

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5501

Chapter 300, Laws of 2009

61st Legislature
2009 Regular Session

HEALTH INFORMATION--PATIENT ACCESS--STANDARDS DEVELOPMENT

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 20, 2009
YEAS 45 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 14, 2009
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 30, 2009, 11:13 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5501** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 1, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5501

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

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 a new section.

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 5 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; and

11 (b) Consult with the office of the attorney general to determine
12 whether:

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

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

20 (4) The lead organization or organizations shall take steps to
21 minimize the costs that implementation of the processes, guidelines,
22 and standards may have on participating entities, including providers.

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

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

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

30 (a) Prescriptions;

31 (b) Immunization records;

32 (c) Laboratory results;

33 (d) Allergies; and

34 (e) Diagnostic imaging;

35 (2) Processes to request, submit, and receive data;

36 (3) Data security, including:

37 (a) Storage, access, encryption, and password protection;

1 (b) Secure methods for accepting and responding to requests for
2 data;

3 (c) Handling unauthorized access to or disclosure of individually
4 identifiable patient health information, including penalties for
5 unauthorized disclosure; and

6 (d) Authentication of individuals, including patients and
7 providers, when requesting access to health information, and
8 maintenance of a permanent audit trail of such requests, including:

9 (i) Identification of the party making the request;

10 (ii) The data elements reported; and

11 (iii) Transaction dates;

12 (4) Materials written in plain language that explain the exchange
13 of health information and how patients can effectively manage such
14 information, including the use of online tools for that purpose;

15 (5) Materials for health care providers that explain the exchange
16 of health information and the secure management of such information.

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

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

Passed by the Senate April 20, 2009.
Passed by the House April 14, 2009.
Approved by the Governor April 30, 2009.
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