State and regional efforts, and with foreign countries with regard to the privacy, security, and data stewardship of electronic individually identifiable health information.

(July 1, 1944, ch. 373, title XXX, § 3001, as added Pub. L. 111–5, div. A, title XIII, § 13101, Feb. 17, 2009, 123 Stat. 230; amended Pub. L. 114–255, div. A, title IV, §§ 4001(b), 4002(a), 4003(b), (e)(2)(A)(i), (ii), (C), Dec. 13, 2016, 130 Stat. 1158, 1159, 1165, 1174.)

Editorial Notes

REFERENCES IN TEXT

The National Technology Transfer Act of 1995 (15 U.S.C. 272 note), referred to in subsec. (c)(7), probably means section 12(d) of Pub. L. 104–113, known as the National Technology Transfer and Advancement Act of 1995, which is set out as a note under section 272 of Title 15, Commerce and Trade.

AMENDMENTS

2016—Subsec. (c)(1)(A). Pub. L. 114–255, § 4003(e)(2)(C)(i), substituted ''under section 300jj–12 of this title'' for ''under section 300jj–13 of this title''.

Pub. L. 114–255, § 4003(e)(2)(A)(i), substituted ''HIT Advisory Committee'' for ''HIT Standards Committee''.

Subsec. (c)(2)(B). Pub. L. 114–255, § 4003(e)(2)(C)(ii), added subpar. (B) and struck out former subpar. (B). Prior to amendment, text read as follows: ''The National Coordinator shall be a leading member in the establishment and operations of the HIT Policy Committee and the HIT Standards Committee and shall serve as a liaison among those two Committees and the Federal Government.''

Subsec. (c)(3)(A)(v). Pub. L. 114–255, § 4003(e)(2)(A)(ii), which directed amendment of this section by substituting ''HIT Advisory Committee'' for ''HIT Policy Committee and the HIT Standards Committee'' wherever appearing, was executed to cl. (v) by making the substitution for ''HIT Policy Committee, the HIT Standards Committee'', to reflect the probable intent of Congress.

Subsec. (c)(5)(C). Pub. L. 114–255, § 4001(b), added subpar. (C).

Subsec. (c)(5)(D), (E). Pub. L. 114–255, § 4002(a), added subpars. (D) and (E).

Subsec. (c)(6)(A). Pub. L. 114–255, § 4003(e)(2)(A)(i), which directed amendment of this section by substituting ''HIT Advisory Committee'' for both ''HIT Policy Committee'' and ''HIT Standards Committee'' wherever appearing, but not within the term ''HIT Policy Committee or the HIT Standards Committee'', was not executed to subpar. (A) as provided in the exception, notwithstanding text that reads ''HIT Policy Committee or HIT Standards Committee'', to reflect the probable intent of Congress.

Subsec. (c)(9). Pub. L. 114–255, § 4003(b), added par. (9).

Statutory Notes and Related Subsidiaries

PROVIDER DIGITAL CONTACT INFORMATION INDEX

Pub. L. 114–255, div. A, title IV, § 4003(c), Dec. 13, 2016, 130 Stat. 1167, provided that:

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Dec. 13, 2016], the Secretary of Health and Human Services (referred to in this subsection as the 'Secretary') shall, directly or through a partnership with a private entity, establish a provider digital contact information index to provide digital contact information for health professionals and health facilities.

''(2) USE OF EXISTING INDEX.—In establishing the initial index under paragraph (1), the Secretary may utilize an existing provider directory to make such digital contact information available.

''(3) CONTACT INFORMATION.—An index established under this subsection shall ensure that contact information is available at the individual health care provider level and at the health facility or practice level.

''(4) RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—The purpose of this subsection is to encourage the exchange of electronic health information by providing the most useful, reliable, and comprehensive index of providers possible. In furthering such purpose, the Secretary shall include all health professionals and health facilities applicable to provide a useful, reliable, and comprehensive index for use in the exchange of health information.

''(B) LIMITATION.—In no case shall exclusion from the index of providers be used as a measure to achieve objectives other [than] the objectives described in subparagraph (A).''

§ 300jj–12. Health Information Technology Advisory Committee

(a) Establishment

There is established a Health Information Technology Advisory Committee (referred to in this section as the ''HIT Advisory Committee'') to recommend to the National Coordinator, consistent with the implementation of the strategic plan described in section 300jj–11(c)(3) of this title, policies, and, for purposes of adoption under section 300jj–14 of this title, standards, implementation specifications, and certification criteria, relating to the implementation of a health information technology infrastructure, nationally and locally, that advances the electronic access, exchange, and use of health information. Such Committee shall serve to unify the roles of, and replace, the HIT Policy Committee and the HIT Standards Committee, as in existence before December 13, 2016.

(b) Duties

(1) Recommendations on policy framework to advance an interoperable health information technology infrastructure

(A) In general

The HIT Advisory Committee shall recommend to the National Coordinator a policy framework for adoption by the Secretary consistent with the strategic plan under section 300jj–11(c)(3) of this title for advancing the target areas described in this subsection. Such policy framework shall seek to prioritize achieving advancements in the target areas specified in subparagraph (B) of paragraph (2) and may, to the extent consistent with this section, incorporate policy recommendations made by the HIT Policy Committee, as in existence before December 13, 2016.

(B) Updates

The HIT Advisory Committee shall propose updates to such recommendations to the policy framework and make new recommendations, as appropriate.

(2) General duties and target areas

(A) In general

The HIT Advisory Committee shall recommend to the National Coordinator for purposes of adoption under section 300jj–14 of this title, standards, implementation specifications, and certification criteria and an order of priority for the development, harmonization, and recognition of such stand-

ards, specifications, and certification criteria. Such recommendations shall include recommended standards, architectures, and software schemes for access to electronic individually identifiable health information across disparate systems including user vetting, authentication, privilege management, and access control.

(B) Priority target areas

For purposes of this section, the HIT Advisory Committee shall make recommendations under subparagraph (A) with respect to at least each of the following target areas:

(i) Achieving a health information technology infrastructure, nationally and locally, that allows for the electronic access, exchange, and use of health information, including through technology that provides accurate patient information for the correct patient, including exchanging such information, and avoids the duplication of patient records.

(ii) The promotion and protection of privacy and security of health information in health information technology, including technologies that allow for an accounting of disclosures and protections against disclosures of individually identifiable health information made by a covered entity for purposes of treatment, payment, and health care operations (as such terms are defined for purposes of the regulation promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996), including for the segmentation and protection from disclosure of specific and sensitive individually identifiable health information with the goal of minimizing the reluctance of patients to seek care.

(iii) The facilitation of secure access by an individual to such individual's protected health information and access to such information by a family member, caregiver, or guardian acting on behalf of a patient, including due to age-related and other disability, cognitive impairment, or dementia.

(iv) Subject to subparagraph (D), any other target area that the HIT Advisory Committee identifies as an appropriate target area to be considered under this subparagraph.

(C) Additional target areas

For purposes of this section, the HIT Advisory Committee may make recommendations under subparagraph (A), in addition to areas described in subparagraph (B), with respect to any of the following areas:

(i) The use of health information technology to improve the quality of health care, such as by promoting the coordination of health care and improving continuity of health care among health care providers, reducing medical errors, improving population health, reducing chronic disease, and advancing research and education.

(ii) The use of technologies that address the needs of children and other vulnerable populations.

(iii) The use of electronic systems to ensure the comprehensive collection of patient demographic data, including at a minimum, race, ethnicity, primary language, and gender information.

(iv) The use of self-service, telemedicine, home health care, and remote monitoring technologies.

(v) The use of technologies that meet the needs of diverse populations.

(vi) The use of technologies that support—

(I) data for use in quality and public reporting programs;

(II) public health; or

(III) drug safety.

(vii) The use of technologies that allow individually identifiable health information to be rendered unusable, unreadable, or indecipherable to unauthorized individuals when such information is transmitted in a health information network or transported outside of the secure facilities or systems where the disclosing covered entity is responsible for security conditions.

(viii) The use of a certified health information technology for each individual in the United States.

(D) Authority for temporary additional priority target areas

For purposes of subparagraph (B)(iv), the HIT Advisory Committee may identify an area to be considered for purposes of recommendations under this subsection as a target area described in subparagraph (B) if—

(i) the area is so identified for purposes of responding to new circumstances that have arisen in the health information technology community that affect the interoperability, privacy, or security of health information, or affect patient safety; and

(ii) at least 30 days prior to treating such area as if it were a target area described in subparagraph (B), the National Coordinator provides adequate notice to Congress of the intent to treat such area as so described.

(E) Focus of committee work

It is the sense of Congress that the HIT Advisory Committee shall focus its work on the priority areas described in subparagraph (B) before proceeding to other work under subparagraph (C).

(3) Rules relating to recommendations for standards, implementation specifications, and certification criteria

(A) In general

The HIT Advisory Committee shall recommend to the National Coordinator standards, implementation specifications, and certification criteria described in subsection (a), which may include standards, implementation specifications, and certification criteria that have been developed, harmonized, or recognized by the HIT Advisory Committee or predecessor committee. The HIT

Advisory Committee shall update such recommendations and make new recommendations as appropriate, including in response to a notification sent under section 300jj–14(a)(2)(B) of this title. Such recommendations shall be consistent with the latest recommendations made by the Committee.

(B) Harmonization

The HIT Advisory Committee may recognize harmonized or updated standards from an entity or entities for the purpose of harmonizing or updating standards and implementation specifications in order to achieve uniform and consistent implementation of the standards and implementation specification.

(C) Pilot testing of standards and implementation specifications

In the development, harmonization, or recognition of standards and implementation specifications, the HIT Advisory Committee for purposes of recommendations under paragraph (2)(B), shall, as appropriate, provide for the testing of such standards and specifications by the National Institute for Standards and Technology under section 17911(a) of this title.

(D) Consistency

The standards, implementation specifications, and certification criteria recommended under paragraph (2)(B) shall be consistent with the standards for information transactions and data elements adopted pursuant to section 1320d–2 of this title.

(E) Special rule related to interoperability

Any recommendation made by the HIT Advisory Committee after December 13, 2016, with respect to interoperability of health information technology shall be consistent with interoperability as described in section 300jj of this title.

(4) Forum

The HIT Advisory Committee shall serve as a forum for the participation of a broad range of stakeholders with specific expertise in policies, including technical expertise, relating to the matters described in paragraphs (1), (2), and (3) to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of health information technology infrastructure nationally and locally that allows for the electronic access, exchange, and use of health information.

(5) Schedule

Not later than 30 days after the date on which the HIT Advisory Committee first meets, such HIT Advisory Committee shall develop a schedule for the assessment of policy recommendations developed under paragraph (1). The HIT Advisory Committee shall update such schedule annually. The Secretary shall publish such schedule in the Federal Register.

(6) Public input

The HIT Advisory Committee shall conduct open public meetings and develop a process to allow for public comment on the schedule described in paragraph (5) and recommendations described in this subsection. Under such process comments shall be submitted in a timely manner after the date of publication of a recommendation under this subsection.

(c) Measured progress in advancing priority areas

(1) In general

For purposes of this section, the National Coordinator, in collaboration with the Secretary, shall establish, and update as appropriate, objectives and benchmarks for advancing and measuring the advancement of the priority target areas described in subsection (b)(2)(B).

(2) Annual progress reports on advancing interoperability

(A) In general

The HIT Advisory Committee, in consultation with the National Coordinator, shall annually submit to the Secretary and Congress a report on the progress made during the preceding fiscal year in—

(i) achieving a health information technology infrastructure, nationally and locally, that allows for the electronic access, exchange, and use of health information; and

(ii) meeting the objectives and benchmarks described in paragraph (1).

(B) Content

Each such report shall include, for a fiscal year—

(i) a description of the work conducted by the HIT Advisory Committee during the preceding fiscal year with respect to the areas described in subsection (b)(2)(B);

(ii) an assessment of the status of the infrastructure described in subparagraph (A), including the extent to which electronic health information is appropriately and readily available to enhance the access, exchange, and the use of electronic health information between users and across technology offered by different developers;

(iii) the extent to which advancements have been achieved with respect to areas described in subsection (b)(2)(B);

(iv) an analysis identifying existing gaps in policies and resources for—

(I) achieving the objectives and benchmarks established under paragraph (1); and

(II) furthering interoperability throughout the health information technology infrastructure;

(v) recommendations for addressing the gaps identified in clause (iii); and

(vi) a description of additional initiatives as the HIT Advisory Committee and National Coordinator determine appropriate.

(3) Significant advancement determination

The Secretary shall periodically, based on the reports submitted under this subsection,

review the target areas described in subsection (b)(2)(B), and, based on the objectives and benchmarks established under paragraph (1), the Secretary shall determine if significant advancement has been achieved with respect to such an area. Such determination shall be taken into consideration by the HIT Advisory Committee when determining to what extent the Committee makes recommendations for an area other than an area described in subsection (b)(2)(B).

(d) Membership and operations

(1) In general

The National Coordinator shall take a leading position in the establishment and operations of the HIT Advisory Committee.

(2) Membership

The membership of the HIT Advisory Committee shall—

(A) include at least 25 members, of which—

(i) no fewer than 2 members are advocates for patients or consumers of health information technology;

(ii) 3 members are appointed by the Secretary, 1 of whom shall be appointed to represent the Department of Health and Human Services and 1 of whom shall be a public health official;

(iii) 2 members are appointed by the majority leader of the Senate;

(iv) 2 members are appointed by the minority leader of the Senate;

(v) 2 members are appointed by the Speaker of the House of Representatives;

(vi) 2 members are appointed by the minority leader of the House of Representatives; and

(vii) such other members are appointed by the Comptroller General of the United States; and

(B) at least reflect providers, ancillary health care workers, consumers, purchasers, health plans, health information technology developers, researchers, patients, relevant Federal agencies, and individuals with technical expertise on health care quality, system functions, privacy, security, and on the electronic exchange and use of health information, including the use standards for such activity.

(3) Participation

The members of the HIT Advisory Committee shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Committee.

(4) Terms

(A) In general

The terms of the members of the HIT Advisory Committee shall be for 3 years, except that the Secretary shall designate staggered terms of the members first appointed.

(B) Vacancies

Any member appointed to fill a vacancy in the membership of the HIT Advisory Committee that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the HIT Advisory Committee shall be filled in the manner in which the original appointment was made.

(C) Limits

Members of the HIT Advisory Committee shall be limited to two 3-year terms, for a total of not to exceed 6 years of service on the Committee.

(5) Outside involvement

The HIT Advisory Committee shall ensure an opportunity for the participation in activities of the Committee of outside advisors, including individuals with expertise in the development of policies and standards for the electronic exchange and use of health information, including in the areas of health information privacy and security.

(6) Quorum

A majority of the members of the HIT Advisory Committee shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

(7) Consideration

The National Coordinator shall ensure that the relevant and available recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.

(8) Assistance

For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Advisory Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not-for-profit entities that work in the public interest as a party of their mission.

(e) Application of chapter 10 of title 5

Chapter 10 of title 5, other than section 1013 of title 5, shall apply to the HIT Advisory Committee.

(f) Publication

The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all policy recommendations made by the HIT Advisory Committee under this section.

(July 1, 1944, ch. 373, title XXX, §3002, as added Pub. L. 114–255, div. A, title IV, §4003(e)(1), Dec. 13, 2016, 130 Stat. 1168; amended Pub. L. 117–286, §4(a)(246), Dec. 27, 2022, 136 Stat. 4332.)

Editorial Notes

REFERENCES IN TEXT

Section 264(c) of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (b)(2)(B)(ii), is section 264(c) of Pub. L. 104–191, which is set out as a note under section 1320d–2 of this title.

PRIOR PROVISIONS

A prior section 300jj–12, act July 1, 1944, ch. 373, title XXX, §3002, as added Pub. L. 111–5, div. A, title XIII,

§ 13101, Feb. 17, 2009, 123 Stat. 234, related to the establishment, duties, and membership of the HIT Policy Committee, prior to repeal by Pub. L. 114–255, div. A, title IV, § 4003(e)(1), Dec. 13, 2016, 130 Stat. 1168.

AMENDMENTS

2022—Subsec. (e). Pub. L. 117–286 substituted ''chapter 10 of title 5'' for ''FACA'' in heading and ''Chapter 10 of title 5, other than section 1013 of title 5,'' for ''The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act,'' in text.

Statutory Notes and Related Subsidiaries

TRANSITION TO THE HIT ADVISORY COMMITTEE

Pub. L. 114–255, div. A, title IV, § 4003(e)(3), Dec. 13, 2016, 130 Stat. 1175, provided that: ''The Secretary of Health and Human Services shall provide for an orderly and timely transition to the HIT Advisory Committee established under amendments made by this section [enacting this section and section 300jj–13 of this title, amending sections 300jj, 300jj–11, 300jj–14, 300jj–17, 300jj–18, and 300jj–51 of this title, and repealing former sections 300jj–12 and 300jj–13 of this title].''

§ 300jj–13. Setting priorities for standards adoption

(a) Identifying priorities

(1) In general

Not later than 6 months after the date on which the HIT Advisory Committee first meets, the National Coordinator shall periodically convene the HIT Advisory Committee to—

(A) identify priority uses of health information technology, focusing on priorities—

(i) arising from the implementation of the incentive programs for the meaningful use of certified EHR technology, the Merit-based Incentive Payment System, Alternative Payment Models, the Hospital Value-Based Purchasing Program, and any other value-based payment program determined appropriate by the Secretary;

(ii) related to the quality of patient care;

(iii) related to public health;

(iv) related to clinical research;

(v) related to the privacy and security of electronic health information;

(vi) related to innovation in the field of health information technology;

(vii) related to patient safety;

(viii) related to the usability of health information technology;

(ix) related to individuals' access to electronic health information; and

(x) other priorities determined appropriate by the Secretary;

(B) identify existing standards and implementation specifications that support the use and exchange of electronic health information needed to meet the priorities identified in subparagraph (A); and

(C) publish a report summarizing the findings of the analysis conducted under subparagraphs (A) and (B) and make appropriate recommendations.

(2) Prioritization

In identifying such standards and implementation specifications under paragraph (1)(B), the HIT Advisory Committee shall prioritize standards and implementation specifications developed by consensus-based standards development organizations.

(3) Guidelines for review of existing standards and specifications

In consultation with the consensus-based entity described in section 1395aaa of this title and other appropriate Federal agencies, the analysis of existing standards under paragraph (1)(B) shall include an evaluation of the need for a core set of common data elements and associated value sets to enhance the ability of certified health information technology to capture, use, and exchange structured electronic health information.

(b) Review of adopted standards

(1) In general

Beginning 5 years after December 13, 2016, and every 3 years thereafter, the National Coordinator shall convene stakeholders to review the existing set of adopted standards and implementation specifications and make recommendations with respect to whether to—

(A) maintain the use of such standards and implementation specifications; or

(B) phase out such standards and implementation specifications.

(2) Priorities

The HIT Advisory Committee, in collaboration with the National Institute for Standards and Technology, shall annually and through the use of public input, review and publish priorities for the use of health information technology, standards, and implementation specifications to support those priorities.

(c) Rule of construction

Nothing in this section shall be construed to prevent the use or adoption of novel standards that improve upon the existing health information technology infrastructure and facilitate the secure exchange of health information.

(July 1, 1944, ch. 373, title XXX, § 3003, as added Pub. L. 114–255, div. A, title IV, § 4003(f), Dec. 13, 2016, 130 Stat. 1175.)

Editorial Notes

PRIOR PROVISIONS

A prior section 300jj–13, act July 1, 1944, ch. 373, title XXX, § 3003, as added Pub. L. 111–5, div. A, title XIII, § 13101, Feb. 17, 2009, 123 Stat. 238, related to the establishment, duties, and membership of the HIT Standards Committee, prior to repeal by Pub. L. 114–255, div. A, title IV, § 4003(e)(1), Dec. 13, 2016, 130 Stat. 1168.

§ 300jj–14. Process for adoption of endorsed recommendations; adoption of initial set of standards, implementation specifications, and certification criteria

(a) Process for adoption of endorsed recommendations

(1) Review of endorsed standards, implementation specifications, and certification criteria

Not later than 90 days after the date of receipt of standards, implementation specifications, or certification criteria endorsed under