STATE OF NEW YORK

10403

IN ASSEMBLY

May 13, 2022

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

AN ACT to amend the public health law, the mental hygiene law and the insurance law, in relation to utilization review agents access to electronic medical records

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

Section 1. Section 2803 of the public health law is amended by adding a new subdivision 14 to read as follows:

14. The commissioner shall require every general hospital and every clinic licensed pursuant to this article to adopt a process by which access to electronic medical records are provided to utilization review agents for purposes of article forty-nine of this chapter and article forty-nine of the insurance law. Nothing contained herein shall prohibit a health care plan from entering into an agreement with a health care provider for the transmission of electronic medical records pursuant to this subdivision.

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

(g) Establishment of appropriate policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records**, including electronic medical records,** are followed;

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

7. When making prospective, concurrent and retrospective determinations, utilization review agents shall collect only such information as is necessary to make such determination and shall not routinely require health care providers to numerically code diagnoses or procedures to be considered for certification or routinely request copies of medical records of all patients reviewed. During prospective or concurrent review, copies of medical records shall only be required when

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

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necessary to verify that the health care services subject to such review are medically necessary. In such cases, only the necessary or relevant sections of the medical record shall be required. A utilization review agent may request copies of partial or complete medical records retrospectively. **Medical records requested by utilization review agents for purposes of this subdivision shall be made available electronically by health care providers pursuant to subdivision fourteen of section twenty-eight hundred three of this chapter and subdivision (f) of section 31.04 of the mental hygiene law.**

§ 4. Section 31.04 of the mental hygiene law is amended by adding a new subdivision (f) to read as follows:

(f) The commissioner, in consultation with the commissioner of health shall require every clinic licensed pursuant to this article to adopt a process by which access to electronic medical records are provided to utilization review agents for purposes of article forty-nine of the public health law and article forty-nine of the insurance law. Nothing contained herein shall prohibit a health care plan from entering into an agreement with a clinic licensed pursuant to this article for the transmission of electronic medical records pursuant to this subdivision.

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

(7) Establishment of appropriate policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records**, including electronic medical records,** are followed;

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

(g) When making prospective, concurrent and retrospective determinations, utilization review agents shall collect only such information as is necessary to make such determination and shall not routinely require health care providers to numerically code diagnoses or procedures to be considered for certification or routinely request copies of medical records of all patients reviewed. During prospective or concurrent review, copies of medical records shall only be required when necessary to verify that the health care services subject to such review are medically necessary. In such cases, only the necessary or relevant sections of the medical record shall be required. A utilization review agent may request copies of partial or complete medical records retrospectively. **Medical records requested by utilization review agents for purposes of this subsection shall be made available electronically by health care providers pursuant to subdivision fourteen of section twenty-eight hundred three of the public health law and subdivision (f) of section 31.04 of the mental hygiene law.**

§ 7. This act shall take effect immediately.