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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- RHODE ISLAND INFORMATION
EXCHANGE ACT OF 2008

Introduced By: Senators Nesselbush, Miller, P Fogarty, Metts, and Walaska

Date Introduced: February 11, 2016

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-37.7-3, 5-37.7-4, 5-37.7-5 and 5-37.7-6 of the General Laws in
2 Chapter 5-37.7 entitled "Rhode Island Health Information Exchange Act of 2008" are hereby
3 amended to read as follows:

4 **5-37.7-3. Definitions.** -- As used in this chapter:

5 (a) "Agency" means the Rhode Island department of health.

6 (b) "Authorized representative" means:

7 (1) A person empowered by the patient participant to assert or to waive the
8 confidentiality, or to disclose or authorize the disclosure of confidential information, as
9 established by this chapter. That person is not, except by explicit authorization, empowered to
10 waive confidentiality or to disclose or consent to the disclosure of confidential information; or

11 (2) A person appointed by the patient participant to make health care decisions on his or
12 her behalf through a valid durable power of attorney for health care as set forth in Rhode Island
13 general laws § 23-4.10-2; or

14 (3) A guardian or conservator, with authority to make health care decisions, if the patient
15 participant is decisionally impaired; or

16 (4) Another legally appropriate medical decision maker temporarily if the patient
17 participant is decisionally impaired and no health care agent, guardian or conservator is available;

18 or

1 (5) If the patient participant is deceased, his or her personal representative or, in the
2 absence of that representative, his or her heirs-at-law; or

3 (6) A parent with the authority to make health care decisions for the parent's child.

4 (c) "Authorization form" means the form described in § 5-37.7-7 of this chapter and by
5 which a patient participant provides authorization for the RHIO to allow access to, review of,
6 and/or disclosure of the patient participant's confidential health care information by electronic,
7 written or other means.

8 (d) "Business associate" means a business associate as defined by HIPAA.

9 (e) "Confidential health care information" means all information relating to a patient
10 participant's health care history, diagnosis, condition, treatment, or evaluation.

11 (f) "Coordination of care" means the process of coordinating, planning, monitoring,
12 and/or sharing information relating to and assessing a care plan for treatment of a patient.

13 (g) "Data submitting partner" means an individual, organization or entity that has entered
14 into a business associate agreement with the RHIO and submits patient participants' confidential
15 health care information through the HIE.

16 (h) "Department of health" means the Rhode Island department of health.

17 (i) "Disclosure report" means a report generated by the HIE relating to the record of
18 access to, review of and/or disclosure of a patient's confidential health care information received,
19 accessed or held by the HIE.

20 (j) "Electronic health record (EHR)" means a digital version of a patient's medical record
21 that makes information available instantly and securely to authorized users and that is capable of
22 being shared with more than one health care provider.

23 ~~(k)~~ (k) "Electronic mobilization" means the capability to move clinical information
24 electronically between disparate health care information systems while maintaining the accuracy
25 of the information being exchanged.

26 ~~(l)~~ (l) "Emergency" means the sudden onset of a medical, mental or substance abuse or
27 other condition manifesting itself by acute symptoms of severity (e.g. severe pain) where the
28 absence of medical attention could reasonably be expected, by a prudent lay person, to result in
29 placing the patient's health in serious jeopardy, serious impairment to bodily or mental functions,
30 or serious dysfunction of any bodily organ or part.

31 ~~(m)~~ (m) "Health care provider" means any person or entity licensed by this state to provide
32 or lawfully providing health care services, including, but not limited to, a physician, hospital,
33 intermediate care facility or other health care facility, dentist, nurse, optometrist, podiatrist,
34 physical therapist, psychiatric social worker, pharmacist or psychologist, and any officer,

1 employee, or agent of that provider acting in the course and scope of his or her employment or
2 agency related to or supportive of health care services.

3 ~~(m)~~(n) "Health care services" means acts of diagnosis, treatment, medical evaluation,
4 referral or counseling or any other acts that may be permissible under the health care licensing
5 statutes of this state.

6 ~~(m)~~(o) "Health Information Exchange" or "HIE" means the technical system operated, or
7 to be operated, by the RHIO under state authority allowing for the statewide electronic
8 mobilization of confidential health care information, pursuant to this chapter.

9 ~~(e)~~(p) "HIE Advisory Commission" means the advisory body established by the
10 department of health in order to provide community input and policy recommendations regarding
11 the use of the confidential health care information of the HIE.

12 ~~(e)~~(q) "HIPAA" means the health insurance portability and accountability act of 1996, as
13 amended.

14 (r) "Interoperability" means the extent to which a health care provider's systems and
15 devices can exchange electronic health records with other health care providers. Interoperability
16 includes the creation of the infrastructure needed for such exchanges within the HIE, and the use
17 of uniform standards for interactions between applications, communication between systems, the
18 processing and management of information, and the integration of consumer devices with other
19 systems and applications.

20 ~~(e)~~(s) "Participant" means a patient participant, a patient participant's authorized
21 representative, a provider participant, a data submitting partner, the regional health information
22 organization and the department of health, that has agreed to authorize, submit, access and/or
23 disclose confidential health care information via the HIE in accordance with this chapter.

24 ~~(e)~~(t) "Participation" means a patient participant's authorization, submission, access
25 and/or disclosure of confidential health care information via the HIE in accordance with this
26 chapter.

27 ~~(s)~~(u) "Patient participant" means a person who receives health care services from a
28 provider participant and has agreed to participate in the HIE through the mechanisms established
29 in this chapter.

30 ~~(e)~~(v) "Provider participant" means a pharmacy, laboratory or health care provider who is
31 providing health care services to a patient participant and/or is submitting or accessing health care
32 information through the HIE and has executed an electronic and/or written agreement regarding
33 disclosure, access, receipt, retention or release of confidential health care information to the HIE;

34 ~~(e)~~(w) "Regional health information organization" or "RHIO" means the organization

1 designated as the RHIO by the state to provide administrative and operational support to the HIE.

2 [\(x\) "Semantic interoperability" means the ability to intercalate inbound data from external](#)
3 [sources into an existing EHR.](#)

4 **5-37.7-4. Participation in the health information exchange.** -- (a) There shall be
5 established a statewide HIE under state authority to allow for the electronic mobilization of
6 confidential health care information in Rhode Island. Confidential health care information may
7 only be accessed, released or transferred from the HIE in accordance with this chapter.

8 (b) The state of Rhode Island has an interest in encouraging participation in the HIE by
9 all interested parties, including, but not limited to, health care providers, patients, entities
10 submitting information to the HIE, entities obtaining information from the HIE and the RHIO.
11 The Rhode Island department of health is also considered a participant for public health purposes.

12 (c) Patients and health care providers shall have the choice to participate in the HIE, as
13 defined by regulations in accordance with § 5-37.7-3, provided, however, that provider
14 participants must continue to maintain their own medical record meeting the documentation and
15 other standards imposed by otherwise applicable law.

16 (d) Participation in the HIE shall have no impact on the content of or use or disclosure of
17 confidential health care information of patient participants that is held in locations other than the
18 HIE. Nothing in this chapter shall be construed to limit, change or otherwise affect entities' rights
19 to exchange confidential health care information in accordance with other applicable laws.

20 (e) The state of Rhode Island hereby imposes on the HIE and the RHIO as a matter of
21 state law, the obligation to maintain, and abide by the terms of, HIPAA complaint business
22 associate agreements, including, without limitation, the obligations to use appropriate safeguards
23 to prevent use or disclosure of confidential health care information in accordance with HIPAA
24 and this chapter, not to use or disclose confidential health care information other than as
25 permitted by HIPAA and this chapter, or to make any amendment to a confidential health care
26 record that a provider participant so directs and to respond to a request by a patient participant to
27 make an amendment to the patient participant's confidential health care record.

28 [\(f\) In furtherance of the goal of participation by all interested parties, the HIE advisory](#)
29 [commission shall provide its feedback to the department of health and the RHIO regarding the](#)
30 [establishment of standards and infrastructure needed for statewide EHR interoperability. EHRs](#)
31 [should facilitate semantic interoperability across all health care provider venues, which means not](#)
32 [only allowing providers to export data, but also to properly incorporate external data from other](#)
33 [systems.](#)

34 **5-37.7-5. Regulatory oversight.** -- (a) The director of the department of health shall

1 develop regulations regarding the confidentiality of patient participant information received,
2 accessed or held by the HIE and is authorized to promulgate such other regulations as the director
3 deems necessary or desirable to implement the provisions of this chapter, in accordance with the
4 provisions set forth in chapter 17 of title 23 and chapter 35 of title 42 of the general laws.

5 (b) The department of health has exclusive jurisdiction over the HIE, except with respect
6 to the jurisdiction conferred upon the attorney general in § 5-37.7-13. This chapter shall not apply
7 to any other private and/or public health information systems utilized within a health care
8 provider or other organization that provides health care services.

9 (c) The department of health shall promulgate rules and regulations for the establishment
10 of an HIE advisory commission that will be responsible for recommendations relating to the use
11 of, and appropriate confidentiality protections for, the confidential health care information of the
12 HIE, subject to regulatory oversight by the department of health. [The HIE advisory commission](#)
13 [shall consider the interoperability strategic plan developed by the Rhode Island quality institute,](#)
14 [and present its review to the department of health and the RHIO regarding the implementation of](#)
15 [national interoperability standards statewide and the infrastructure required to support the](#)
16 [statewide electronic exchange and use of confidential health care information in a secure, private](#)
17 [and accurate manner across all EHR systems. Such strategic plan shall include provisions for](#)
18 [maintaining a reliable method of identity management across EHR systems, as well as the need](#)
19 [for semantic interoperability, and a detailed plan for protecting the systems from security](#)
20 [breaches.](#) Said commission members shall be subject to the advice and consent of the senate. The
21 commission shall report annually to the department of health and the RHIO, and such report shall
22 be made public.

23 **5-37.7-6. Rhode Island health information organization.** -- The RHIO shall, subject to
24 and consistent with department regulations and contractual obligations it has with the state of
25 Rhode Island, be responsible for implementing recognized national standards for interoperability
26 and all administrative, operational, and financial functions to support the HIE, including, but not
27 limited to, implementing and enforcing policies for receiving, retaining, safeguarding and
28 disclosing confidential health care information as required by this chapter. The RHIO is deemed
29 to be the steward of the confidential health care information for which it has administrative
30 responsibility. The HIE advisory commission shall be responsible for [considering the strategic](#)
31 [plan regarding EHR interoperability developed by the Rhode Island quality institute and](#)
32 [presenting its review recommendations](#) to the department of health, and in consultation with the
33 RHIO ~~regarding~~ [consider](#) the use of the confidential health care information [and the needed](#)
34 [infrastructure and use of national standards for EHR interoperability across the state.](#)

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO BUSINESSES AND PROFESSIONS -- RHODE ISLAND INFORMATION
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1 This act would charge the health information exchange advisory commission with
2 developing a strategic plan and making recommendations to the department of health and the
3 regional health information organization regarding the standards and infrastructure needed for the
4 interoperability of electronic health record systems.

5 This act would take effect upon passage.

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