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HOUSE CS FOR CS FOR SENATE BILL NO. 133(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/17/09

Referred: Rules

Sponsor(s): SENATORS PASKVAN, Davis, Menard, French, Kookesh, Thomas, Stevens, Bunde, Meyer, Huggins, Stedman, Therriault, Wagoner, Dyson, Ellis

REPRESENTATIVES Joule, Holmes, Herron, Gardner, Lynn, Kawasaki, Tuck

A BILL

FOR AN ACT ENTITLED

1 **"An Act creating a statewide electronic health information exchange system; and**
2 **providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE INTENT. It is the intent of the legislature to create a secure electronic
7 health information exchange system that

8 (1) ensures that the confidentiality of individually indentifying health
9 information of a patient is secure and protected;

10 (2) improves health care quality, reduces medical errors, increases the
11 efficiency of care, and advances the delivery of appropriate, evidence-based health care
12 services;

13 (3) promotes wellness, disease prevention, and management of chronic
14 illnesses by increasing the availability and transparency of information related to the health

1 care needs of an individual for the benefit of the individual;

2 (4) ensures that appropriate information needed to make medical decisions is
3 available in a usable form at the time and in the location that the medical service is provided;

4 (5) produces greater value for health care expenditures by reducing health care
5 costs that result from inefficiency, medical errors, inappropriate care, and incomplete
6 information;

7 (6) promotes a more effective marketplace, greater competition, greater
8 systems analysis, increased choice, enhanced quality, and improved outcomes in health care
9 services; and

10 (7) improves the coordination of information and the provision of health care
11 services through an effective infrastructure for the secure and authorized exchange and use of
12 health care information.

13 * **Sec. 2.** AS 18.23 is amended by adding new sections to read:

14 **Article 4. Electronic Health Information Exchange System.**

15 **Sec. 18.23.300. Creation of health information exchange system.** (a) The
16 department shall establish and implement a statewide electronic health information
17 exchange system and ensure the interoperability and compliance of the system with
18 state and federal specifications and protocols for exchanging health records and data.

19 (b) The system established under this section must

20 (1) include infrastructure planning that involves

21 (A) the designation by the commissioner of a qualified entity or
22 combination of qualified entities in the state that

23 (i) has an advisory or governing body made up of health
24 system stakeholders that include members identified under (d) of this
25 section;

26 (ii) applies for available federal and state funding for
27 planning and implementation of the system authorized by the
28 commissioner;

29 (iii) submits an annual budget for approval of the
30 commissioner;

31 (iv) complies with nondiscrimination and conflict of

1 interest policies;

2 (v) meets and complies with federal and state health
3 information policies and standards;

4 (vi) provides cost and cost saving data associated with
5 the development and use of the system to the department;

6 (B) the development of statewide infrastructure to support the
7 electronic health information exchange system established under this section
8 and to connect electronic health records to the infrastructure;

9 (C) the development of a statewide technology plan, with the
10 participation of identified stakeholders, to promote the implementation and
11 sustained use by public and private health care payors and providers of
12 electronic health records and the system established under this section in order
13 to ensure interoperability among government-operated health information
14 systems and other public and private health information and reporting systems;

15 (D) the development of policies and standards, consistent with
16 federal and state law, to safeguard the privacy and security of health
17 information;

18 (E) the development of a training and workforce development
19 plan for implementing and serving the system;

20 (F) an estimate of costs of the hardware, software, services, and
21 support needed to implement and maintain the technical infrastructure; and

22 (2) include implementation measures that

23 (A) provide for installation and training on the use of the
24 system;

25 (B) set out a plan to encourage health care provider, payor, and
26 patient use of electronic records over a sustained period of time;

27 (C) provide support to providers for workflow redesign, quality
28 improvement, and care management services;

29 (D) provide for participation by all identified stakeholders in
30 the planning and implementation of the system;

31 (E) comply with federal and state health information policies;

1 and

2 (F) provide for periodic evaluation and improvement of the
3 system.

4 (c) The department may enter into contracts, seek and accept available federal
5 and private funds and equipment, and adopt regulations necessary to carry out the
6 purposes of this section.

7 (d) The designee under (b)(1)(A) of this section may be a private for-profit or
8 nonprofit entity or entities under contract with the state. The advisory or governing
9 body of the designee must include

10 (1) the commissioner;

11 (2) eight other individuals, each of whom represents one of the
12 following interests:

13 (A) hospitals and nursing home facilities;

14 (B) private medical care providers;

15 (C) community-based primary care providers;

16 (D) federal health care providers;

17 (E) Alaska tribal health organizations;

18 (F) health insurers;

19 (G) health care consumers;

20 (H) employers or businesses; and

21 (3) two nonvoting liaison members who shall serve to enhance
22 communication and collaboration between the designee and both the Board of Regents
23 of the University of Alaska and the commission established in the governor's office to
24 review health care policy.

25 **Sec. 18.23.305. Department; duties.** In carrying out its duties under
26 AS 18.23.300, the department shall

27 (1) in accordance with federal recommendations, determine the
28 manner in which the system is developed and operated;

29 (2) provide oversight and technical assistance needed for planning and
30 implementing the system;

31 (3) authorize and facilitate applications for available federal funding

1 for planning and implementing the system;

2 (4) ensure compliance with applicable federal and state health
3 information policies and standards;

4 (5) ensure compliance with federal and state law and standards that
5 safeguard the privacy and security of health information;

6 (6) ensure that the health information exchange system becomes self-
7 sustaining through a combination of user fees and other private and public funding
8 sources.

9 **Sec. 18.23.310. Confidentiality and security of information.** (a) The
10 department shall establish appropriate security standards to protect the transmission
11 and receipt of individually identifiable information contained in the system established
12 under AS 18.23.300. The standards must

13 (1) include controls over access to and collection, organization, and
14 maintenance of records and data that protect the confidentiality of the individual who
15 is the subject of a health record;

16 (2) include a secure and traceable electronic audit system for
17 identifying access points and trails;

18 (3) meet the most stringent applicable federal or state privacy law
19 governing the protection of the information contained in the system.

20 (b) A person may not release or publish individually indentifying health
21 information from the system for purposes unrelated to the treatment or billing of the
22 patient who is the subject of the information. Use or distribution of the information for
23 a marketing purpose is strictly prohibited.

24 (c) The department shall establish procedures for a patient who is the subject
25 of a health record contained in the system to

26 (1) opt out of the system;

27 (2) consent to the distribution of the patient's records contained in the
28 system;

29 (3) be notified of a violation of the confidentiality provisions required
30 under this section;

31 (4) on request to the department, view an audit report created under

1 this section for the purpose of monitoring access to the patient's records.

2 **Sec. 18.23.315. Health information exchange system report to the**
3 **legislature.** The department shall provide to the legislature, on or before December 31
4 of each year, an annual report on the progress of the health information exchange
5 system in the state, including a specific set of recommendations for long-term
6 participation and financial support by the state.

7 **Sec. 18.23.320. Contract conditions.** A contract entered into to carry out the
8 purposes of AS 18.23.300 must require that the contractor meet applicable federal and
9 state requirements for protecting health information privacy and security and
10 nationally recognized standards for interoperability of health information technology.

11 **Sec. 18.23.325. Definitions.** In AS 18.23.300 - 18.23.325,

12 (1) "commissioner" means the commissioner of health and social
13 services;

14 (2) "department" means the Department of Health and Social Services;

15 (3) "system" means the statewide electronic health information
16 exchange system established under AS 18.23.300.

17 * **Sec. 3.** This Act takes effect July 1, 2009.