

**HOUSE . . . . . No. 02378**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*Tom Sannicandro*

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*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 bill:

An Act relative to electronic and portable health records.

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PETITION OF:

NAME:

*Chris Walsh*

DISTRICT/ADDRESS:

*6th Middlesex*

# HOUSE . . . . . No. 02378

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

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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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 interoperable
- 4 electronic health records system within their hospital system or clinical practice setting. The
- 5 commissioner of public health, in consultation with the e-Health Advisory Committee, shall
- 6 develop a statewide plan to meet this goal, including uniform standards to be used for the
- 7 interoperable system for sharing and synchronizing patient data across systems. The standards
- 8 must be compatible with federal efforts. The uniform standards must be developed by January 1,
- 9 2012, and updated on an ongoing basis. The commissioner shall include an update on standards
- 10 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 is  
13 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 Health  
23 Act in division A, title XIII and division B, title IV of the American Recovery and Reinvestment  
24 Act of 2009, including federal regulations adopted under that act.

25 (e) "Interoperable electronic health record" means an electronic health record that securely  
26 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 information  
30 on an individual that includes patient demographic and clinical health information and has the  
31 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, other  
36 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 state,  
41 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, or  
52 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 of each  
61 year outlining progress to date in implementing a statewide health information infrastructure and  
62 recommending action on policy and necessary resources to continue the promotion of adoption  
63 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 the  
66 following criteria when implementing an interoperable electronic health records system within  
67 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 Coordinator  
70 pursuant to the HITECH Act. This criterion only applies to hospitals and health care providers if  
71 a certified electronic health record product for the provider's particular practice setting is  
72 available. This criterion shall be considered met if a hospital or health care provider is using an  
73 electronic health records system that has been certified within the last three years, even if a more  
74 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 3004 of  
76 the HITECH Act as applicable.

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

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

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

84 Subd. 4.Coordination with national HIT activities.

85 (a) The commissioner, in consultation with the e-Health Advisory Committee, shall update the  
86 statewide implementation plan required under subdivision 2 and released June 2008, to be  
87 consistent with the updated Federal HIT Strategic Plan released by the Office of the National  
88 Coordinator in accordance with section 3001 of the HITECH Act. The statewide plan shall meet  
89 the requirements for a plan required under section 3013 of the HITECH Act.

90 (b) The commissioner, in consultation with the e-Health Advisory Committee, shall work to  
91 ensure coordination between state, regional, and national efforts to support and accelerate efforts  
92 to effectively use health information technology to improve the quality and coordination of  
93 health care and the continuity of patient care among health care providers, to reduce medical  
94 errors, to improve population health, to reduce health disparities, and to reduce chronic disease.

95 The commissioner's coordination efforts shall include but not be limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

136 (2) assisting the Center for Medicare and Medicaid Services and the Department of Human  
137 Services in determining eligibility of health care professionals and hospitals to receive federal



138 incentives for the adoption and effective use of health information technology under the  
139 HITECH Act or other federal incentive programs;

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

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

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

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

149 (1) avoid duplicative reporting requirements;

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

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

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

157 Subd. 6.State agency information system.

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

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

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

164 (3) assurance that the system complies with accessibility standards developed under section  
165 16E.03, subdivision 9.