

“(c) TREATMENT OF HEALTH INFORMATION TECHNOLOGY DEVELOPERS WITH RESPECT TO PATIENT SAFETY ORGANIZATIONS.—

“(1) IN GENERAL.—In applying part C of title IX of the Public Health Service Act (42 U.S.C. 299b-21 et seq.), a health information technology developer shall be treated as a provider (as defined in section 921 of such Act [42 U.S.C. 299b-21]) for purposes of reporting and conducting patient safety activities concerning improving clinical care through the use of health information technology that could result in improved patient safety, health care quality, or health care outcomes.

“(2) REPORT.—Not later than 4 years after the date of enactment of this Act [Dec. 13, 2016], the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning best practices and current trends voluntarily provided, without identifying individual providers or disclosing or using protected health information or individually identifiable information, by patient safety organizations to improve the integration of health information technology into clinical practice.”

§ 300jj-15. Application and use of adopted standards and implementation specifications by Federal agencies

For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 300jj-14 of this title, see section 17901 of this title.

(July 1, 1944, ch. 373, title XXX, §3005, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 241.)

§ 300jj-16. Voluntary application and use of adopted standards and implementation specifications by private entities

(a) In general

Except as provided under section 13112 of the HITECH Act [42 U.S.C. 17902], nothing in such Act or in the amendments made by such Act shall be construed—

(1) to require a private entity to adopt or comply with a standard or implementation specification adopted under section 300jj-14 of this title; or

(2) to provide a Federal agency authority, other than the authority such agency may have under other provisions of law, to require a private entity to comply with such a standard or implementation specification.

(b) Rule of construction

Nothing in this part shall be construed to require that a private entity that enters into a contract with the Federal Government apply or use the standards and implementation specifications adopted under section 300jj-14 of this title with respect to activities not related to the contract.

(July 1, 1944, ch. 373, title XXX, §3006, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 241.)

Editorial Notes

REFERENCES IN TEXT

The HITECH Act, referred to in subsec. (a), is title XIII of div. A and title IV of div. B of Pub. L. 111-5, Feb.

17, 2009, 123 Stat. 226, 467, also known as the Health Information Technology for Economic and Clinical Health Act. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 201 of this title and Tables.

§ 300jj-17. Federal health information technology

(a) In general

The National Coordinator shall support the development and routine updating of qualified electronic health record technology (as defined in section 300jj of this title) consistent with subsections (b) and (c) and make available such qualified electronic health record technology unless the Secretary determines through an assessment that the needs and demands of providers are being substantially and adequately met through the marketplace.

(b) Certification

In making such electronic health record technology publicly available, the National Coordinator shall ensure that the qualified electronic health record technology described in subsection (a) is certified under the program developed under section 300jj-11(c)(3) of this title to be in compliance with applicable standards adopted under section 300jj-12(a)(2)¹ of this title.

(c) Authorization to charge a nominal fee

The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection² (a) and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

(d) Rule of construction

Nothing in this section shall be construed to require that a private or government entity adopt or use the technology provided under this section.

(July 1, 1944, ch. 373, title XXX, §3007, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 241; amended Pub. L. 114-255, div. A, title IV, §4003(e)(2)(E), Dec. 13, 2016, 130 Stat. 1175.)

Editorial Notes

AMENDMENTS

2016—Subsec. (b). Pub. L. 114-255 substituted “300jj-12(a)(2)” for “300jj-13(a)”.

§ 300jj-18. Transitions

(a) ONCHIT

To the extent consistent with section 300jj-11 of this title, all functions, personnel, assets, liabilities, and administrative actions applicable to the National Coordinator for Health Information Technology appointed under Executive Order No. 13335 or the Office of such National Coordinator on the date before February 17, 2009, shall be transferred to the National Coordinator appointed under section 300jj-11(a) of this title

¹ So in original. No par. (2) of section 300jj-12(a) has been enacted.

² So in original. Probably should be “subsections”.

and the Office of such National Coordinator as of February 17, 2009.

(b) National eHealth Collaborative

Nothing in sections¹ 300jj-12 of this title or this subsection shall be construed as prohibiting the AHIC Successor, Inc. doing business as the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with section² 300jj-12 and 300jj-13³ of this title so as to allow the Secretary to recognize such AHIC Successor, Inc. as the HIT Advisory Committee.

(c) Consistency of recommendations

In carrying out section 300jj-12(b)(2) of this title, until recommendations are made by the HIT Advisory Committee,⁴ recommendations of the HIT Advisory Committee⁴ shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

(July 1, 1944, ch. 373, title XXX, §3008, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 241; amended Pub. L. 114-255, div. A, title IV, §4003(e)(2)(A)(i), (iii), (F), Dec. 13, 2016, 130 Stat. 1174, 1175.)

Editorial Notes

REFERENCES IN TEXT

Executive Order No. 13335, referred to in subsec. (a), is set out as a note under section 300u of this title.

Section 300jj-13 of this title, referred to in subsec. (b), was repealed, and a new section 300jj-13 was enacted by Pub. L. 114-255, div. A, title IV, §4003(e)(1), (f), Dec. 13, 2016, 130 Stat. 1168, 1175.

AMENDMENTS

2016—Subsec. (b). Pub. L. 114-255, §4003(e)(2)(F)(i), struck out “or 300jj-13” after “Nothing in sections 300jj-12”.

Pub. L. 114-255, §4003(e)(2)(A)(iii), substituted “HIT Advisory Committee” for “HIT Policy Committee or the HIT Standards Committee”.

Subsec. (c). Pub. L. 114-255, §4003(e)(2)(F)(ii), substituted “300jj-12(b)(2)” for “300jj-13(b)(1)(A)”.

Pub. L. 114-255, §4003(e)(2)(A)(i), substituted “HIT Advisory Committee” for “HIT Policy Committee” after “recommendations are made by the” and “HIT Advisory Committee” for “HIT Standards Committee” after “recommendations of the”. See section 300jj-12(a) of this title.

§ 300jj-19. Miscellaneous provisions

(a) Relation to HIPAA privacy and security law

(1) In general

With respect to the relation of this subchapter to HIPAA privacy and security law:

(A) This subchapter may not be construed as having any effect on the authorities of the Secretary under HIPAA privacy and security law.

(B) The purposes of this subchapter include ensuring that the health information technology standards and implementation specifications adopted under section 300jj-14 of this title take into account the requirements of HIPAA privacy and security law.

(2) Definition

For purposes of this section, the term “HIPAA privacy and security law” means—

(A) the provisions of part C of title XI of the Social Security Act [42 U.S.C. 1320d et seq.], section 264 of the Health Insurance Portability and Accountability Act of 1996, and subtitle D of title IV¹ of the Health Information Technology for Economic and Clinical Health Act; and

(B) regulations under such provisions.

(b) Flexibility

In administering the provisions of this subchapter, the Secretary shall have flexibility in applying the definition of health care provider under section 300jj(3) of this title, including the authority to omit certain entities listed in such definition when applying such definition under this subchapter, where appropriate.

(c) Promoting patient access to electronic health information through health information exchanges

(1) In general

The Secretary shall use existing authorities to encourage partnerships between health information exchange organizations and networks and health care providers, health plans, and other appropriate entities with the goal of offering patients access to their electronic health information in a single, longitudinal format that is easy to understand, secure, and may be updated automatically.

(2) Education of providers

The Secretary, in coordination with the Office for Civil Rights of the Department of Health and Human Services, shall—

(A) educate health care providers on ways of leveraging the capabilities of health information exchanges (or other relevant platforms) to provide patients with access to their electronic health information;

(B) clarify misunderstandings by health care providers about using health information exchanges (or other relevant platforms) for patient access to electronic health information; and

(C) to the extent practicable, educate providers about health information exchanges (or other relevant platforms) that employ some or all of the capabilities described in paragraph (1).

(3) Requirements

In carrying out paragraph (1), the Secretary, in coordination with the Office for Civil Rights, shall issue guidance to health information exchanges related to best practices to ensure that the electronic health information provided to patients is—

(A) private and secure;

(B) accurate;

(C) verifiable; and

(D) where a patient's authorization to exchange information is required by law, easily exchanged pursuant to such authorization.

¹ So in original. Probably should be “section”.

² So in original. Probably should be “sections”.

³ See References in Text note below.

⁴ So in original. See 2016 Amendment note below.

¹ See References in Text note below.