

STATE OF NEW YORK

10302

IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. McDonald) --
read once and referred to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation
to requiring providers to share electronic health records with plans

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Subdivision 13 of section 2803 of the public health law, as
2 amended by chapter 19 of the laws of 2022, is renumbered subdivision 14
3 and a new subdivision 15 is added to read as follows:

4 15. (a) The commissioner shall require every general hospital subject
5 to this article to timely share electronic medical records to utiliza-
6 tion review agents for purposes of article forty-nine of this chapter
7 and article forty-nine of the insurance law. Nothing contained herein
8 shall prohibit a health care plan from entering into an agreement with a
9 health care provider for the sharing and transmission of electronic
10 medical records pursuant to this section.

11 (b) Records disclosed pursuant to paragraph (a) of this subdivision
12 shall:

13 (i) be used exclusively for individual claim/care review and adjudi-
14 cation and shall not be used for any auditing function or to detect any
15 historical patterns of billing or abuse;

16 (ii) include the entire medical record and not exclude data which may
17 limit access to admission, discharge, and treatment information; and

18 (iii) not be used by health plans to separately request additional
19 information to support a coverage determination if the information is
20 otherwise available in an electronic medical record.

21 (c) Health plans utilizing electronic medical records under this
22 subdivision shall not seek information that they are not already permit-
23 ted to receive. Health plans shall prioritize the safeguarding of their
24 insureds' data, including their protected health information and
25 personally identifiable information. To the extent feasible and neces-
26 sary, health plans shall also seek to be Health Information Trust Alli-
27 ance (HITRUST) certified, which requires demonstrating and following
28 global standards for data security and privacy compliance.

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

LBD15673-01-2

1 § 2. Paragraph (g) of subdivision 1 of section 4902 of the public
2 health law, as added by chapter 705 of the laws of 1996, is amended to
3 read as follows:

4 (g) Establishment of appropriate policies and procedures to ensure
5 that all applicable state and federal laws to protect the confidentiali-
6 ty of individual medical records, including electronic medical records,
7 are followed;

8 § 3. Subdivision 7 of section 4905 of the public health law, as
9 amended by section 6 of subpart C of part AA of chapter 57 of the laws
10 of 2022, is amended to read as follows:

11 7. When making prospective, concurrent and retrospective determi-
12 nations, utilization review agents shall collect only such information
13 as is necessary to make such determination and shall not routinely
14 require health care providers to numerically code diagnoses or proce-
15 dures to be considered for certification or routinely request copies of
16 medical records of all patients reviewed. During prospective or concur-
17 rent review, copies of medical records shall only be required when
18 necessary to verify that the health care services subject to such review
19 are medically necessary. In such cases, only the necessary or relevant
20 sections of the medical record shall be required. A utilization review
21 agent may request copies of partial or complete medical records retros-
22 pectively. Medical records requested by utilization review agents for
23 purposes of this subdivision shall be made available electronically by
24 health care providers pursuant to subdivision fifteen of section twen-
25 ty-eight hundred three of this chapter and shall permit utilization
26 review agents direct access to retrieve such records directly.

27 § 4. Paragraph 7 of subsection (a) of section 4902 of the insurance
28 law, as added by chapter 705 of the laws of 1996, is amended to read as
29 follows:

30 (7) Establishment of appropriate policies and procedures to ensure
31 that all applicable state and federal laws to protect the confidentiali-
32 ty of individual medical records, including electronic medical records,
33 are followed;

34 § 5. Subsection (g) of section 4905 of the insurance law, as amended
35 by section 5 of subpart C of part AA of chapter 57 of the laws of 2022,
36 is amended to read as follows:

37 (g) When making prospective, concurrent and retrospective determi-
38 nations, utilization review agents shall collect only such information
39 as is necessary to make such determination and shall not routinely
40 require health care providers to numerically code diagnoses or proce-
41 dures to be considered for certification or routinely request copies of
42 medical records of all patients reviewed. During prospective or concur-
43 rent review, copies of medical records shall only be required when
44 necessary to verify that the health care services subject to such review
45 are medically necessary. In such cases, only the necessary or relevant
46 sections of the medical record shall be required. A utilization review
47 agent may request copies of partial or complete medical records retros-
48 pectively. Medical records requested by utilization review agents for
49 purposes of this subsection shall be made available electronically by
50 health care providers pursuant to subdivision fifteen of section twen-
51 ty-eight hundred three of the public health law.

52 § 6. This act shall take effect immediately.