

HOUSE No. 2378

The Commonwealth of Massachusetts

PRESENTED BY:

Tom Sannicandro

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to electronic and portable health records.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Tom Sannicandro

7th Middlesex

Chris Walsh

6th Middlesex

HOUSE No. 2378

By Mr. Sannicandro of Ashland, a petition (accompanied by bill, House, No. 2378) of Tom Sannicandro and Chris Walsh relative to electronic and portable health records. Public Health.

The Commonwealth of Massachusetts

An Act relative to electronic and portable health records.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 ELECTRONIC HEALTH RECORD TECHNOLOGY.

2 Subdivision 1.Implementation.

3 By January 1, 2015, all hospitals and health care providers must have in place an
4 interoperable electronic health records system within their hospital system or clinical practice
5 setting. The commissioner of public health, in consultation with the e-Health Advisory
6 Committee, shall develop a statewide plan to meet this goal, including uniform standards to be
7 used for the interoperable system for sharing and synchronizing patient data across systems. The
8 standards must be compatible with federal efforts. The uniform standards must be developed by
9 January 1, 2012, and updated on an ongoing basis. The commissioner shall include an update on
10 standards development as part of an annual report to the legislature.

11 Subd. 1a.Definitions.

12 (a) "Certified electronic health record technology" means an electronic health record that
13 is certified pursuant to section 3001(c)(5) of the HITECH Act to meet the standards and
14 implementation specifications adopted under section 3004 as applicable.

15 (b) "Commissioner" means the commissioner of health.

16 (c) "Pharmaceutical electronic data intermediary" means any entity that provides the
17 infrastructure to connect computer systems or other electronic devices utilized by prescribing
18 practitioners with those used by pharmacies, health plans, third-party administrators, and
19 pharmacy benefit managers in order to facilitate the secure transmission of electronic
20 prescriptions, refill authorization requests, communications, and other prescription-related
21 information between such entities.

22 (d) "HITECH Act" means the Health Information Technology for Economic and Clinical
23 Health Act in division A, title XIII and division B, title IV of the American Recovery and
24 Reinvestment Act of 2009, including federal regulations adopted under that act.

25 (e) "Interoperable electronic health record" means an electronic health record that
26 securely exchanges health information with another electronic health record system that meets
27 requirements specified in subdivision 3, and national requirements for certification under the
28 HITECH Act.

29 (f) "Qualified electronic health record" means an electronic record of health-related
30 information on an individual that includes patient demographic and clinical health information
31 and has the capacity to:

32 (1) provide clinical decision support;

33 (2) support physician order entry;

34 (3) capture and query information relevant to health care quality; and

35 (4) exchange electronic health information with, and integrate such information from,
36 other sources.

37 Subd. 2.E-Health Advisory Committee.

38 (a) The commissioner shall establish an e-Health Advisory Committee to advise the
39 commissioner on the following matters:

40 (1) assessment of the adoption and effective use of health information technology by the
41 state, licensed health care providers and facilities, and local public health agencies;

42 (2) recommendations for implementing a statewide interoperable health information
43 infrastructure, to include estimates of necessary resources, and for determining standards for
44 clinical data exchange, clinical support programs, patient privacy requirements, and maintenance
45 of the security and confidentiality of individual patient data;

46 (3) recommendations for encouraging use of innovative health care applications using
47 information technology and systems to improve patient care and reduce the cost of care,
48 including applications relating to disease management and personal health management that
49 enable remote monitoring of patients' conditions, especially those with chronic conditions; and

50 (4) other related issues as requested by the commissioner.

51 (b) The members of the e-Health Advisory Committee shall include the commissioners,
52 or commissioners' designees, of health, human services, administration, and commerce and
53 additional members to be appointed by the commissioner to include persons representing

54 Massachusetts's local public health agencies, licensed hospitals and other licensed facilities and
55 providers, private purchasers, the medical and nursing professions, health insurers and health
56 plans, the state quality improvement organization, academic and research institutions, consumer
57 advisory organizations with an interest and expertise in health information technology, and other
58 stakeholders as identified by the commissioner to fulfill the requirements of section 3013,
59 paragraph (g), of the HITECH Act.

60 (c) The commissioner shall prepare and issue an annual report not later than January 30
61 of each year outlining progress to date in implementing a statewide health information
62 infrastructure and recommending action on policy and necessary resources to continue the
63 promotion of adoption and effective use of health information technology.

64 Subd. 3. Interoperable electronic health record requirements.

65 To meet the requirements of subdivision 1, hospitals and health care providers must meet
66 the following criteria when implementing an interoperable electronic health records system
67 within their hospital system or clinical practice setting.

68 (a) The electronic health record must be a qualified electronic health record.

69 (b) The electronic health record must be certified by the Office of the National
70 Coordinator pursuant to the HITECH Act. This criterion only applies to hospitals and health care
71 providers if a certified electronic health record product for the provider's particular practice
72 setting is available. This criterion shall be considered met if a hospital or health care provider is
73 using an electronic health records system that has been certified within the last three years, even
74 if a more current version of the system has been certified within the three-year period.

75 (c) The electronic health record must meet the standards established according to section
76 3004 of the HITECH Act as applicable.

77 (d) The electronic health record must have the ability to generate information on clinical
78 quality measures and other measures reported under sections 4101, 4102, and 4201 of the
79 HITECH Act.

80 (e) The electronic health record system must be connected to a state-certified health
81 information organization either directly or through a connection facilitated by a state-certified
82 health data intermediary.

83 (f) A health care provider who is a prescriber or dispenser of legend drugs must have an
84 electronic health record system.

85 Subd. 4. Coordination with national HIT activities.

86 (a) The commissioner, in consultation with the e-Health Advisory Committee, shall
87 update the statewide implementation plan required under subdivision 2 and released June 2008,

88 to be consistent with the updated Federal HIT Strategic Plan released by the Office of the
89 National Coordinator in accordance with section 3001 of the HITECH Act. The statewide plan
90 shall meet the requirements for a plan required under section 3013 of the HITECH Act.

91 (b) The commissioner, in consultation with the e-Health Advisory Committee, shall work
92 to ensure coordination between state, regional, and national efforts to support and accelerate
93 efforts to effectively use health information technology to improve the quality and coordination
94 of health care and the continuity of patient care among health care providers, to reduce medical
95 errors, to improve population health, to reduce health disparities, and to reduce chronic disease.
96 The commissioner's coordination efforts shall include but not be limited to:

97 (1) assisting in the development and support of health information technology regional
98 extension centers established under section 3012(c) of the HITECH Act to provide technical
99 assistance and disseminate best practices; and

100 (2) providing supplemental information to the best practices gathered by regional centers
101 to ensure that the information is relayed in a meaningful way to the Massachusetts health care
102 community.

103 (c) The commissioner, in consultation with the e-Health Advisory Committee, shall
104 monitor national activity related to health information technology and shall coordinate statewide
105 input on policy development. The commissioner shall coordinate statewide responses to
106 proposed federal health information technology regulations in order to ensure that the needs of
107 the Massachusetts health care community are adequately and efficiently addressed in the
108 proposed regulations. The commissioner's responses may include, but are not limited to:

109 (1) reviewing and evaluating any standard, implementation specification, or certification
110 criteria proposed by the national HIT standards committee;

111 (2) reviewing and evaluating policy proposed by the national HIT policy committee
112 relating to the implementation of a nationwide health information technology infrastructure;

113 (3) monitoring and responding to activity related to the development of quality measures
114 and other measures as required by section 4101 of the HITECH Act. Any response related to
115 quality measures shall consider and address the quality efforts required under chapter 62U; and

116 (4) monitoring and responding to national activity related to privacy, security, and data
117 stewardship of electronic health information and individually identifiable health information.

118 (d) To the extent that the state is either required or allowed to apply, or designate an
119 entity to apply for or carry out activities and programs under section 3013 of the HITECH Act,
120 the commissioner of health, in consultation with the e-Health Advisory Committee and the
121 commissioner of human services, shall be the lead applicant or sole designating authority.

122 (e) The commissioner of human services shall apply for funding necessary to administer
123 the incentive payments to providers authorized under title IV of the American Recovery and
124 Reinvestment Act.

125 (f) The commissioner shall include in the report to the legislature information on the
126 activities of this subdivision and provide recommendations on any relevant policy changes that
127 should be considered in Massachusetts.

128 Subd. 5. Collection of data for assessment and eligibility determination.

129 (a) The commissioner of health, in consultation with the commissioner of human
130 services, may require providers, dispensers, group purchasers, and pharmaceutical electronic data
131 intermediaries to submit data in a form and manner specified by the commissioner to assess the
132 status of adoption, effective use, and interoperability of electronic health records for the purpose
133 of:

134 (1) demonstrating Massachusetts's progress on goals established by the Office of the
135 National Coordinator to accelerate the adoption and effective use of health information
136 technology established under the HITECH Act;

137 (2) assisting the Center for Medicare and Medicaid Services and the Department of
138 Human Services in determining eligibility of health care professionals and hospitals to receive
139 federal incentives for the adoption and effective use of health information technology under the
140 HITECH Act or other federal incentive programs;

141 (3) assisting the Office of the National Coordinator in completing required assessments of
142 the impact of the implementation and effective use of health information technology in achieving
143 goals identified in the national strategic plan, and completing studies required by the HITECH
144 Act;

145 (4) providing the data necessary to assist the Office of the National Coordinator in
146 conducting evaluations of regional extension centers as required by the HITECH Act; and

147 (5) other purposes as necessary to support the implementation of the HITECH Act.

148 (b) The commissioner shall coordinate with the commissioner of human services and
149 other state agencies in the collection of data required under this section to:

150 (1) avoid duplicative reporting requirements;

151 (2) maximize efficiencies in the development of reports on state activities as required by
152 HITECH; and

153 (3) determine health professional and hospital eligibility for incentives available under
154 the HITECH Act.

155 (c) The commissioner must not collect data or publish analyses that identify, or could
156 potentially identify, individual patients. The commissioner must not collect individual patient
157 data in identified or de-identified form.

158 Subd. 6.State agency information system.

159 Development of state agency information systems necessary to implement this section is
160 subject to the authority of the Office of Enterprise Technology in chapter 16E, including, but not
161 limited to:

162 (1) evaluation and approval of the system as specified in section 16E.03, subdivisions 3
163 and 4;

164 (2) review of the system to ensure compliance with security policies, guidelines, and
165 standards as specified in section 16E.03, subdivision 7; and

166 (3) assurance that the system complies with accessibility standards developed under
167 section 16E.03, subdivision 9.