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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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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, P Fogarty, Lombardi, Quezada, and Crowley

Date Introduced: February 01, 2017

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.**

5           As used in this chapter:

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

7           (b) "Authorized representative" means:

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

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

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

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

1 or

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

4 (6) A parent with the authority to make health care decisions for the parent's child; or

5 (7) A person authorized by the patient participant or their authorized representative to  
6 access their confidential health care information from the HIE, including family members or other  
7 proxies as designated by the patient, to assist patient participant with the coordination of their  
8 care.

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

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

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

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

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

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

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

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

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

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

1 or serious dysfunction of any bodily organ or part.

2 ~~(m)~~(m) "Health care provider" means any person or entity licensed by this state to provide  
3 or lawfully providing health care services, including, but not limited to, a physician, hospital,  
4 intermediate care facility or other health care facility, dentist, nurse, optometrist, podiatrist,  
5 physical therapist, psychiatric social worker, pharmacist or psychologist, and any officer,  
6 employee, or agent of that provider acting in the course and scope of his or her employment or  
7 agency related to or supportive of health care services.

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

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

14 ~~(p)~~(p) "Health plan" means an individual plan or a group plan that provides, or pays the  
15 cost of, health care services for patient participants.

16 ~~(q)~~(q) "HIE Advisory Commission" means the advisory body established by the  
17 department of health in order to provide community input and policy recommendations regarding  
18 the use of the confidential health care information of the HIE.

19 ~~(r)~~(r) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996,  
20 as amended.

21 (s) "Interoperability" means the extent to which a health care provider's systems and  
22 devices can exchange electronic health records with other health care providers. Interoperability  
23 includes the creation of the infrastructure needed for such exchanges within the HIE, and the use  
24 of uniform standards for interactions between applications, communication between systems, the  
25 processing and management of information, and the integration of consumer devices with other  
26 systems and applications.

27 ~~(t)~~(t) "Participant" means a patient participant, a patient participant's authorized  
28 representative, a provider participant, a data submitting partner, the regional health information  
29 organization, and the department of health, that has agreed to authorize, submit, access, and/or  
30 disclose confidential health care information via the HIE in accordance with this chapter.

31 ~~(u)~~(u) "Participation" means a patient participant's authorization, submission, access,  
32 and/or disclosure of confidential health care information via the HIE in accordance with this  
33 chapter.

34 ~~(v)~~(v) "Patient participant" means a person who receives health care services from a

1 provider participant and has agreed to participate in the HIE through the mechanisms established  
2 in this chapter.

3 ~~(w)~~ "Provider participant" means a pharmacy, laboratory, health care provider, or  
4 health plan who is providing health care services or pays for the cost of health care services for a  
5 patient participant and/or is submitting or accessing health care information through the HIE and  
6 has executed an electronic and/or written agreement regarding disclosure, access, receipt,  
7 retention, or release of confidential health care information to the HIE;

8 ~~(x)~~ "Regional health information organization" or "RHIO" means the organization  
9 designated as the RHIO by the state to provide administrative and operational support to the HIE.

10 (y) "Semantic interoperability" means the ability to intercalate inbound data from external  
11 sources into an existing EHR.

12 **5-37.7-4. Participation in the health information exchange.**

13 (a) There shall be established a statewide HIE under state authority to allow for the  
14 electronic mobilization of confidential health care information in Rhode Island. Confidential  
15 health care information may only be accessed, released, or transferred from the HIE in  
16 accordance with this chapter.

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

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

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

30 (e) The state of Rhode Island hereby imposes on the HIE and the RHIO as a matter of  
31 state law, the obligation to maintain, and abide by the terms of, HIPAA complaint business  
32 associate agreements, including, without limitation, the obligations to use appropriate safeguards  
33 to prevent use or disclosure of confidential health care information in accordance with HIPAA  
34 and this chapter; not to use or disclose confidential health care information other than as

1 permitted by HIPAA and this chapter; or to make any amendment to a confidential health care  
2 record that a provider participant so directs; and to respond to a request by a patient participant to  
3 make an amendment to the patient participant's confidential health care record.

4 (f) In furtherance of the goal of participation by all interested parties, the HIE advisory  
5 commission shall provide its feedback to the department of health and the RHIO regarding the  
6 establishment of standards and infrastructure needed for statewide EHR interoperability. EHRs  
7 should facilitate semantic interoperability across all health care provider venues, which means not  
8 only allowing providers to export data, but also to properly incorporate external data from other  
9 systems.

10 **5-37.7-5. Regulatory oversight.**

11 (a) The director of the department of health shall develop regulations regarding the  
12 confidentiality of patient participant information received, accessed or held by the HIE and is  
13 authorized to promulgate such other regulations as the director deems necessary or desirable to  
14 implement the provisions of this chapter, in accordance with the provisions set forth in chapter 17  
15 of title 23 and chapter 35 of title 42 of the general laws.

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

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

34 **5-37.7-6. Rhode Island health information organization.**

1           The RHIO shall, subject to and consistent with department regulations and contractual  
2 obligations it has with the state of Rhode Island, be responsible for implementing recognized  
3 national standards for interoperability and all administrative, operational, and financial functions  
4 to support the HIE, including, but not limited to, implementing and enforcing policies for  
5 receiving, retaining, safeguarding and disclosing confidential health care information as required  
6 by this chapter. The RHIO is deemed to be the steward of the confidential health care information  
7 for which it has administrative responsibility. The HIE advisory commission shall be responsible  
8 for [considering the strategic plan regarding EHR interoperability developed by the Rhode Island](#)  
9 [quality institute and presenting its review recommendations](#) to the department of health, and in  
10 consultation with the RHIO ~~regarding~~ [consider](#) the use of the confidential health care information  
11 [and the needed infrastructure and use of national standards for EHR interoperability across the](#)  
12 [state](#).

13           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

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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