

1859

2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to establishing an electronic health records and electronic prescribing initiative; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public health law is amended by adding a new article 10
2 to read as follows:

3 ARTICLE 10
4 ELECTRONIC HEALTH RECORDS AND ELECTRONIC PRESCRIBING

5 SECTION 1000. ELECTRONIC HEALTH RECORDS AND ELECTRONIC PRESCRIBING
6 INITIATIVE PROGRAM.

7 S 1000. ELECTRONIC HEALTH RECORDS AND ELECTRONIC PRESCRIBING INITI-
8 ATIVE PROGRAM. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING
9 TERMS SHALL HAVE THE FOLLOWING MEANINGS: (A) ELECTRONIC HEALTH RECORDS
10 (EHR) IS A LONGITUDINAL ELECTRONIC RECORD OF PATIENT HEALTH INFORMATION
11 GENERATED BY ONE OR MORE ENCOUNTERS IN ANY CARE DELIVERY SETTING.

12 (B) ELECTRONIC PRESCRIBING (E-PRESCRIBING) IS A COMPUTER BASED METHOD
13 TO GENERATE PRESCRIPTIONS THROUGH AN AUTOMATED DATA ENTRY PROCESS
14 UTILIZING E-PRESCRIBING SOFTWARE AND A TRANSMISSION NETWORK WHICH LINKS
15 TO PARTICIPATING PHARMACIES.

16 2. CREATION OF PROGRAM. THE OFFICE OF HEALTH INFORMATION TECHNOLOGY
17 TRANSFORMATION IS HEREBY AUTHORIZED TO ESTABLISH AND ADMINISTER AN ELEC-
18 TRONIC HEALTH RECORDS AND PRESCRIBING PROGRAM TO PROVIDE INCENTIVES FOR
19 THE USE OF ELECTRONIC TECHNOLOGIES BY OFFICE-BASED PHYSICIANS AND INDE-
20 PENDENT PHARMACIES, PURSUANT TO STANDARDS AND CRITERIA ESTABLISHED BY
21 THE OFFICE. SUCH GRANT PROGRAM SHALL BE ALLOCATED FIVE MILLION DOLLARS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 IN ITS FIRST YEAR OF EXISTENCE AND SHALL BE FUNDED AS APPROPRIATED IN
2 THE STATE BUDGET FOR EACH SUBSEQUENT YEAR.

3 3. INCENTIVE PAYMENTS. (A) AS PART OF THE ELECTRONIC HEALTH RECORDS
4 AND PRESCRIBING INITIATIVE PROGRAM CREATED PURSUANT TO THIS SECTION, THE
5 OFFICE OF HEALTH INFORMATION TECHNOLOGY TRANSFORMATION IS AUTHORIZED TO
6 PROVIDE FOR AND AWARD INCENTIVE PAYMENTS TO QUALIFIED OFFICE-BASED
7 PHYSICIANS AND QUALIFIED INDEPENDENT PHARMACIES THAT THE OFFICE DETER-
8 MINES HAVE ESTABLISHED AN ELECTRONIC HEALTH RECORDS AND PRESCRIBING
9 SYSTEM WHICH INCLUDES THE FOLLOWING ELEMENTS: (I) AN UPGRADED OR NEWLY
10 PURCHASED HARDWARE AND/OR SOFTWARE; (II) AN INTERNET CONNECTION; (III)
11 SYNCHRONIZATION OF EXISTING COMPUTER SYSTEMS; (IV) STAFF TRAINING; (V)
12 MAINTENANCE OF COMPUTER SYSTEMS; AND (VI) SATISFACTION OF ANY STANDARDS
13 AND CRITERIA AS ESTABLISHED BY THE OFFICE PURSUANT TO THIS SECTION.

14 (B) IN DETERMINING THE AMOUNT OF AN INCENTIVE PAYMENT, THE OFFICE OF
15 HEALTH INFORMATION TECHNOLOGY TRANSFORMATION, SHALL SUPPLEMENT THE TOTAL
16 COST OF ESTABLISHING AN ELECTRONIC HEALTH RECORDS OR PRESCRIBING SYSTEM
17 AND WILL NOT REIMBURSE A QUALIFIED RECIPIENT FOR THE ENTIRE COST OF SUCH
18 SYSTEM. THE TOTAL AMOUNT OF THE GRANT AWARDED WILL BE DETERMINED BY THE
19 OFFICE OF HEALTH INFORMATION TECHNOLOGY TRANSFORMATION PURSUANT TO THIS
20 SECTION.

21 (C) GRANT MONIES MUST BE PAID OUT IN STAGES WITH PAYMENTS AWARDED UPON
22 THE COMPLETION OF CERTAIN INTERVALS AS DETERMINED BY THE OFFICE OF
23 HEALTH INFORMATION TECHNOLOGY TRANSFORMATION. THESE INTERVALS SHALL
24 INCLUDE, BUT ARE NOT LIMITED TO, THE ACQUISITION OF HARDWARE AND/OR
25 SOFTWARE, ACTIVATION OF ELECTRONIC HEALTH RECORDS AND PRESCRIBING
26 PROGRAMS AND ACHIEVING MILESTONES FOR THE USAGE OF THE PROGRAM, AS
27 DETERMINED BY THE OFFICE PURSUANT TO THIS SECTION.

28 4. REGULATIONS. THE OFFICE OF HEALTH INFORMATION TECHNOLOGY TRANSFOR-
29 MATION SHALL PROMULGATE RULES AND REGULATIONS FOR THE STANDARDS AND/OR
30 CRITERIA OF ANY ELECTRONIC HEALTH RECORDS OR PRESCRIBING SYSTEM ESTAB-
31 LISHED PURSUANT TO THIS SECTION, INCLUDING BUT NOT LIMITED TO, ELIGIBIL-
32 ITY CRITERIA, APPLICATION PROCEDURES, AWARD DETERMINATIONS, TRAINING
33 REQUIREMENTS, THE MANNER IN WHICH GRANT MONIES SHALL BE APPLIED AND
34 DISTRIBUTED, INSPECTION PROCEDURES, DOCUMENTATION AND COMPLIANCE
35 REQUIREMENTS AND THE MANNER IN WHICH GRANT MONIES SHALL BE AWARDED FOR
36 THE PURPOSES OF THE PROGRAM.

37 5. REPORTING. NO LATER THAN SEPTEMBER FIRST, TWO THOUSAND TEN AND
38 SEPTEMBER FIRST OF EACH YEAR THEREAFTER, THE PRESIDENT SHALL PREPARE AND
39 FURNISH A WRITTEN REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
40 SENATE, AND THE SPEAKER OF THE ASSEMBLY CONCERNING THE OFFICE OF HEALTH
41 INFORMATION TECHNOLOGY TRANSFORMATION'S ACTIVITIES UNDER THIS SECTION.
42 SUCH REPORT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO: (A) THE NAME AND
43 ADDRESS OF EACH RECIPIENT OF INCENTIVE PAYMENTS MADE BY THE OFFICE OF
44 HEALTH INFORMATION TECHNOLOGY TRANSFORMATION PURSUANT TO THIS SECTION
45 DURING THE PRECEDING CALENDAR YEAR;

46 (B) THE AMOUNT OF ANY INCENTIVE PAYMENT MADE TO EACH SUCH PHYSICIAN OR
47 PHARMACY; AND

48 (C) A DESCRIPTION OF THE PROJECT AND THE WORK PERFORMED THAT EARNED
49 THE INCENTIVE PAYMENT.

50 S 2. Severability. If any clause, sentence, paragraph, section or part
51 of this act shall be adjudged by any court of competent jurisdiction to
52 be invalid and after exhaustion of all further judicial review, the
53 judgment shall not affect, impair or invalidate the remainder thereof,
54 but shall be confined in its operation to the clause, sentence, para-
55 graph, section or part of this act directly involved in the controversy
56 in which the judgement shall have been rendered.

1 S 3. This act shall take effect immediately and shall expire and be
2 deemed repealed 4 years after such date. Effective immediately, any
3 rules and regulations necessary for the timely implementation of this
4 act on its effective date shall be promulgated on or before such date.