

SECOND REGULAR SESSION

SENATE BILL NO. 636

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HEGEMAN.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5057S.011

AN ACT

To repeal section 191.237, RSMo, and to enact in lieu thereof three new sections relating to health information organizations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 191.237, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 191.236, 191.237, and 191.238, to read as follows:

191.236. As used in sections 191.236 to 191.238, the following terms shall mean:

(1) "Approved health information organization", a health information organization approved under section 191.238;

(2) "Fine or penalty", any civil or criminal penalty or fine, tax, salary or wage withholding, or surcharge established by law or by rule promulgated by a state agency pursuant to chapter 536;

(3) "Health care system", any public or private entity whose function or purpose is the management of, processing of, or enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants;

(4) "Health information organization", an organization that oversees and governs the exchange of health-related information among organizations according to nationally recognized standards.

191.237. 1. No law or rule promulgated by an agency of the state of Missouri may impose a fine or penalty against a health care provider, hospital, or health care system for failing to participate in any particular health information organization.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5 2. A health information organization shall not restrict the exchange of
6 state agency data or standards-based clinical summaries for patients for federal
7 Health Insurance Portability and Accountability Act (HIPAA) allowable
8 uses. Charges for such service shall not exceed the cost of the actual technology
9 connection or recurring maintenance thereof.

10 3. [As used in this section, the following terms shall mean:

11 (1) "Fine or penalty", any civil or criminal penalty or fine, tax, salary or
12 wage withholding, or surcharge established by law or by rule promulgated by a
13 state agency pursuant to chapter 536;

14 (2) "Health care system", any public or private entity whose function or
15 purpose is the management of, processing of, or enrollment of individuals for or
16 payment for, in full or in part, health care services or health care data or health
17 care information for its participants;

18 (3) "Health information organization", an organization that oversees and
19 governs the exchange of health-related information among organizations
20 according to nationally recognized standards.] **All approved health
21 information organizations shall exchange standard-based clinical
22 summaries for patients and all clinical and claims data from any
23 agency within the state with all other approved health information
24 organizations within the state. Failure to exchange such information
25 shall result in the suspension or revocation of approval status by the
26 Missouri health information exchange commission and the immediate
27 termination of any contracts, grants, and any other form of state
28 funding.**

29 4. (1) **The state, including all administrative agencies and
30 departments, shall not convey "state designated entity" status to any
31 health information organization. The state shall recognize all approved
32 health information organizations as being equally eligible for any
33 financial support from the state, or assistance or support from the state
34 in securing any other source of funding. The state shall not exchange
35 health information with any nonapproved health information
36 organization unless otherwise required by law.**

37 (2) **Only approved health information organizations shall be
38 qualified to respond to contracting procurement opportunities and
39 shall be awarded contracts, subject to the provisions of chapter 34,
40 provided that the state shall not award any contract to any health**

41 information organization as a single feasible source vendor under
42 section 34.044.

43 (3) Beginning August 28, 2016, all existing single feasible source
44 vendor contracts awarded to health information organizations
45 operating within the state shall receive no further appropriations.

46 5. The state shall not restrict that availability of or access to any
47 state agency-sponsored data sets, including but not limited to, MO
48 HealthNet patient level claims data and MO HealthNet patient level
49 clinical data to any approved health information organization.

50 6. A health care provider or nonapproved health information
51 organization may disclose protected health information to any state
52 agency for any public health purpose that is required by law without
53 authorization from the Missouri health information exchange
54 commission. Nothing in this act shall be construed to limit the use,
55 transfer, or disclosure of protected health information as required or
56 permitted by the Health Insurance Portability and Accountability Act
57 (HIPAA) or any other provision of law.

191.238. 1. There is hereby created a "Missouri Health
2 Information Exchange Commission". The commission shall consist of
3 seven members, one of which shall be a member of the senate appointed
4 by the president pro tempore of the senate, one of which shall be a
5 member of the house of representatives appointed by the speaker of the
6 house of representatives, one of which shall be the chair of the joint
7 committee on administrative rules, one of which shall either be the
8 chair of the house budget committee or the chair of the senate
9 appropriations committee on an annual revolving appointment, and
10 with one primary care provider appointed by the speaker of the house
11 of representatives and one health systems representative and one
12 health information technology professional serving in the capacity as
13 a chief information officer with an understanding of information
14 sharing, Health Insurance Portability and Accountability Act (HIPAA)
15 regulations, and data security best practices appointed by the president
16 pro tempore of the senate. The commission members shall be residents
17 of Missouri and shall not be and shall not have any common
18 membership with the entities and individuals appointed to the Missouri
19 health information technology advisory board, the Missouri health
20 information organization board of directors, the Missouri health

21 connection board of directors, or any entities or individuals appointed
22 to any board of any health information organization with an interest
23 in providing health information exchange services within the state.

24 2. Commission members shall elect annually from the members
25 a chairman and a vice-chairman.

26 3. The term of office for each member of the commission shall
27 coincide with the term of their elected office if they are elected
28 officials. The term of office for nonelected members shall be three
29 years, except that of the initial appointments, one member shall be
30 appointed for a term of one year and two members shall be appointed
31 for a term of two years. Any member may be removed from the
32 commission if four or more members vote for their removal in any
33 regularly held or emergency scheduled meeting. Three months before
34 the expiration of the term of an elected official member appointed by
35 the speaker of the house of representatives and the president pro
36 tempore of the senate, the speaker and the president pro tempore shall
37 appoint a successor whose term begins on January first next
38 following. Three months before the expiration of the term of any
39 nonelected member, the members of the current commission shall
40 submit recommendations to the speaker of the house of representatives
41 and the president pro tempore of the senate to fill the position. All
42 nonelected members shall be eligible for reappointment. If there is a
43 vacancy for an elected official member for any cause, the speaker of the
44 house of representatives and the president pro tempore of the senate
45 shall make an appointment to become effective immediately for the
46 unexpired term. If there is a vacancy for a nonelected member for any
47 cause, the chairman or vice-chairman shall call an emergency meeting
48 and the commission shall make an appointment for the vacant seat to
49 become effective immediately for the unexpired term.

50 4. Each member of the commission shall serve without
51 compensation but shall be reimbursed for actual and necessary
52 expenses incurred in the performance of their duties.

53 5. The commission shall have the authority to:

54 (1) Develop a process by which a health information organization
55 may receive approval status from the commission. The approval
56 process shall include compliance with commonly and equally applied
57 standards designed to ensure the following:

58 (a) Adherence to nationally recognized standards for
59 interoperability between approved health information organizations
60 and the promotion of standards that allow data to flow as seamlessly as
61 possible between the approved health information organizations;

62 (b) Conduct of operations in a transparent manner to promote
63 consumer confidence;

64 (c) Adoption and adherence to rules promulgated by the
65 commission regarding access to and use and disclosure of protected
66 health information maintained by or on an approved health
67 information organization;

68 (d) Financial and operational sustainability in the absence of
69 state and federal funding; and

70 (e) Maintenance of policies and procedures to address data
71 security, including breaches, mandatory cyber insurance coverage, data
72 usage policies and guidelines, and oversight processes and internal
73 auditing practices for addressing data requests;

74 (2) Develop a process for the investigation of reported
75 complaints and concerns regarding an approved health information
76 organization, as well as develop and impose the appropriate proactive
77 and remedial measures to address any identified deficiencies; and

78 (3) Develop a process by which an approved health information
79 organization shall be reapproved at appropriate intervals, provided
80 that the health information organization demonstrates continuing
81 compliance with the approval standards under subdivision (1) of this
82 subsection. The reapproval process shall include the following:

83 (a) An application for reapproval that shall be mailed to each
84 previously approved health information organization in the state at its
85 last known address. Failure to receive the application form shall not
86 relieve a health information organization of the duty to apply for
87 reapproval or the duty to pay any applicable application fees. The
88 application shall include, but not be limited to, disclosure of the
89 following:

90 a. The applicant organization's name and office address;

91 b. A listing of all connections with approved health information
92 organizations in this state for the purpose of exchanging standard-
93 based clinical summaries for patients and all clinical and claims data
94 from any agency within the state;

- 95 **c. The presence of any past or current data security issues and**
- 96 **breaches;**
- 97 **d. Proof of mandatory cyber insurance coverage;**
- 98 **e. Copies of all data usage policies and guidelines;**
- 99 **f. A description of oversight processes and internal auditing**
- 100 **processes;**
- 101 **g. Cash flow projections for the next two years depicting all**
- 102 **forms of revenues and expenses; and**
- 103 **h. Financial documents, including the most recent audited**
- 104 **financial statement, the most recent monthly income and balance sheet,**
- 105 **and the most recent profit-loss statements;**
- 106 **(b) Failure to apply for reapproval status by the deadline set by**
- 107 **the commission shall be cause for immediate suspension of approved**
- 108 **status; and**
- 109 **(c) The commission shall establish application fees as deemed**
- 110 **necessary to sustain essential administrative functions.**

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Bill

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