

4384

2011-2012 Regular Sessions

I N S E N A T E

April 4, 2011

Introduced by Sen. RANZENHOFER -- 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 the
Medicaid identification and anti-fraud biometric technology program

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

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

3 ARTICLE 2-B

4 MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC
5 TECHNOLOGY PROGRAM

6 SECTION 290. MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY
7 PROGRAM.

8 291. DEFINITIONS.

9 292. BIOMETRIC TECHNOLOGY USE REQUIREMENT.

10 293. REPORT.

11 294. RULES AND REGULATIONS.

12 S 290. MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY
13 PROGRAM. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT THE MEDICAID
14 IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY PROGRAM.

15 S 291. DEFINITIONS. AS USED IN THIS ARTICLE:

16 1. "BIOMETRIC TECHNOLOGY" MEANS TECHNOLOGY THAT MEASURES AND ANALYZES
17 BIOLOGICAL DATA, INCLUDING HUMAN BODY CHARACTERISTICS, SUCH AS DNA,
18 FINGERPRINTS, VASCULAR PATTERNS, EYE RETINAS AND IRISES, VOICE PATTERNS,
19 FACIAL PATTERNS AND HAND MEASUREMENTS, FOR AUTHENTICATION PURPOSES.

20 2. "PALM SCANNER" MEANS A DEVICE CAPABLE OF USING PALM-VEIN PATTERN
21 RECOGNITION OR VASCULAR RECOGNITION USING NEAR-INFRARED LIGHT TO CAPTURE
22 A PATIENT'S PALM VEIN PATTERN TO GENERATE A BIOMETRIC PATTERN.

23 S 292. BIOMETRIC TECHNOLOGY USE REQUIREMENT. 1. THE DEPARTMENT, IN
24 CONSULTATION WITH THE OFFICE OF THE MEDICAID INSPECTOR GENERAL AND THE
25 OFFICE OF THE ATTORNEY GENERAL, SHALL IMPLEMENT A PROGRAM REQUIRING THE

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

LBD09573-02-1

1 USE OF BIOMETRIC TECHNOLOGY IN THE FORM OF PALM SCANNERS TO BE USED BY
2 HOSPITALS, CLINICS AND PHARMACIES, FOR THE PURPOSES OF PATIENT IDENTIFI-
3 CATION AND FOR USE AS AN ANTI-FRAUD APPLICATION IN THE MEDICAID PROGRAM.

4 2. (A) MEDICAID CARDS ISSUED BY THE STATE TO MEDICAID RECIPIENTS SHALL
5 BE ENCODED AND ENCRYPTED WITH THE BIOMETRIC PALM PRINT OF THE CARD HOLD-
6 ER ALONG WITH OTHER INFORMATION DEEMED NECESSARY BY THE COMMISSIONER AND
7 THE OFFICE OF HEALTH INSURANCE PROGRAMS, PROVIDED, HOWEVER, THAT SUCH
8 INFORMATION SHALL NOT INCLUDE SOCIAL SECURITY NUMBERS AND SHALL NOT BE
9 STORED IN A CENTRAL DATA BANK. SUCH CARD HELD BY EACH MEDICAID RECIPIENT
10 WILL BE CAPABLE OF STORING BIOMETRIC MARKERS AND A LOG OF DOCTOR AND
11 PHARMACY VISITS FOR EACH SERVICE BILLED TO THE MEDICAID PROGRAM.

12 (B) MEDICAID CARDS SHALL BE ISSUED TO THE ADMITTING STAFF OF HEALTH
13 CARE FACILITIES, MEDICAL STAFF PROVIDING SERVICE TO MEDICAID RECIPIENTS,
14 AND TO PHARMACY STAFF. HEALTH CARE FACILITY ADMITTING STAFF, HEALTH CARE
15 PROVIDERS AND PHARMACY STAFF SHALL SWIPE THE MEDICAID CARD ISSUED TO
16 THEM PURSUANT TO THIS ARTICLE AND SHALL SCAN HIS OR HER PALM ON A PALM
17 READER, UPON ADMITTING, PROVIDING CARE OR PHARMACY SERVICES TO A MEDI-
18 CAID RECIPIENT, TO VERIFY THE LEGITIMACY OF THE CARE BEING PROVIDED.
19 SUCH CARD SHALL MAINTAIN A LOG IDENTIFYING THE PERSON RESPONSIBLE FOR
20 PROVIDING CARE TO SUCH PERSON.

21 (C) MEDICAID RECIPIENTS SHALL BE REQUIRED TO SWIPE HIS OR HER MEDICAID
22 BENEFIT CARD AT TIME OF EACH VISIT TO A DOCTORS OFFICE OR CLINIC AT THE
23 POINT OF ACTUALLY BEING SEEN BY THE DOCTOR OR CLINICAL STAFF, AND UPON
24 LEAVING THE HEALTH CARE FACILITY.

25 (D) MEDICAID CARDS SHALL BE USED AND PALM READERS SHALL BE PLACED IN
26 PHARMACIES WHERE THE MEDICAID RECIPIENT SHALL SWIPE HIS OR HER CARD AND
27 SHALL HAVE HIS OR HER PALM SCANNED WHEN FILLING A PRESCRIPTION. PHARMACY
28 STAFF REGISTERING THE PRESCRIPTION ORDER SHALL SWIPE AND SCAN HIS OR HER
29 MEDICAID ISSUED CARD AT THE SAME TIME TO VERIFY THE TRANSACTION.

30 (E) THE COMMISSIONER AND THE OFFICE OF HEALTH INSURANCE PROGRAMS SHALL
31 PROMULGATE RULES AND REGULATIONS THAT SHALL BE DIGITIZED AND ENCODED
32 INTO THE MEDICAID CARD TO COMBAT FRAUD. SUCH RULES SHALL INCLUDE BUT ARE
33 NOT LIMITED TO ESTABLISHING A NUMBER OF POSSIBLE PATIENT VISITS PER
34 DOCTOR PER BUSINESS DAY, THE NUMBER OF TIMES A PRESCRIPTION CAN BE
35 FILLED BY EACH MEDICAID RECIPIENT EACH MONTH, THE NUMBER OF MEDICAL
36 EXAMS THAT CAN BE ORDERED FOR EACH PATIENT EACH MONTH IN ORDER TO ELIMI-
37 NATE DUPLICATIVE, REDUNDANT AND UNNECESSARY EXAMS.

38 (F) THE COMMISSIONER AND THE OFFICE OF HEALTH INSURANCE PROGRAMS IN
39 CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL AND THE OFFICE OF
40 THE MEDICAID INSPECTOR GENERAL SHALL DEVELOP ALL OF THE FRAUD PREVENTION
41 MARKERS WHICH SHALL BE ENCODED INTO THE MEDICAID CARDS ISSUED TO BOTH
42 MEDICAID RECIPIENTS AND MEDICAID SERVICE PROVIDERS.

43 (G) FRAUD PREVENTION MARKERS INCORPORATED INTO SOFTWARE WHICH SHALL BE
44 USED TO OPERATE THE HARDWARE COMPONENT OF THE BIOMETRIC SCANNERS SHALL
45 PREVENT AND/OR REJECT THE PAYMENT BY THE MEDICAID PROGRAM AT POINT OF
46 SERVICE IF FRAUD OR POTENTIAL FRAUD IS IDENTIFIED BY THE BIOMETRIC TECH-
47 NOLOGY SYSTEM.

48 (H) THE COMMISSIONER IN CONSULTATION WITH THE OFFICE OF HEALTH INSUR-
49 ANCE PROGRAMS AND THE OFFICE OF THE ATTORNEY GENERAL SHALL BE RESPONSI-
50 BLE FOR PROMULGATING RULES AND REGULATIONS NECESSARY FOR THE OPERATION
51 OF THIS PROGRAM AND ENSURING THAT MEDICAID RECIPIENTS HAVE ACCESS TO
52 EMERGENCY HEALTH SERVICES IN THE CASE OF A BIOMETRIC TECHNOLOGY SYSTEM
53 MALFUNCTION OR FRAUD DETECTION ALARM.

54 3. (A) SUCH BIOMETRIC TECHNOLOGY USE REQUIREMENT SHALL BE IMPLEMENTED
55 WITHIN TWELVE MONTHS FROM THE EFFECTIVE DATE OF THIS ARTICLE.

1 (B) IF THE DEPARTMENT FAILS TO MEET THE DEADLINE ESTABLISHED PURSUANT
2 TO PARAGRAPH (A) OF THIS SUBDIVISION, IT SHALL SUBMIT IN WRITING TO EACH
3 MEMBER OF THE LEGISLATURE ITS FAILURE TO MEET SUCH DEADLINE AND A
4 DETAILED EXPLANATION OF WHEN SUCH TECHNOLOGY WILL BE IN PLACE.

5 S 293. REPORT. 1. THE DEPARTMENT SHALL REPORT TO EACH MEMBER OF THE
6 LEGISLATURE WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS ARTICLE, THE
7 ESTIMATED TOTAL NUMBER OF BIOMETRIC SOFTWARE LICENSES REQUIRED TO PLACE
8 BIOMETRIC PALM SCANNERS IN ALL HOSPITALS, CLINICS AND PHARMACIES SERVING
9 MEDICAID RECIPIENTS.

10 2. SUCH REPORT SHALL INCLUDE:

11 (A) AN ESTIMATED NUMBER OF PALM SCANNERS TO BE PLACED IN ALL HOSPI-
12 TALS, CLINICS AND PHARMACIES SERVING MEDICAID RECIPIENTS;

13 (B) THE ESTIMATED COST OF THE MAIN SERVER THAT SHALL BE USED TO AGGRE-
14 GATE THE BIOMETRIC DATA; AND

15 (C) THE ESTIMATED ANNUAL COST FOR THE MAINTENANCE AND UPGRADES OF
16 HARDWARE AND SOFTWARE REQUIRED FOR THE EFFECTIVE USE OF THIS TECHNOLOGY.

17 S 294. RULES AND REGULATIONS. THE COMMISSIONER IS AUTHORIZED AND
18 DIRECTED TO PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE MAY DEEM
19 NECESSARY OR APPROPRIATE TO EFFECTUATE THE PURPOSES OF THIS ARTICLE.

20 S 2. This act shall take effect immediately.