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4

As Engrossed: H3/9/11
A Bill

HOUSE BILL 1905

5 By: Representatives Woods, Tyler, Lea, Pennartz, Biviano, Dale, Allen, Gaskill, Lampkin, Leding,
6 Lindsey, McCrary, Patterson, Powers, G. Smith, Webb, B. Wilkins
7 By: Senators P. Malone, M. Lamoureux, D. Johnson, Teague
8

9 **For An Act To Be Entitled**

10 AN ACT TO AN ACT TO ESTABLISH THE OFFICE OF HEALTH
11 INFORMATION TECHNOLOGY; AND FOR OTHER PURPOSES.
12
13

14 **Subtitle**

15 AN ACT TO ESTABLISH THE OFFICE OF HEALTH
16 INFORMATION TECHNOLOGY.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 25 is amended to add an additional
22 chapter to read as follows:

23 Chapter 42 – Health Information Technology
24

25 25-42-101. Purpose.

26 The purpose of this chapter is to:

27 (1) Establish the Arkansas Office of Health Information
28 Technology; and

29 (2) Authorize the Arkansas Office of Health Information
30 Technology to form a nonprofit corporation to be known as the State Health
31 Alliance for Records Exchange.
32

33 25-42-102. Policy.

34 (a) The coordination of health information technology activities
35 throughout Arkansas by the Office of Health Information Technology is
36 necessary to obtain the maximum potential value from the investment of



1 federal and state resources to increase the use of health information
2 technology.

3 (b) The exchange of health information made possible by the State
4 Health Alliance for Records Exchange can improve the quality of health of
5 Arkansas citizens by reducing the potential for medical errors, reduce the
6 incidence of redundant tests and procedures, improve patient safety, and make
7 the delivery of healthcare services more efficient and affordable.

8 (c) The Office of Health Information Technology and the State Health
9 Alliance for Records Exchange shall respect and safeguard each person's
10 privacy interests in his or her health and medical information.

11

12 25-42-103. Office of Health Information Technology – Creation.
13 The Office of Health Information Technology is created.

14

15 25-42-104 Definitions.

16 As used in this chapter:

17 (1) "Agency" means any agency, board, commission, public
18 instrumentality, political subdivision, or any of the foregoing entities
19 acting on behalf of the State of Arkansas which store, gather, or generate
20 health information;

21 (2) "Deidentified" means the same as the meaning under the
22 Health Insurance Accountability and Portability Act of 1996, Public Law 104-
23 191;

24 (3) "Health information exchange" means the electronic movement
25 of health-related information among organizations according to nationally
26 recognized standards;

27 (4) "Health information" means any information, whether oral or
28 recorded in any form or medium, that:

29 (A) Is created or received by:

30 (i) A provider of health care;

31 (ii) A health plan;

32 (iii) A public health authority;

33 (iv) An employer;

34 (v) A health insurer;

35 (vi) A school or university; or

36 (vii) A health care clearinghouse; and

1 (B) Relates to the:

2 (i) Past, present, or future physical or mental
3 health or condition of an individual;

4 (ii) Provision of health care to an individual; or

5 (iii) Past, present, or future payment for the
6 provision of health care to an individual;

7 (5) "Health information technology" means the application of
8 information processing involving both computer hardware and software and
9 other technology devices that deal with the storage, retrieval, sharing, and
10 use of health care information, data, and knowledge for communication and
11 decision-making;

12 (6) "Identified" means the same the meaning as under the Health
13 Insurance Accountability and Portability Act of 1996, Public Law 104-191;

14 (7) "Nonprofit corporation" means a corporation no part of the
15 income of which is distributable to its members, directors, or officers as
16 under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.;

17 (8) "State Health Alliance for Records Exchange" means the
18 entity responsible for the processes and procedures that enable the
19 electronic exchange of interoperable health information in Arkansas.

20
21 25-42-105. Duties and responsibilities.

22 (a) The Office of Health Information Technology shall coordinate the
23 health information technology initiatives of the state with relevant
24 executive branch agencies, including without limitation state boards,
25 commissions, nonprofit corporations, and institutions of higher education.

26 (b) The Office of Health Information Technology Coordinator shall
27 serve as the executive officer of the office.

28 (c) The office shall:

29 (1) Assure the effective coordination and collaboration of
30 health information technology planning, development, implementation, and
31 financing;

32 (2) Review all health information technology-related grant
33 applications before submission to funding entities;

34 (3) Accept, receive, retain, disburse, and administer any state
35 special or general revenue funds or federal funds specifically appropriated
36 for health information technology;

1 (4) Make contracts and execute all instruments necessary or
2 convenient for carrying out its business;

3 (5) Adopt rules necessary to carry out the policies and
4 objectives of this chapter;

5 (6) Plan, establish, and operate the State Health Alliance for
6 Records Exchange until the time when a nonprofit corporation is formed to
7 operate the State Health Alliance for Records Exchange and operational
8 responsibility and authority for the State Health Alliance for Records
9 Exchange is transferred to that nonprofit; and

10 (7)(A) Establish reasonable fees or charges for the use of the
11 State Health Alliance for Records Exchange to fund the operational costs of
12 the State Health Alliance for Records Exchange and the office.

13 (B) Fees or charges established under subdivision
14 (c)(7)(A) of this section shall be set with the input and guidance of the
15 users of the State Health Alliance for Records Exchange, stakeholders, and
16 other interested parties.

17 (C) Fees or charges established under subdivision
18 (c)(7)(A) of this section shall not exceed the total cost of operating he
19 State Health Alliance for Records Exchange, not including staffing costs for
20 the State Health Alliance for Records Exchange and the office.

21 (D) Users of data under this chapter shall will be charged
22 in a manner that is proportional to their use of the State Health Alliance
23 for Records Exchange.

24 (E) Revenue generated by the fees or charges under
25 subdivision (c)(7) of this section shall be deposited into the Health
26 Information Technology Fund, § 19-5-1243.

27
28 25-42-106. State Health Alliance for Records Exchange – Duties.

29 (a) The State Health Alliance For Records Exchange shall:

30 (1) Serve as the official health information exchange for the
31 State of Arkansas;

32 (2) Be organized for the purpose of improving the health of
33 Arkansans by:

34 (A) Promoting efficient and effective communication among
35 multiple health care providers, including without limitation hospitals,
36 physicians, payers, employers, pharmacies, laboratories, and other health

1 care entities;

2 (B) Creating efficiencies in health care costs by
3 eliminating redundancy in data capture and storage and reducing
4 administrative, billing, and data collection costs;

5 (C) Creating the ability to monitor community health
6 status; and

7 (D) Providing reliable information to health care
8 consumers and purchasers regarding the quality and cost-effectiveness of
9 health care, health plans, and health care providers;

10 (3)(A) Until the nonprofit corporation is formed, the State
11 Health Alliance for Records Exchange shall be established and operated by the
12 office with the advice of the Health Information Exchange Council consisting
13 of the following members appointed by the Governor:

14 (i) The Office of Health Information Technology
15 Coordinator;

16 (ii) A representative of the Department of Finance
17 and Administration;

18 (ii) A representative of the Department of Health;

19 (iv) A representative of the Department of Human
20 Services;

21 (v) A representative of the Department of
22 Information Systems;

23 (vi) A representative of the health insurance
24 industry;

25 (vii) The Surgeon General appointed under § 20-7-
26 103;

27 (viii) A representative of the Arkansas Foundation
28 for Medical Care;

29 (ix) A representative of the Arkansas Hospital
30 Association;

31 (x) A representative of the Arkansas Medical
32 Society;

33 (xi) A representative of the Arkansas Minority
34 Health Commission;

35 (xii) A representative of the Arkansas Nurses
36 Association;

1 (xiii) A representative of the Arkansas Science and
2 Technology Authority;

3 (xiv) A representative of the Arkansas Pharmacists
4 Association;

5 (xv) A representative of the business community;

6 (xvi) A representative of the Community Health
7 Centers of Arkansas, Inc.; and

8 (xvii) Two (2) health care consumers.

9 (b) The Chair of the Health Information Exchange Council shall be
10 elected by the members of the council.

11 (c) All members will serve until the time the non-profit corporation
12 is formed and operational responsibility and authority for the State Health
13 Alliance for Records Exchange is transferred to that nonprofit.

14 (d)(1) The State Health Alliance for Records Exchange is not a health
15 care provider and is not subject to claims under § 16-114-201 et seq.

16 (2) A person who participates in or subscribes to the services
17 or information provided by the State Health Alliance for Records Exchange
18 shall not be liable in any action for damages or cost of any nature that
19 result solely from the person's use or failure to use the State Health
20 Alliance for Records Exchange information or data that was imputed or
21 retrieved under the Health Insurance Portability and Accountability Act of
22 1996, as it existed on January 1, 2011, and regulations adopted under the
23 act, state confidentiality laws and the rules of the State Health Alliance
24 for Records Exchange as approved by the Office of Health Information
25 Technology or the governing body of the nonprofit corporation.

26 (3) A person shall not be subject to antitrust or unfair
27 competition liability based on membership or participation in the State
28 Health Alliance for Records Exchange that provides an essential governmental
29 function for the public health and safety and enjoys state action immunity.

30 (d) A person who provides information and data to the State Health
31 Alliance for Records Exchange retains a property right in the information or
32 data, but grants to the other participants or subscribers a nonexclusive
33 license to retrieve and use that information or data under the with Health
34 Insurance Portability and Accountability Act of 1996, as it existed on
35 January 1, 2011, and any amendments and regulations adopted under the act,
36 state confidentiality laws, and the rules of the State Health Alliance for

1 Records Exchange.

2 (f) All processes or software developed, designed, or purchased by the
3 State Health Alliance for Records Exchange shall remain the property of the
4 State Health Alliance for Records Exchange subject to use by participants or
5 subscribers under the rules of the State Health Alliance for Records
6 Exchange.

7 (g) Patient-specific protected health information shall only be
8 disclosed in accordance with the patient's authorization or in compliance
9 with state confidentiality laws and the Health Insurance Portability and
10 Accountability Act of 1996, as it existed on January 1, 2011, and regulations
11 under the act.

12 (h) No later than December 31, 2014, executive branch agencies,
13 including state boards, commissions, nonprofit corporations, and institutions
14 of higher education, that implement, acquire, or upgrade health information
15 technology systems shall use health information technology systems and
16 products that meet minimum standards adopted by the State Health Alliance for
17 Records Exchange.

18 (i) All identified or deidentified health information contained in,
19 stored in, submitted to, transferred by, or released from the State Health
20 Alliance for Records Exchange is not disclosable under applicable state or
21 federal law.

22 (j)(1) When the nonprofit corporation is formed, the State Health
23 Alliance for Records Exchange shall be governed under the bylaws and
24 incorporation documents of the corporation.

25 (2) The bylaws and incorporation documents of the corporation
26 shall only further the objectives and policies set forth in this chapter.

27
28 SECTION 2. Arkansas Code Title 19, Chapter 5, Subchapter 12 is amended
29 to read as follows:

30 19-5-1243. Health Information Technology Fund.

31 (a) There is created on the books of the Treasurer of State, the
32 Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous
33 fund to be known as the "Health Information Technology Fund".

34 (b)(1) All moneys collected under § 25-42-101 et seq. shall be
35 deposited into the State Treasury to the credit of the Health Information
36 Technology Fund as special revenues.

