shall not be subject to and shall be immune from any claim, suit, liability, damages, or
 5 any other recourse, civil or criminal, arising from any act or proceeding, decision, or determination
 6 undertaken, performed, or reached in good faith and without malice by any such member or
 7 members acting individually or jointly in carrying out the responsibilities, authority, duties, powers,
 8 and privileges of the offices conferred by law upon them under this chapter, or any other state law,
 9 or policies and procedures of the health information exchange, good faith being presumed until
 10 proven otherwise, with malice required to be shown by a complainant.

11 (5) Individually identifiable information accessible through a health information exchange
 12 operated by a health information organization under this chapter is not subject to discovery,
 13 subpoena, or other means of legal compulsion for the release of such individually identifiable
 14 information to any person or entity. Such a health information organization shall not be compelled
 15 by a request for production, subpoena, court order, or otherwise, to disclose individually identifiable
 16 health information."; and

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 18 Further amend said bill, Page 35, Section 195.070, Line 26, by inserting after the word "prescribed"
 19 the words "as authorized by federal law"; and

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 21 Further amend said bill, Pages 68-71, Section 376.455, Lines 1-103, by removing all of said section
 22 and lines from the bill; and

23
 24 Further amend said bill, Page 71, Section 376.1345, Line 29, by inserting after all of said section
 25 and line the following:

26
 27 "376.1578. 1. Within two working days after receipt of a [~~faxed or mailed completed~~]
 28 credentialing application, the health carrier shall send a notice of receipt to the practitioner. A
 29 health carrier shall provide access to a provider web portal that allows the practitioner to receive
 30 notice of the status of an electronically submitted application.

31 2. If a health carrier determines the application is not a completed application the health
 32 carrier shall have ten days from the date of the notice of receipt in subsection 1 of this section to
 33 request any additional information from the practitioner. The application shall be considered a
 34 completed application upon receipt of the requested additional information from the practitioner.
 35 Within two working days of receipt of the requested additional information, the health carrier shall
 36 send a notice to the practitioner informing them that they have submitted a completed application.
 37 If the health carrier does not request additional information, the application shall be deemed
 38 completed as of the date of the notice of receipt required by subsection 1 of this section.

39 3. A health carrier shall assess a health care practitioner's completed credentialing
 40 [~~information~~] application and make a decision as to whether to approve or deny the practitioner's
 41 credentialing application and notify the practitioner of such decision within sixty [~~business~~] days of
 42 the date of receipt of the completed application. The sixty-day deadline established in this section
 43 shall not apply if the application or subsequent verification of information indicates that the
 44 practitioner has:

45 (1) A history of behavioral disorders or other impairments affecting the practitioner's ability
 46 to practice, including but not limited to substance abuse;

47 (2) Licensure disciplinary actions against the practitioner's license to practice imposed by
 48 any state or territory or foreign jurisdiction;

49 (3) Had the practitioner's hospital admitting or surgical privileges or other organizational

1 credentials or authority to practice revoked, restricted, or suspended based on the practitioner's
2 clinical performance; or

3 (4) A judgment or judicial award against the practitioner arising from a medical malpractice
4 liability lawsuit.

5 4. If a practitioner's application is approved, the health carrier shall provide payments for
6 covered health services performed by the practitioner during the credentialing period if the provision
7 of services were on behalf of an entity that had a contract with such health carrier during the
8 Credentialing Period. The contracted entity for whom the practitioner is providing services shall
9 submit to the health carrier all claims for services provided by such practitioner during the
10 credentialing period, within six months after the health carrier has approved that practitioner's
11 credentialing application. Claims submitted for reimbursement under this section shall be sent to
12 the carrier by the provider in a single request or as few requests as practical subject to any technical
13 constraints or other issues out of the contracted provider's control. "Credentialing Period" shall
14 mean the time between the date the practitioner submits a completed application to the health carrier
15 to be credentialed and the date the practitioner's credentialing is approved by the health carrier.

16 5. A health carrier shall not require a practitioner to be credentialed in order to receive
17 payments for covered health services if the practitioner is providing coverage for an absent
18 credentialed practitioner during a temporary period of time not to exceed sixty days. Any
19 practitioner authorized to receive payments for covered services under this section shall provide
20 notice to the health carrier, including but not limited to name, medical license information,
21 estimated duration of absence, and practitioner's name and medical license information providing
22 coverage for such absent credentialed practitioner. A health carrier may deny payments if the
23 practitioner providing services in lieu of the credentialed provider meets one of the conditions in
24 subdivisions 1 to 4 in subsection 3 of this section.

25 6. For the purposes of this section "covered health services" shall mean any services
26 provided by a practitioner that would otherwise be covered if provided by a credentialed provider.

27 7. All claims eligible for payment as described in subsections 4 and 5 of this section shall be
28 subject to section 376.383.

29 [3] 8. The department of commerce and insurance shall establish a mechanism for reporting
30 alleged violations of this section to the department."; and

31
32 Further amend said bill, Page 73, Section 579.076, Line 12, by inserting after all of said line the
33 following:

34
35 ~~"[191.237. 1. No law or rule promulgated by an agency of the~~
36 ~~state of Missouri may impose a fine or penalty against a health care~~
37 ~~provider, hospital, or health care system for failing to participate in~~
38 ~~any particular health information organization.~~

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

45 ~~3. As used in this section, the following terms shall mean:~~

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

49 ~~(2) "Health care system", any public or private entity whose~~

1 function or purpose is the management of, processing of, or
2 enrollment of individuals for or payment for, in full or in part, health
3 care services or health care data or health care information for its
4 participants;

5 (3) ~~"Health information organization", an organization that oversees and governs the exchange of~~
6 ~~health-related information among organizations according to nationally recognized standards.]"~~; and

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8 Further amend said bill by amending the title, enacting clause, and intersectional references
9 accordingly.

10
11 THIS AMENDMENT SUBSTITUTES FOR 3142H06.32H