

House Bill 646

By: Representative Dawkins-Haigler of the 93rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 provide for the designation of a health information exchange for the state; to provide for
3 definitions; to provide for reports on progress in implementing certain requirements; to
4 provide for public comment on a report on health information technology; to provide for
5 regulations requiring certain payors to provide incentives to health care providers to use
6 electronic health records; to provide that the incentives may include certain items and
7 services; to require the designation of a management service organization; to amend Chapter
8 1 of Title 33 of the Official Code of Georgia Annotated, relating to general provisions
9 relative to insurance, so as to provide that carriers and health maintenance organizations
10 provide incentives to health care providers to use electronic health records; to amend Part 1
11 of Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to
12 the state employees' health insurance plan, so as to require that such plan comply with the
13 requirements relating to electronic health records; to provide for related matters; to repeal
14 conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 SECTION 1.

17 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
18 a new chapter to read as follows:

19
20 "CHAPTER 33A

21 31-33A-1.

22 As used in this chapter, the term:

23 (1) 'Carrier' means an accident and sickness insurer, fraternal benefit society, hospital
24 service corporation, medical service corporation, health care plan as defined in Code
25 Section 33-20-3, health care corporation, health maintenance organization, provider

26 sponsored health care corporation, or any similar entity and any self-insured health
 27 benefit plan not subject to the exclusive jurisdiction of the federal Employee Retirement
 28 Income Security Act of 1974, 29 U.S.C. Section 1001, et seq., which is a licensed entity
 29 providing a plan of health insurance or health benefits subject to state insurance
 30 regulation.

31 (2) 'Council' means the Health Strategies Council created pursuant to Code Section
 32 31-6-20.

33 (3) 'Electronic health record' means an electronic record of health related information on
 34 an individual that:

35 (A) Includes patient demographic and clinical health information; and

36 (B) Has the capacity to:

37 (i) Provide clinical decision support;

38 (ii) Support physician order entry;

39 (iii) Capture and query information relevant to health care quality; and

40 (iv) Exchange electronic health information with and integrate the information from
 41 other sources.

42 (4) 'Health benefit plan' means a hospital or medical policy, contract, or certificate issued
 43 by a carrier. Such term does not include:

44 (A) Coverage for accident or disability income insurance;

45 (B) Coverage issued as a supplement to liability insurance;

46 (C) Liability insurance, including general liability insurance and automobile liability
 47 insurance;

48 (D) Workers' compensation or similar insurance;

49 (E) Automobile or property medical payment insurance;

50 (F) Credit only insurance;

51 (G) Coverage for on-site medical clinics;

52 (H) Dental or vision insurance;

53 (I) Long-term care insurance or benefits for nursing home care, home health care,
 54 community based care, or any combination of these;

55 (J) Coverage only for a specified disease or illness;

56 (K) Hospital indemnity or other fixed indemnity insurance; or

57 (L) The following benefits if offered as a separate insurance policy:

58 (i) Medicare supplemental health insurance, as defined in Section 1882(g)(1) of the
 59 federal Social Security Act;

60 (ii) Coverage supplemental to the coverage provided under 10 U.S.C. Chapter 55; or

61 (iii) Similar supplemental coverage provided to coverage under an employer
 62 sponsored plan.

63 (5) 'Health care provider' means:

64 (A) A person who is licensed, certified, or otherwise authorized as a health care
 65 professional under Chapter 9, 10A, 11, 11A, 26, 28, 30, 33, 34, 35, 39, or 44 of Title
 66 43 to provide health care in the ordinary course of business or practice of a profession
 67 or in an approved education or training program; or

68 (B) A facility where health care is provided to patients or recipients, including any
 69 hospital, nursing home, personal care home, ambulatory surgical center, home health
 70 agency, or other health care facility licensed or defined under Chapter 7 of this title.

71 The term does not include a health maintenance organization certificated under Chapter
 72 21 of Title 33.

73 (6) 'Health information exchange' means a state-wide infrastructure that provides
 74 organizational and technical capabilities to enable the electronic exchange of health
 75 information between health care providers and other health services organizations
 76 authorized by the council.

77 (7) 'Management service organization' means an organization that offers one or more
 78 hosted electronic health record solutions and other management services to multiple
 79 health care providers.

80 (8) 'State regulated payor' means:

81 (A) The health insurance plan for state employees pursuant to Article 1 of Chapter 18
 82 of Title 45; and

83 (B) A carrier issuing or delivering health benefit plans in this state.

84 The term does not include a provider of medical assistance for Medicaid purposes
 85 pursuant to Article 7 of Chapter 4 of Title 49.

86 31-33A-2.

87 (a) On or before October 1, 2011, the council and the department shall designate a health
 88 information exchange for the state.

89 (b) On or before January 1, 2012, the council shall:

90 (1) Report to the Senate Health and Human Services Committee and the House
 91 Committee on Health and Human Services on progress in implementing the requirements
 92 of subsections (a) and (d) of this Code section; and

93 (2) Include in the report recommendations for legislation specifying how incentives
 94 required for state regulated payors that are national carriers shall take into account
 95 existing carrier activities that promote the adoption and meaningful use of electronic
 96 health records.

97 (c)(1) On or before January 1, 2013, following consultations with appropriate
 98 stakeholders, the council shall post on its website for public comment and submit to the

99 Governor, the Senate Health and Human Services Committee, and the House Committee
 100 on Health and Human Services a report on:

101 (A) The development of a coordinated public-private approach to improve this state's
 102 health information infrastructure;

103 (B) Any changes in state laws that are necessary to protect the privacy and security of
 104 health information stored in electronic health records or exchanged through a health
 105 information exchange in this state;

106 (C) Any changes in state laws that are necessary to provide for the effective operation
 107 of a health information exchange;

108 (D) Any actions that are necessary to align funding opportunities under the federal
 109 American Recovery and Reinvestment Act of 2009 with other state and private sector
 110 initiatives related to health information technology, including:

111 (i) The patient centered medical home;

112 (ii) The electronic health record demonstration project supported by the Centers for
 113 Medicare and Medicaid Services;

114 (iii) The health information exchange; and

115 (iv) The federal Medicaid Information Technology Architecture Initiative; and

116 (E) Recommended language for the regulations required under subsection (d) of this
 117 Code section.

118 (2) The Senate Health and Human Services Committee and the House Committee on
 119 Health and Human Services shall have 60 days from receipt of the report for review and
 120 comment.

121 (d)(1) On or before September 1, 2013, the council, in consultation with the department,
 122 state regulated payors, and health care providers, shall adopt regulations that require state
 123 regulated payors to provide incentives to health care providers to promote the adoption
 124 and meaningful use of electronic health records.

125 (2) Incentives required under the regulations:

126 (A) Shall have monetary value;

127 (B) Shall facilitate the use of electronic health records by health care providers in this
 128 state;

129 (C) To the extent feasible, shall recognize and be consistent with existing state
 130 regulated payor incentives that promote the adoption and meaningful use of electronic
 131 health records;

132 (D) Shall take into account:

133 (i) Incentives provided to health care providers under medicare and Medicaid; and

134 (ii) Any grants or loans that are available to health care providers from the federal
 135 government; and

- 136 (E) May include:
- 137 (i) Increased reimbursement for specific services;
- 138 (ii) Lump sum payments;
- 139 (iii) Gain-sharing arrangements;
- 140 (iv) Rewards for quality and efficiency;
- 141 (v) In-kind payments; and
- 142 (vi) Other items or services to which a specific monetary value can be assigned.
- 143 (3) The regulations need not require incentives for the adoption and meaningful use of
- 144 electronic health records by health care providers.
- 145 (4) If federal law is amended to allow the state to regulate payments made by entities that
- 146 self-insure their health benefit plans, regulations adopted under this Code section shall
- 147 apply to those entities to the same extent to which they apply to state regulated payors.
- 148 (e) The department, in consultation with hospitals, state regulated payors, and the Centers
- 149 for Medicare and Medicaid Services, shall take the actions necessary to:
- 150 (1) Assure that hospitals in this state receive the payments provided under Section 4102
- 151 of the federal American Recovery and Reinvestment Act of 2009 and any subsequent
- 152 federal rules and regulations; and
- 153 (2) Implement any changes in hospital rates required by the Centers for Medicare and
- 154 Medicaid Services to ensure compliance with Section 4102 of the federal American
- 155 Recovery and Reinvestment Act of 2009 and any subsequent federal rules and
- 156 regulations.
- 157 (f) The department, in consultation with the council, shall develop a mechanism to assure
- 158 that health care providers that participate in the Medicaid program pursuant to Article 7 of
- 159 Chapter 4 of Title 49 receive the payments provided for adoption and use of electronic
- 160 health records technology under Section 4201 of the federal American Recovery and
- 161 Reinvestment Act of 2009 and any subsequent federal rules and regulations.
- 162 (g) On or before October 1, 2014, the council shall report to the Governor and the General
- 163 Assembly on progress achieved toward adoption and meaningful use of electronic health
- 164 records by health care providers in this state and recommendations for any changes in state
- 165 laws that are necessary to achieve optimal adoption and use.
- 166 (h)(1) On or before October 1, 2014, the council shall designate one or more
- 167 management service organizations to offer services throughout the state.
- 168 (2) The council may use federal grants and loans to help subsidize the use of the
- 169 designated management service organizations by health care providers.
- 170 (i) On and after the later of January 1, 2017, or the date established for the imposition of
- 171 penalties under Section 4102 of the federal American Recovery and Reinvestment Act of
- 172 2009:

173 (1) Each health care provider using an electronic health record that seeks payment from
 174 a state regulated payor shall use electronic health records that are:
 175 (A) Certified by a national certification organization designated by the council; and
 176 (B) Capable of connecting to and exchanging data with the health information
 177 exchange designated by the council under subsection (a) of this Code section; and
 178 (2) The incentives required under subsection (d) of this Code section may include
 179 reductions in payments to a health care provider that does not use electronic health
 180 records that meet the requirements of paragraph (1) of this subsection."

181 **SECTION 3.**

182 Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general
 183 provisions relative to insurance, is amended by adding a new Code section to read as follows:
 184 "33-1-19.

185 (a) As used in this Code section, the term:

186 (a) 'Carrier' has the same meaning as in paragraph (1) of Code Section 31-33A-1.

187 (b) 'Health maintenance organization' means an entity certificated under Chapter 21 of
 188 this title.

189 (b) All carriers and health maintenance organizations shall provide incentives to health
 190 care providers in accordance with the requirements of Chapter 33A of Title 31."

191 **SECTION 4.**

192 Part 1 of Article 1 of Chapter 18 of Title 45 of the Official Code of Georgia Annotated,
 193 relating to the state employees' health insurance plan, is amended by revising Code Section
 194 45-18-3, relating to the design of the plan, as follows:

195 "45-18-3.

196 The health insurance plan shall be designed by the board to:

197 (1) Provide a reasonable relationship between the hospital, surgical, and medical benefits
 198 to be included and the expected distribution of expenses of each such type to be incurred
 199 by the covered employees and dependents; ~~and~~

200 (2) Include reasonable controls, which may include deductible and reinsurance
 201 provisions applicable to some or all of the benefits, to reduce unnecessary utilization of
 202 the various hospital, surgical, and medical services to be provided and to provide
 203 reasonable assurance of stability in future years of the plan; and

204 (3) Ensure that it includes incentives to health care providers in accordance with the
 205 requirements of Chapter 33A of Title 31."

206

SECTION 5.

207 All laws and parts of laws in conflict with this Act are repealed.