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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 8

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BLAKE AND STACK, FEBRUARY 13, 2012

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REFERRED TO COMMUNICATIONS AND TECHNOLOGY, FEBRUARY 13, 2012

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AN ACT

1 Establishing the Pennsylvania Health Information Partnership  
2 Authority and the Pennsylvania Health Information Partnership  
3 Account; providing for consent and confidentiality of health  
4 information; and establishing civil immunity under certain  
5 circumstances.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 CHAPTER 1

9 PRELIMINARY PROVISIONS

10 Section 101. Short title.

11 This act shall be known and may be cited as the Pennsylvania  
12 Health Information Technology Act.

13 Section 102. Definitions.

14 The following words and phrases when used in this act shall  
15 have the meanings given to them in this section unless the  
16 context clearly indicates otherwise:

17 "Account." The Pennsylvania Health Information Partnership  
18 Account.

19 "Authority." The Pennsylvania Health Information Partnership

1 Authority.

2 "Board." The board of directors of the Pennsylvania Health  
3 Information Partnership Authority.

4 "Electronic health record." A qualified electronic health  
5 record that is certified under section 3001(c)(5) of the Public  
6 Health Service Act (58 Stat. 682, 42 U.S.C. § 300jj-11(c)(5)) as  
7 meeting standards adopted under section 3004 of the Public  
8 Health Service Act (58 Stat. 682, 42 U.S.C. § 300jj-14) that are  
9 applicable to the type of record involved and used by a health  
10 care provider.

11 "Health care provider." A person licensed by the  
12 Commonwealth to provide health care or professional clinical  
13 services.

14 "Health information." Oral or recorded information in any  
15 form or medium that meets all of the following:

16 (1) Is created or received by a health care provider,  
17 health care plan, employer, payer or public health authority.

18 (2) Relates to:

19 (i) the past, present or future physical or mental  
20 health condition of an individual and is provided to the  
21 individual; or

22 (ii) the past, present or future payment for the  
23 provision of health care to an individual.

24 "Health information exchange." The electronic movement of  
25 health information between various entities according to  
26 nationally recognized standards.

27 "Health information technology." Hardware, software,  
28 integrated technologies or related licenses, intellectual  
29 property, upgrades or packaged solutions sold as services that  
30 are designed for or support the use by health care entities or

1 patients for the electronic creation, maintenance, access or  
2 exchange of health information.

3 "Interoperability." The ability for information technology  
4 systems to employ federally recognized standards to exchange  
5 data securely, accurately, effectively and in a manner that  
6 maintains and preserves the clinical purpose of the data.

7 "Payer." An entity that contracts or offers to contract to  
8 provide, deliver, pay or reimburse any of the costs of health  
9 care services, including an employer, the Federal Government,  
10 the Commonwealth, a municipality, a labor union or an entity  
11 licensed under any of the following:

12 (1) The act of May 17, 1921 (P.L.682, No.284), known as  
13 The Insurance Company Law of 1921.

14 (2) The act of December 29, 1972 (P.L.1701, No.364),  
15 known as the Health Maintenance Organization Act.

16 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
17 corporations).

18 (4) 40 Pa.C.S. Ch. 63 (relating to professional health  
19 services plan corporations).

20 "Protected health information." Information under 45 CFR  
21 Pts. 160 (relating to general administrative requirements) and  
22 164 Subpts. A (relating to general provisions) and E (relating  
23 to privacy of individually identifiable health information).

24 "Regional extension center." A grantee of the office of the  
25 National Coordinator for Health Information Technology meeting  
26 the requirements of section 3012(c) of the Public Health Service  
27 Act (58 Stat. 682, 42 U.S.C. § 300jj-32(c)).

28 CHAPTER 3

29 PENNSYLVANIA HEALTH INFORMATION PARTNERSHIP AUTHORITY

30 Section 301. Scope of chapter.

1 This chapter relates to the Pennsylvania Health Information  
2 Partnership Authority.

3 Section 302. Pennsylvania Health Information Partnership  
4 Authority.

5 (a) Establishment.--There is hereby established a body  
6 corporate and politic to be known as the Pennsylvania Health  
7 Information Partnership Authority. The powers and duties of the  
8 authority shall be vested in and exercised by a board of  
9 directors.

10 (b) Composition.--The board of the authority shall consist  
11 of members, composed and appointed in accordance with the  
12 following:

13 (1) The Secretary of Health or a designee who is an  
14 employee of the department.

15 (2) The Secretary of Public Welfare or a designee who is  
16 an employee of the department.

17 (3) Two representatives of the health care community  
18 focused on unserved and underserved rural and urban patient  
19 populations, one of whom shall be appointed by the Minority  
20 Leader of the Senate from a list of two individuals submitted  
21 for consideration by a Statewide health education center and  
22 the other of whom shall be appointed by the Minority Leader  
23 of the House of Representatives from a list of two  
24 individuals submitted by a Statewide association of community  
25 health centers.

26 (4) Five representatives of participating health  
27 information exchange entities, one of whom shall be appointed  
28 by the Governor to represent the Commonwealth's internal  
29 agencies, one of whom shall be appointed by the President pro  
30 tempore of the Senate, one of whom shall be appointed by the

1 Minority Leader of the Senate, one of whom shall be appointed  
2 by the Speaker of the House of Representatives and one of  
3 whom shall be appointed by the Minority Leader of the House  
4 of Representatives, who shall serve terms coterminous with  
5 their respective appointing authorities.

6 (5) Two physicians who are residents of this  
7 Commonwealth selected from a list of four individuals  
8 submitted by the Pennsylvania Medical Society and the  
9 Pennsylvania Osteopathic Medical Association, one of whom  
10 shall be appointed by the President pro tempore of the Senate  
11 and the other of whom shall be appointed by the Speaker of  
12 the House of Representatives, who shall serve terms  
13 coterminous with their respective appointing authorities.

14 (6) Two hospital representatives who are residents of  
15 this Commonwealth selected from a list of four individuals  
16 submitted by the Hospital and Healthsystem Association of  
17 Pennsylvania, one of whom shall be appointed by the President  
18 pro tempore of the Senate, and the other of whom shall be  
19 appointed by the Speaker of the House of Representatives, who  
20 shall serve terms coterminous with their respective appointed  
21 appointing authorities.

22 (7) One representative of the Blue Cross and Blue Shield  
23 Plans in Pennsylvania who shall be appointed by the Governor  
24 and serve an initial term of three years.

25 (8) One representative of a licensed insurer other than  
26 a Blue Cross or Blue Shield Plan selected from a list of two  
27 individuals submitted by a Statewide insurance federation who  
28 shall be appointed by the Governor and serve an initial term  
29 of two years.

30 (9) Two representatives of consumers who are not

1 primarily involved in the provision of health care or health  
2 care insurance who shall be appointed by the Governor and  
3 serve an initial term of three years.

4 (10) One representative of an assisted living residence,  
5 personal care home, long-term care nursing facility or  
6 continuing care facility who shall be appointed by the  
7 Governor.

8 (11) A resident of this Commonwealth who has expertise  
9 in health care or health care information technology who  
10 shall be appointed by the Governor.

11 (c) Terms.--With the exception of subsection (b) (1), (2),  
12 (3) and (4), members of the board shall serve for terms of three  
13 years after completion of the initial terms designated in  
14 subsection (b) and shall not be eligible to serve more than two  
15 full consecutive terms.

16 (d) Quorum.--A majority of the members of the board shall  
17 constitute a quorum. Notwithstanding any other provision of law,  
18 action may be taken by the board at a meeting upon a vote of the  
19 majority of its members present in person or through the use of  
20 amplified telephonic equipment if authorized by the bylaws of  
21 the board.

22 (e) Meetings.--The board shall meet at the call of the  
23 chairperson or as may be provided in the bylaws of the board.  
24 The board shall hold meetings at least quarterly, which shall be  
25 subject to the requirements of 65 Pa.C.S. Ch. 7 (relating to  
26 open meetings). Meetings of the board may be held anywhere  
27 within this Commonwealth.

28 (f) Chairperson.--The Governor shall appoint a chairman from  
29 among the authority members.

30 (g) Formation.--The authority shall be formed within 90 days

1 of the effective date of this section.

2 (h) Initial appointment and vacancy.--Appointing authorities  
3 shall appoint initial members to the board within 60 days of the  
4 effective date of this section. If a vacancy occurs on the  
5 board, the appointing authority shall appoint a successor member  
6 within 60 days of the vacancy.

7 Section 303. Powers and duties.

8 (a) General rule.--The board shall:

9 (1) Adopt bylaws necessary to carry out the provisions  
10 of this chapter.

11 (2) Establish a system to provide for the exchange of  
12 health care information.

13 (3) Make, execute and deliver contracts, grants and  
14 other instruments.

15 (4) Apply for, solicit, receive, establish priorities  
16 for, allocate, disburse, contract for, administer and spend  
17 funds made available to the board from a source consistent  
18 with the purposes of this chapter.

19 (5) Apply for and accept grants to carry out the purpose  
20 of the authority that includes administering grants and loans  
21 in accordance with the terms of the funding award.

22 (6) Accept funds from outside sources, both public and  
23 private, consistent with Federal and State law.

24 (7) Develop and maintain a directory of provider contact  
25 information to enable providers to share health information.

26 (8) Certify regional health information networks to  
27 ensure compliance with national standards.

28 (9) Assure that security standards and procedures to  
29 protect confidentiality of health information are adopted and  
30 properly implemented.

1           (10) Identify and adopt transaction, subscription and  
2 other fees or donations to cover costs associated with  
3 implementation and operation of the exchange or for other  
4 services provided by the authority. Receipt of services  
5 provided by or through the authority may be conditioned on  
6 payment of fees. Participation in the exchange by any health  
7 care provider, payer, consumer or any other person is  
8 voluntary.

9           (11) Create advisory groups with diverse membership  
10 representing interested and affected groups and individuals,  
11 including representatives of the following:

12                 (i) Health care practitioners.

13                 (ii) Health care insurers and managed care  
14 organizations.

15                 (iii) Health care information systems.

16                 (iv) Hospitals and health systems.

17                 (v) Laboratory services.

18                 (vi) Pharmacies.

19                 (vii) Radiological services.

20                 (viii) Nursing homes.

21                 (ix) Community-based health care clinics.

22                 (x) Employers.

23                 (xi) Consumers.

24           (12) Develop and conduct public information programs to  
25 educate and inform consumers and patients on health  
26 information.

27           (13) Submit an annual report to the Governor, the  
28 President pro tempore of the Senate and the Speaker of the  
29 House of Representatives for distribution to appropriate  
30 legislative committees on the activities of the authority for



1 the year, including a summary of the receipts and  
2 expenditures, a list of contracts and a summary of any  
3 security breaches that occurred and corrective actions that  
4 were taken.

5 (b) Audit.--

6 (1) The accounts and books of the authority shall be  
7 examined and audited annually by an independent certified  
8 public accounting firm. The audit shall be public  
9 information.

10 (2) The authority shall, by December 31 of each year,  
11 file a copy of the audit required under paragraph (1) with  
12 the Secretary of the Senate and the Chief Clerk of the House  
13 of Representatives.

14 (c) Publication.--The authority shall submit annually to the  
15 Legislative Reference Bureau a concise financial statement for  
16 publication in the Pennsylvania Bulletin.

17 (d) Cooperation.--Executive agencies shall cooperate with  
18 and provide assistance to the authority without financial  
19 reimbursement. The Governor shall assign staff who shall be  
20 responsible for the day-to-day operations of the authority.

21 (e) Existence and dissolution.--The authority shall expire  
22 December 31, 2018.

23 (f) Independent agency.--The authority shall be considered  
24 an independent agency.

25 CHAPTER 5

26 PENNSYLVANIA HEALTH INFORMATION PARTNERSHIP ACCOUNT

27 Section 501. Establishment.

28 There is established a separate account in the State Treasury  
29 to be known as the Pennsylvania Health Information Partnership  
30 Account. The account shall be administered by the authority.

1 Section 502. Funds.

2 All moneys deposited into the account shall be held in trust  
3 and shall not be considered general revenue of the Commonwealth  
4 but shall be used only to effectuate the purposes of this act as  
5 determined by the authority. All interest earned from the  
6 investment or deposit of moneys accumulated in the account shall  
7 be deposited in the account for the same use.

8 Section 503. Dissolution.

9 In the event that the account is discontinued or the  
10 authority is dissolved by operation of law, any balance  
11 remaining in the account, after deducting administrative costs  
12 of liquidation or subscription fees paid by participating users  
13 of the network, shall be returned to the General Fund.

14 CHAPTER 7

15 CONSENT AND CONFIDENTIALITY OF HEALTH INFORMATION

16 Section 701. Consent and confidentiality of health information.

17 (a) Consent.--Nothing in this act shall be construed to  
18 prohibit a provider from obtaining a patient's health  
19 information from another provider without the patient's consent  
20 if the health information is needed to provide health care  
21 services to the patient, subject to the following:

22 (1) A provider shall not disclose information in excess  
23 of the information reasonably required for the purpose for  
24 which it is disclosed.

25 (2) A patient, or in the case of a minor, the minor's  
26 parent or guardian, may deny release of the patient's health  
27 information.

28 (3) It shall be presumed that the patient does not  
29 consent to the release of any information relating to HIV  
30 status or alcohol or drug abuse treatment unless the patient

1 executes a release of such information, which release relates  
2 only to that information.

3 (b) Notice of patient's right to deny release of health  
4 information.--The authority shall promulgate a form of notice of  
5 a patient's right to deny release of health information under  
6 subsection (a). The notice shall include, at a minimum and in  
7 plain language, the following information:

8 (1) Definition of a health information exchange.

9 (2) Explanation of the benefits of participation in a  
10 health information exchange.

11 (3) Explanation of the patient's right to deny release  
12 of health information to the health information exchange.

13 (c) Notice to parents.--Upon implementation of this act, a  
14 patient shall be provided by the patient's provider with notice  
15 of a patient's right to deny release of health information. The  
16 notice shall be signed, dated and witnessed by the patient, or  
17 the patient's representative, should the patient choose to  
18 execute a denial of release. Copies of the executed form shall  
19 be kept by the provider and delivered to the patient within five  
20 business days of the provider's receipt of the executed form.

21 (d) Disclosure.--

22 (1) Except as provided under paragraph (2), the  
23 authority shall not disclose without prior written patient  
24 consent any health information, including, but not limited  
25 to, HIV status or alcohol or drug abuse treatment or any  
26 personally identifying information that the authority or its  
27 agents or contractors retain, or to which the authority or  
28 its agents or contractors have access or any other records  
29 maintained or accessible by the authority under this act, to  
30 any person who is not an authorized employee, agent or

1 contractor of the authority.

2 (2) Paragraph (1) shall not apply to a disclosure  
3 permitted for exchange with a user authorized by the  
4 authority, which user has executed a data use and reciprocal  
5 sharing agreement or if the disclosure is necessary to carry  
6 out the purposes of this act.

7 (e) Burden of proof.--Information in the health information  
8 exchange shall not be subject to section 708 of the act of  
9 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

10 CHAPTER 9

11 MISCELLANEOUS PROVISIONS

12 Section 901. Immunity from civil liability.

13 A provider and the employees, agents and representatives of a  
14 provider are immune from civil liability for libel or slander  
15 arising from information or entries made in health information  
16 and for the transfer of information to another provider, if the  
17 health information, transfer of health information or entries  
18 are made in good faith and without malice.

19 Section 902. Effective date.

20 This act shall take effect immediately.