
SUBSTITUTE SENATE BILL 5501

State of Washington

61st Legislature

2009 Regular Session

By Senate Ways & Means (originally sponsored by Senators Keiser, Pflug, Franklin, Parlette, Murray, and Kohl-Welles)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to the secure exchange of health information;
2 adding new sections to chapter 41.05 RCW; and creating new sections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that:

5 (1) The inability to securely share critical health information
6 between practitioners inhibits the delivery of safe, efficient care, as
7 evidenced by:

8 (a) Adverse drug events that result in an average of seven hundred
9 seventy thousand injuries and deaths each year; and

10 (b) Duplicative services that add to costs and jeopardize patient
11 well-being;

12 (2) Consumers are unable to act as fully informed participants in
13 their care unless they have ready access to their own health
14 information;

15 (3) The blue ribbon commission on health care costs and access
16 found that the development of a system to provide electronic access to
17 patient information anywhere in the state was a key to improving health
18 care; and

1 (4) In 2005, the legislature established a health information
2 infrastructure advisory board to develop a strategy for the adoption
3 and use of health information technologies that are consistent with
4 emerging national standards and promote interoperability of health
5 information systems.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05 RCW
7 to read as follows:

8 The definitions in this section apply throughout sections 3 through
9 6 of this act unless the context clearly requires otherwise.

10 (1) "Administrator" means the administrator of the state health
11 care authority under this chapter.

12 (2) "Exchange" means the methods or medium by which health care
13 information may be electronically and securely exchanged among
14 authorized providers, payors, and patients within Washington state.

15 (3) "Health care provider" or "provider" has the same meaning as in
16 RCW 48.43.005.

17 (4) "Health data provider" means an organization that is a primary
18 source for health-related data for Washington residents, including but
19 not limited to:

20 (a) The children's health immunizations linkages and development
21 profile immunization registry provided by the department of health
22 pursuant to chapter 43.70 RCW;

23 (b) Commercial laboratories providing medical laboratory testing
24 results;

25 (c) Prescription drugs clearinghouses, such as the national patient
26 health information network; and

27 (d) Diagnostic imaging centers.

28 (5) "Lead organization" means a private sector organization or
29 organizations designated by the administrator to lead development of
30 processes, guidelines, and standards under this act.

31 (6) "Payor" means public purchasers, as defined in this section,
32 carriers licensed under chapters 48.20, 48.21, 48.44, 48.46, and 48.62
33 RCW, and the Washington state health insurance pool established in
34 chapter 48.41 RCW.

35 (7) "Public purchaser" means the department of social and health
36 services, the department of labor and industries, and the health care
37 authority.

1 (8) "Secretary" means the secretary of the department of health.

2 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05 RCW
3 to read as follows:

4 (1) By August 1, 2009, the administrator shall designate one or
5 more lead organizations to coordinate development of processes,
6 guidelines, and standards to:

7 (a) Improve patient access to and control of their own health care
8 information and thereby enable their active participation in their own
9 care; and

10 (b) Implement methods for the secure exchange of clinical data as
11 a means to promote:

12 (i) Continuity of care;

13 (ii) Quality of care;

14 (iii) Patient safety; and

15 (iv) Efficiency in medical practices.

16 (2) The lead organization designated by the administrator under
17 this section shall:

18 (a) Be representative of health care privacy advocates, providers,
19 and payors across the state;

20 (b) Have expertise and knowledge in the major disciplines related
21 to the secure exchange of health data;

22 (c) Be able to support the costs of its work without recourse to
23 state funding. The administrator and the lead organization are
24 authorized and encouraged to seek federal funds, including funds from
25 the federal American recovery and reinvestment act, as well as solicit,
26 receive, contract for, collect, and hold grants, donations, and gifts
27 to support the implementation of this section and section 4 of this
28 act;

29 (d) In collaboration with the administrator, identify and convene
30 work groups, as needed, to accomplish the goals of this section and
31 section 4 of this act;

32 (e) Conduct outreach and communication efforts to maximize the
33 adoption of the guidelines, standards, and processes developed by the
34 lead organization;

35 (f) Submit regular updates to the administrator on the progress
36 implementing the requirements of this section and section 4 of this
37 act; and

1 (g) With the administrator, report to the legislature December 1,
2 2009, and on December 1st of each year through December 1, 2012, on
3 progress made, the time necessary for completing tasks, and
4 identification of future tasks that should be prioritized for the next
5 improvement cycle.

6 (3) Within available funds as specified in subsection (2)(c) of
7 this section, the administrator shall:

8 (a) Participate in and review the work and progress of the lead
9 organization, including the establishment and operation of work groups
10 for this section and section 4 of this act;

11 (b) Adopt into rule, or submit as proposed legislation, the
12 guidelines, standards, and processes set forth in this section and
13 section 4 of this act if:

14 (i) The lead organization fails to timely develop or implement the
15 guidelines, standards, and processes set forth in this section and
16 section 4 of this act; or

17 (ii) It is unlikely that there will be widespread adoption of the
18 guidelines, standards, and processes developed under this section and
19 section 4 of this act; and

20 (c) Consult with the office of the attorney general to determine
21 whether:

22 (i) An antitrust safe harbor is necessary to enable licensed
23 carriers and providers to develop common rules and standards; and, if
24 necessary, take steps, such as implementing rules or requesting
25 legislation, to establish a safe harbor; and

26 (ii) Legislation is needed to limit provider liability if their
27 health records are missing health information despite their
28 participation in the exchange of health information.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.05 RCW
30 to read as follows:

31 By December 1, 2011, the lead organization shall, consistent with
32 the federal health insurance portability and accountability act,
33 develop processes, guidelines, and standards that address:

34 (1) Identification and prioritization of high value health data
35 from health data providers. High value health data include:

36 (a) Prescriptions;

37 (b) Immunization records;

- 1 (c) Laboratory results;
- 2 (d) Allergies; and
- 3 (e) Diagnostic imaging;
- 4 (2) Processes to request, submit, and receive data;
- 5 (3) Data security, including:
 - 6 (a) Storage, access, encryption, and password protection;
 - 7 (b) Secure methods for accepting and responding to requests for
 - 8 data;
 - 9 (c) Handling unauthorized access to or disclosure of individually
 - 10 identifiable patient health information, including penalties for
 - 11 unauthorized disclosure; and
 - 12 (d) Authentication of individuals, including patients and
 - 13 providers, when requesting access to health information, and
 - 14 maintenance of a permanent audit trail of such requests, including:
 - 15 (i) Identification of the party making the request;
 - 16 (ii) The data elements reported; and
 - 17 (iii) Transaction dates;
 - 18 (4) Materials written in plain language that explain the exchange
 - 19 of health information and how patients can effectively manage such
 - 20 information, including the use of online tools for that purpose;
 - 21 (5) Materials for health care providers that explain the exchange
 - 22 of health information and the secure management of such information.

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.05 RCW
24 to read as follows:

25 If any provision in sections 2 through 4 of this act conflicts with
26 existing or new federal requirements, the administrator shall recommend
27 modifications, as needed, to assure compliance with the aims of
28 sections 2 through 4 of this act and federal requirements.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 41.05 RCW
30 to read as follows:

31 Within available funds as specified in section 3(2)(c) of this act,
32 by December 1, 2009, and annually thereafter, the administrator shall
33 report to the legislature on the implementation of the requirements of
34 sections 2 through 4 of this act, including:

- 35 (1) An assessment of the benefits and any drawbacks resulting from
- 36 the implementation of the exchanges; and

1 (2) Recommendations for legislation to help further the goals of
2 sections 2 through 4 of this act.

3 NEW SECTION. **Sec. 7.** Within available funds as specified in
4 section 3(2)(c) of this act, by July 1, 2011, the office of financial
5 management shall contract with an independent research organization to
6 evaluate implementation of sections 3 and 4 of this act. The
7 evaluation must include recommendations for program changes to better
8 meet the goals of this act.

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