I

103D CONGRESS
2D SESSION

H. R. 3909

To amend title XVII of the Public Health Service Act to authorize the Secretary of Health and Human Services to make grants to establish and develop telemedicine projects for rural areas, to establish a health care data interchange system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1994

Mr. LAROCCO introduced the following bill; which was referred jointly to the Committees on Energy and Commerce, Ways and Means, Armed Services, Veterans' Affairs, Post Office and Civil Service, Natural Resources, and Education and Labor

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A BILL

To amend title XVII of the Public Health Service Act to authorize the Secretary of Health and Human Services to make grants to establish and develop telemedicine projects for rural areas, to establish a health care data interchange system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PROMOTION OF TELEMEDICINE PROJECTS FOR RURAL AREAS

SECTION 101. GRANTS TO RURAL HEALTH CARE PROVIDERS AND RURAL HEALTH CARE NETWORKS TO ESTABLISH AND DEVELOP TELEMEDICINE PROJECTS.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended—

(1) by striking the title heading and inserting the following:

"TITLE XVII—HEALTH INFORMATION, HEALTH PROMOTION, AND PROMOTION OF TELEMEDICINE PROJECTS

"PART A—HEALTH INFORMATION AND HEALTH PROMOTION"; and

(2) by adding at the end the following:

"PART B—PROMOTION OF TELEMEDICINE PROJECTS FOR RURAL AREAS

"SEC. 1711. PURPOSES.

''The purposes of this part are as follows:

''(1) To support the establishment and development of telemedicine projects that use telecommunications technologies and other technologies to in-

crease the quality and accessibility of health care in rural areas and to reduce the costs of such care. Such technologies may include—

''(A) testbed networks for linking health care providers, medical schools, medical libraries, and universities to enable health care providers and researchers to share medical images and to develop computer-based records;

''(B) software and visualization technology for visualizing the human anatomy and analyzing diagnostic images and records;

''(C) virtual reality technology for simulating surgical and medical procedures;

''(D) collaborative technology to allow geographically remote health care providers to provide real-time treatment to patients;

''(E) interactive technologies to allow health care providers to monitor, evaluate, and treat patients in nonclinical settings;

''(F) database technology to provide health care providers with access to relevant medical information and literature; and

''(G) database technology for storing, accessing, and transmitting patients' medical

records while protecting the accuracy and privacy of such records.

''(2) To encourage the use of the telecommunications technologies and other technologies described in paragraph (1)—

''(A) to permit rural health care providers to maintain contact with itinerant staff and remote specialists;

''(B) to permit patients in rural areas to receive health care locally whenever possible;

''(C) to reduce the costs of health care in rural areas by reducing the costs of paperwork;

''(D) to improve coordination and efficiency in the provision of health care in rural areas; and

''(E) to provide rural health care providers with access to equipment, specialists, and continuing education programs that may not be otherwise available in rural areas.

''(3) To demonstrate the effectiveness of telecommunications technologies and other technologies in improving the quality and accessibility of health care in rural areas and reducing the costs of such care.

''SEC. 1712. GRANTS FOR ESTABLISHMENT OF TELEMEDICINE PROJECTS.

''(a) IN GENERAL.—The Secretary may make grants under this section to rural health care providers and rural health care networks for the establishment, and initial development and operation, of telemedicine projects that are consistent with the purposes of this part.

''(b) APPLICATIONS.—

''(1) SUBMISSION.—To apply for a grant under this section for any fiscal year, a rural health care provider or a rural health care network shall submit an application to the Secretary in accordance with the procedures established by the Secretary. The Secretary shall establish a deadline for the submission of applications under this paragraph for each fiscal year.

''(2) CRITERIA FOR APPROVAL.—The Secretary may not approve an application submitted under paragraph (1) unless the application includes assurances satisfactory to the Secretary that funds received under this section will be used for 1 or more of the following purposes:

''(A) To develop or acquire, through lease or purchase, computer hardware, computer software, audio equipment, video equipment, computer network equipment, telecommunications

transmission facilities, telecommunications terminal equipment, interactive video equipment, data terminal equipment, or other facilities or equipment consistent with the purposes of this part.

''(B) To develop or acquire instructional programming consistent with the purposes of this part.

''(C) To receive technical assistance or instruction with respect to the development or use of such facilities, equipment, or instructional programming.

''(D) Such other purposes as may be approved by the Secretary consistent with the purposes of this part.

''(3) PETITIONS FOR RECONSIDERATION AND REAPPLICATIONS.—

''(A) IN GENERAL.—With respect to an application submitted under paragraph (1) that is disapproved under this subsection, the applicant may submit to the Secretary—

''(i) a petition for reconsideration of the application; and

''(ii) an application that conforms to the requirements of this subsection.

''(B) DEADLINES.—The Secretary shall establish a deadline for the submission of petitions for reconsideration and reapplications under this paragraph for each fiscal year. The Secretary shall approve or disapprove each such petition and reapplication before the termination of the 60-day period beginning on the date of such submission.

''(c) PREFERENCES IN AWARDING GRANTS.—

''(1) IN GENERAL.—In awarding grants under this section, the Secretary shall give preference to applicants that are not using any of the telecommunications technologies or other technologies described in section 1711(1) at the time the applicant submits an application under subsection (b).

''(2) PREFERENCES AMONG NETWORKS.—Except as provided in paragraph (4), in awarding grants under this section to rural health care networks, the Secretary shall give preference to networks that demonstrate, through the membership of the network, broad geographic representation of rural areas in the State or States in which the network intends to establish and develop a project with funds received under this section.

''(d) GRANTS RESERVED FOR HEALTH CARE PROVIDERS AND SMALL HEALTH CARE NETWORKS.—At least 40 percent of the grants made by the Secretary under this section shall be made to rural health care providers or rural health care networks with 10 or fewer members.

"SEC. 1713. GRANTS FOR DEVELOPMENT OF ADVANCED TELEMEDICINE PROJECTS.

''(a) IN GENERAL.—The Secretary may make grants under this section to applicant groups consisting of 2 or more rural health care networks for the purposes of electronically linking existing telemedicine projects established by such networks and further developing such linked projects in a manner that is consistent with the purposes of this part.

''(b) APPLICATIONS.—

''(1) SUBMISSION.—To apply for a grant under this section for any fiscal year, a group consisting of 2 or more rural health care networks shall submit an application to the Secretary in accordance with the procedures established by the Secretary. The Secretary shall establish a deadline for the submission of applications under this paragraph for each fiscal year.

''(2) CRITERIA FOR APPROVAL.—The Secretary may not approve an application submitted by a

group under paragraph (1) unless the application includes assurances satisfactory to the Secretary that—

''(A) the group, through the membership of the networks that are part of the group, broadly geographically represents rural areas in the State or States in which the group intends to link and develop telemedicine projects with funds received under this section; and

''(B) funds received under this section will be used for 1 or more of the following purposes:

''(i) To develop or acquire, through lease or purchase, computer hardware, computer software, audio equipment, video equipment, computer network equipment, telecommunications transmission facilities, telecommunications terminal equipment, interactive video equipment, data terminal equipment, or other facilities or equipment consistent with the purposes of this part.

''(ii) To develop or acquire instructional programming consistent with the purposes of this part.

''(iii) To receive technical assistance or instruction with respect to the develop-

ment or use of such facilities, equipment, or instructional programming.

''(iv) Such other purposes as may be approved by the Secretary consistent with the purposes of this part.

''(3) PETITIONS FOR RECONSIDERATION AND REAPPLICATIONS.—

''(A) IN GENERAL.—With respect to an application submitted under paragraph (1) that is disapproved under this subsection, the applicant may submit to the Secretary—

''(i) a petition for reconsideration of the application; and

''(ii) an application that conforms to the requirements of this subsection.

''(B) DEADLINES.—The Secretary shall establish a deadline for the submission of petitions for reconsideration and reapplications under this paragraph for each fiscal year. The Secretary shall approve or disapprove each such petition and reapplication before the termination of the 60-day period beginning on the date of such submission.

''(c) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this section, the Secretary shall give preference to groups that—

''(1) demonstrate that each of the rural health care networks that is a part of the group was created more than 1 year before the date on which the application was submitted by the group; and

''(2) provide assurances satisfactory to the Secretary that the group will use funds received under this section to provide a broad range of health care and educational services through the telemedicine projects linked and developed using such funds.

''SEC. 1714. REVIEW AND SANCTIONS.

''The Secretary shall review at least annually the compliance of a person receiving a grant under this part with the provisions of this part. The Secretary shall establish a procedure for determining whether such a person has failed to comply substantially within the provisions of this part and the sanctions to be imposed for any such noncompliance.

''SEC. 1715. ANNUAL REPORT.

''The Secretary shall include in the annual report under section 1705 a description of the activities carried out under this part.

"SEC. 1716. REGULATIONS.

''The Secretary may issue any regulations necessary to carry out this part.

"SEC. 1717. DEFINITIONS.

''For purposes of this part:

''(1) COMPUTER NETWORK EQUIPMENT.—The term 'computer network equipment' means computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunications network in which signals are generated, modified, prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

''(2) DATA TERMINAL EQUIPMENT.—The term 'data terminal equipment' means equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal of a circuit and on the premises of the end user.

''(3) FIBER OPTIC CABLE.—The term 'fiber optic cable' means a bundle of optical transmission elements or waveguides usually consisting of fiber

core and fiber cladding that can guide a lightwave and that are incorporated into an assembly of materials that provide tensile strength and external protection.

''(4) HEALTH CARE PROVIDER.—The term 'health care provider' means a person who is licensed, certified, registered, or otherwise authorized by law to provide health care in the ordinary course of business or practice of a profession.

''(5) INTERACTIVE VIDEO EQUIPMENT.—The term 'interactive video equipment' means equipment used to produce and prepare for transmission audio and visual signals from at least 2 distant locations in order that individuals at such locations can verbally and visually communicate with each other. Such equipment includes monitors, other display devices, cameras or other recording devices, audio pick-up devices, and related equipment.

''(6) RURAL AREA.—The term 'rural area' has the meaning given such term in section 1866(d)(2)(D) of the Social Security Act.

''(7) RURAL HEALTH CARE NETWORK.—The term 'rural health care network' means a group of rural health care providers that have entered into a formal relationship with each other or with health

care providers in an area that is not a rural area for the purpose of improving the delivery of health care in a rural area, or for the purpose of improving the access of their patients to the services of a telemedicine project.

''(8) RURAL HEALTH CARE PROVIDER.—The term 'rural health care provider' means a health care provider who provides health care in a rural area.

''(9) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term 'telecommunications terminal equipment' means the assembly of telecommunications equipment at the end of a circuit, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities and that is used to modify, convert, encode, or otherwise prepare signals to be transmitted via such telecommunications equipment or that is used to modify, reconvert, or carry signals received from such facilities, the purpose of which is to accomplish the goal for which the circuit was established.

''(10) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term 'telecommunications transmission facilities' means facilities that transmit, receive, or carry data between telecommunications ter-

minal equipment at each end of a telecommunications circuit or path. Such facilities include microwave antennae, relay stations and towers, other telecommunications antennae, fiber optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items as defined by the Secretary.

''SEC. 1718. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1995 through 1998.''.

TITLE II—HEALTH CARE DATA INTERCHANGE SYSTEM

SEC. 201. ESTABLISHMENT OF HEALTH CARE DATA INTERCHANGE SYSTEM.

(a) IN GENERAL.—In accordance with the procedures provided in this title, there shall be established a health care data interchange system the purpose of which is to make health care data available on a uniform basis to all participants in the health care system.

(b) GENERAL REQUIREMENTS FOR SYSTEM.—The system described in subsection (a) shall ensure—

(1) the integration of all participants in the health care system;

(2) the use of uniform processes which will permit participants in the health care system to communicate electronically for the submission and receipt of health care data;

(3) the privacy of individuals who are patients receiving health care services and the confidentiality of information in the data interchange system;

(4) that the data in the system is verifiable, timely, accurate, reliable, useful, complete, relevant, time and date stamped, and comparable; and

(5) an overall reduction in the administrative burdens and costs of the health care system, an overall increase in the productivity, effectiveness, and efficiency of the system, and an overall increase in the quality of care furnished by the system.

(c) GENERAL IMPLEMENTATION.—The system described in subsection (a) shall be implemented through—

(1) the development of proposed regulations as provided under section 202 by the Health Care Data Panel established under section 213 (referred to in this title as the ''Panel''); and

(2) the development of final regulations through the Office of Management and Budget (referred to

in this title as ''OMB'') as provided under section 203.

SEC. 202. DEVELOPMENT OF PROPOSED REGULATIONS BY PANEL.

(a) IN GENERAL.—The Panel shall, in consultation with the National Health Informatics Commission established under section 214, develop proposed regulations for the implementation and ongoing operation of an integrated electronic health care data interchange system that are based on the operating standards, conventions, requirements, and procedures for the system established, selected, or developed by the Panel under sections 204 through 210.

(b) REQUIREMENTS RELATING TO PROPOSED REGULATIONS.—The proposed regulations developed under subsection (a) shall—

(1) be submitted to OMB not later than 30 days after the date on which the Panel is required to establish, select, or develop any of such operating standards, conventions, requirements, and procedures for the system; and

(2) provide that the general requirements for the system referred to in section 201(b) are met.

(c) MODIFICATIONS.—The Panel shall continuously monitor the implementation of the regulations promul-

gated by OMB under section 203 and shall submit to OMB any proposed modifications to such regulations determined appropriate by the Panel. The requirements of section 203 shall apply to any such proposed modifications in the same manner as such requirements apply to the proposed regulations initially submitted by the Panel.

SEC. 203. PROMULGATION AND IMPLEMENTATION OF PROPOSED REGULATIONS BY OMB.

(a) PROMULGATION OF REGULATIONS.—OMB shall promulgate regulations based on the proposed regulations submitted under section 202 within 90 days after the date such proposed regulations are submitted.

(b) APPLICABILITY.—

(1) IN GENERAL.—The regulations promulgated by OMB shall apply to all participants in the health care system.

(2) SPECIAL RULE REGARDING THE MEDICARE PROGRAM.—The Secretary may incorporate the capabilities of the common working file used in the medicare program under title XVIII of the Social Security Act into a uniform working file system developed and operated according to the regulations referred to in subsection (a).

(c) COMPLIANCE WITH REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date on which any regulations (other than the regulations described in paragraph (2)) are promulgated by OMB, all participants in the health care system shall be required to comply with such regulations.

(2) COMPREHENSIVE QUALITY MEASUREMENT DATA.—Not later than 2 years after the date on which any regulations relating to standards, conventions, and requirements for comprehensive quality measurement data (as described in subsection 204(e)(3)) are promulgated by OMB, all participants in the health care system shall be required to comply with such regulations.

SEC. 204. SELECTION AND ESTABLISHMENT OF DATA AND TRANSACTION STANDARDS, CONVENTIONS, AND REQUIREMENTS FOR THE DATA INTERCHANGE SYSTEM.

(a) IN GENERAL.—The Panel, in consultation with the American National Standards Institute (referred to in this title as ''ANSI''), shall select and establish data and transaction standards, conventions, and requirements that permit the electronic interchange of any health care data the Panel determines necessary for the efficient and effective administration of the health care system.

(b) MINIMUM REQUIREMENTS.—The data and transaction standards, conventions, and requirements selected and established by the Panel under this section shall, at a minimum—

(1) ensure that the data interchange system shall have the capability to comply with such standards, conventions, and requirements; and

(2) be based on any standards that are in use and generally accepted on the date of the enactment of this title or that are recommended by nationally recognized standard setting groups, including ANSI, the National Uniform Billing Committee, the Uniform Claim Form Task Force, the National Committee for Prescription Drug Programs, and the Healthcare Informatics Standards Planning Panel.

(c) APPLICABILITY.—The proposed regulations developed by the Panel shall provide that—

(1) any participant in the health care system who has the capability to interchange data through a uniform working file developed by the Panel under section 205 shall be required to transmit and receive such data using the standards, conventions, and requirements developed by the Panel under this section; and

(2) any participant in the health care system who does not have such capability shall be required to transmit and receive data through a health care information clearinghouse or a health care value-added network that is certified under the procedure established pursuant to section 211.

(d) ADDITIONAL REQUIREMENTS.—

(1) IN GENERAL.—The proposed regulations developed by the Panel shall provide that no participant in the health care system shall be permitted to establish data requirements in addition to such standards, conventions, and requirements established by the Panel and included in regulations promulgated by OMB—

(A) unless 2 or more participants voluntarily establish such additional requirements and the requirements meet all of the privacy and confidentiality standards developed by the Panel under this title and included in any regulations promulgated by OMB; or

(B) unless a waiver is granted under paragraph (2) to establish such additional requirements.

(2) CONDITIONS FOR WAIVERS.—

(A) IN GENERAL.—The proposed regulations developed by the Panel shall provide that any participant in the health care system may request a waiver to establish additional data requirements.

(B) CONSIDERATION OF WAIVER REQUESTS.—The proposed regulations developed by the Panel shall provide that no waiver shall be granted under this paragraph unless the entity granting such waiver considers the value of the additional data to be exchanged for research or other purposes determined appropriate by the Panel, the administrative cost of the additional data requirements, the burden of the additional data requirements, and the burden of the timing of the imposition of the additional data requirements.

(C) CERTAIN REQUESTS FOR WAIVERS.—The proposed regulations developed by the Panel shall provide that if a participant in the health care system attempts to impose additional data requirements on any other such participant, the participant on which such requirements are being imposed may contact the Secretary. The Panel shall develop a procedure

under which any participant in the health care system contacting the Secretary under the preceding sentence shall remain anonymous. The Secretary shall notify the participant imposing the additional data requirements that such requirements may not be imposed on any other participant unless such other participant voluntarily agrees to such requirements or a waiver is obtained under this paragraph.

(e) TIMETABLE FOR STANDARDS, CONVENTIONS, AND REQUIREMENTS.—

(1) STANDARDS, CONVENTIONS, AND REQUIREMENTS RELATING TO FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.—Not later than 9 months after the date of the enactment of this title, the Panel shall develop data and transaction standards, conventions, and requirements for the following items relating to the financing and administration of health care:

(A) Enrollment.

(B) Eligibility.

(C) Payment and remittance advice.

(D) Claims.

(E) Claims status.

(F) Coordination of benefits.

(G) Crossover billing.

(H) First report of injury.

(I) Standardized claim attachments.

(J) Any other items relating to the financing and administration of health care delivery.

(2) STANDARDS, CONVENTIONS, AND REQUIREMENTS RELATING TO INITIAL QUALITY MEASUREMENT INDICATORS.—Not later than 12 months after the date of the enactment of this title, the Panel shall develop data and transaction standards, conventions, and requirements for participants in the health care system to transmit data derived from the financial and administrative transactions data described in paragraph (1) on quality measurement, utilization monitoring, risk assessment, patient satisfaction, outcomes, and access.

(3) STANDARDS, CONVENTIONS, AND REQUIREMENTS RELATING TO COMPREHENSIVE QUALITY MEASUREMENT DATA.—Not later than 24 months after the date of the enactment of this title, the Panel shall develop standards, conventions, and requirements for participants in the health care system to transmit comprehensive data collected at the site of care on quality measurement, utilization mon-

itoring, risk assessment, patient satisfaction, outcomes, and access.

(4) STANDARDS, CONVENTIONS, AND REQUIREMENTS RELATING TO DATA ON PATIENT CARE RECORDS.—Not later than 36 months after the date of the enactment of this title, the Panel shall develop standards, conventions, and requirements related to the inclusion of data from patient care records into the health care data interchange system, including standards, conventions, and requirements on the identification of the origin of any data from such records that is included in such system.

(5) STANDARDS, CONVENTIONS, AND REQUIREMENTS FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION.—Not later than 36 months after the date of the enactment of this title, the Panel, in collaboration with the Centers for Disease Control and Prevention (referred to in this title as the ''CDCP'') and in consultation with State departments of health, shall develop standards, conventions, and requirements for the electronic interchange of data on vital health statistics collected by CDCP or the States or any other such data as CDCP determines appropriate.

(f) WAIVERS OF COMPLIANCE.—

(1) FINANCIAL AND ADMINISTRATIVE TRANSACTIONS.—The proposed regulations developed by the Panel shall provide that any of the data and transaction standards, conventions, and requirements relating to financial and administrative transactions developed by the Panel under subsection (e)(1) may be waived until January 1, 1995, for a health care provider that—

(A) does not have access to a health care information clearinghouse or a health care value-added network, is in the process of developing a system that complies with such standards, conventions, and requirements, and executes an agreement with the appropriate regulatory entity that such provider will meet such standards, conventions, and requirements by a specified date (not later than January 1, 1995); or

(B) is a small rural hospital (as defined by the Panel and included in regulations promulgated by OMB).

(2) COMPREHENSIVE QUALITY MEASUREMENT DATA.—The proposed regulations developed by the Panel shall provide that any of the data and transaction standards, conventions, and requirements re-

lating to comprehensive quality measurement data developed by the Panel under subsection (e)(3) may be waived until January 1, 1998, for a health care provider that—

(A) does not have access to a health care information clearinghouse or a health care value-added network, is in the process of developing a system that complies with such standards, conventions, and requirements, and executes an agreement with the appropriate regulatory entity that such provider will meet such standards and requirements by a specified date (not later than January 1, 1998); or

(B) agrees to obtain from such provider's records the data elements that are needed to meet the standards and requirements developed under subsection (e)(3) and agrees to subject the provider's data transfer process to a quality assurance program that is satisfactory to the appropriate regulatory entity.

SEC. 205. STANDARDS FOR OPERATION OF A UNIFORM WORKING FILE.

Not later than 24 months after the date of the enactment of this title the Panel shall establish standards for the development and operation of a uniform working file

system that is national in scope. Such standards shall ensure—

(1) that all participants in the health care system may be linked electronically (directly or indirectly) to the uniform working file system;

(2) that any privacy and confidentiality standards established by the Panel under section 208 are satisfied;

(3) that the uniform working file system improves the efficiency and effectiveness of the administration of the health care system, including health care quality measurement;

(4) the interoperability of the uniform working file system by—

(A) supporting the data and transaction standards, conventions, and requirements selected and established by the Panel; and

(B) making use of such standards, conventions, and requirements; and

(5) the support of any other requirements selected or established by the Panel.

SEC. 206. CODE SETS FOR SYSTEM.

Not later than 9 months after the date of the enactment of this title, the Panel shall select and establish code sets that are maintained by private and public entities as

the Panel's official code sets for use in a national uniform working file system. The proposed regulations developed by the Panel shall provide that any changes or updates to such code sets that are established or requested by the private or public entity which maintains the code set—

(1) shall preserve the informational value of data retained either within the uniform working file system or within the information systems of parties making use of the data and transactions standards, conventions, and requirements;

(2) shall include instructions on how existing data containing such codes is to be converted or translated so as to preserve its value;

(3) shall be incorporated into the official code set in such a manner as to minimize the disruption to the national uniform working file system and minimize the cost to all entities within the system for reprogramming to accommodate such changes or updates; and

(4) shall be implemented—

(A) only after at least 90 days advance notice has been provided to participants in the health care system; and

(B) no more frequently than on an annual basis.

SEC. 207. ESTABLISHMENT OF UNIQUE IDENTIFIERS.

(a) IN GENERAL.—Not later than 9 months after the date of the enactment of this title, the Panel shall develop unique identifiers for each participant in the health care system.

(b) SPECIAL RULES.—

(1) INDIVIDUALS.—Each individual shall have a unique identifier developed by the Panel.

(2) HEALTH PLANS OR PROVIDERS.—In developing unique identifiers for each health plan or provider, the Panel shall take into account multiple uses for such identifiers and shall consider multiple physical locations and specialty classifications for providers. The unique identifiers for health plans or providers may be based on the system used under title XVIII of the Social Security Act on the date of the enactment of this title.

SEC. 208. PRIVACY AND CONFIDENTIALITY STANDARDS.

(a) IN GENERAL.—Not later than 9 months after the date of the enactment of this title, the Panel, after taking into consideration the Insurance Information and Privacy Protection Model Act of the National Association of Insurance Commissioners, other model legislation, and international guidelines, shall develop requirements that protect the privacy of participants in the health care system

and ensure the confidentiality of information in the data interchange system.

(b) PRINCIPLES CONSIDERED.—In developing the requirements referred to in subsection (a), the Panel shall take into consideration the following principles:

(1) Information relating to an identifiable or identified individual should be collected only to the extent necessary to carry out the purpose for which the information is collected.

(2) Information relating to an identifiable or identified individual collected for a particular purpose should generally not be used for another purpose without the individual's informed consent unless the pooling of information renders an individual's data unidentifiable.

(3) Information relating to an identifiable or identified individual should be disposed of when no longer necessary to carry out the purpose for which it was collected, unless the pooling of information renders an individual's data unidentifiable.

(4) Methods to ensure the verifiability, timeliness, accuracy, reliability, utility, completeness, relevance, and comparability of information relating to an identifiable or identified individual should be instituted.

(5) An individual should be notified in advance of the collection of information relating to such individual with regard to—

(A) whether the furnishing of information is mandatory or voluntary;

(B) the recordkeeping practices with respect to any information provided; and

(C) the uses to be made of any information provided.

(6) If informed consent is necessary for the intended primary or secondary use of information relating to an identifiable or identified individual, the individual should be provided the opportunity to reject such uses at the time the information is collected, except where such uses are necessary to comply with law.

(7) An individual should be permitted to inspect and correct any information which concerns such individual and should be able to obtain information on how such information is being used.

SEC. 209. TRANSFER OF INFORMATION BETWEEN HEALTH PLANS.

Not later than 9 months after the date of the enactment of this title, the Panel shall develop rules and procedures—

(1) for determining the financial liability of health plans when health care benefits are payable under two or more health plans; and

(2) concerning the transfer among health plans of appropriate official data sets needed to carry out the coordination of benefits, the sequential processing of claims, and other health data as determined necessary by the Panel for individuals who have more than 1 health plan, according to the priorities established under the rules and procedures established under paragraph (1).

SEC. 210. FINES AND PENALTIES FOR FAILURE TO COMPLY.

(a) DEVELOPMENT BY THE PANEL.—

(1) COMPLIANCE WITH STANDARDS FOR PRIVACY AND CONFIDENTIALITY.—Not later than 9 months after the date of the enactment of this title, the Panel shall develop civil fines and penalties, as determined appropriate by the Panel, to enforce any of the requirements developed by the Panel under section 208 relating to privacy and confidentiality. The civil fines and penalties developed by the Panel under this paragraph shall not be less than $1,000 for each violation.

(2) COMPLIANCE WITH OTHER REQUIREMENTS.—

(A) IN GENERAL.—Not later than 9 months after the date of the enactment of this title, the Panel shall develop civil fines and penalties, as determined appropriate by the Panel, to enforce any of the requirements developed by the Panel under this title other than the requirements related to privacy and confidentiality. The civil fines and penalties developed by the Panel under this paragraph shall not exceed $100 for each violation.

(B) LIMITATIONS.—

(i) PENALTIES NOT TO APPLY WHERE NONCOMPLIANCE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No civil fine or penalty developed by the Panel under this paragraph shall be imposed if it is established that the person liable for the fine or penalty did not know, and by exercising reasonable diligence would not have known, that such person failed to comply with any of the requirements described in subparagraph (A).

(ii) PENALTIES NOT TO APPLY TO COMPLIANCE FAILURES CORRECTED WITHIN 30 DAYS.—No civil fine or penalty devel-

oped by the Panel under this paragraph shall be imposed if—

(I) the failure to comply was due to reasonable cause and not to willful neglect, and

(II) the failure to comply is corrected during the 30-day period beginning on the 1st date the person liable for the fine or penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

(iii) WAIVER.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any civil fine or penalty developed by the Panel under this paragraph may be waived to the extent that the payment of such fine or penalty would be excessive relative to the compliance failure involved.

(b) LEGISLATIVE PROPOSAL ON CERTAIN CRIMINAL FINES AND PENALTIES.—Not later than 12 months after the date of the enactment of this title, the Panel shall submit to Congress a legislative proposal relating to any criminal fines and penalties determined appropriate by the

Panel to enforce any of the requirements developed by the Panel under section 208 relating to privacy and confidentiality.

SEC. 211. OVERSIGHT OF UNIFORM WORKING FILE, HEALTH CARE INFORMATION CLEARINGHOUSES, AND VALUE-ADDED NETWORKS.

(a) PERIODIC REVIEWS.—Not later than 9 months after the date of the enactment of this title, the Secretary shall establish a procedure for the periodic review of business practices, performance, and fees with respect to the uniform working file and each health care information clearinghouse and value-added network to ensure that such entities are not taking unfair advantage of participants in the health care system through the application of any regulations promulgated by OMB.

(b) CERTIFICATION PROCEDURE.—Not later than 12 months after the date of the enactment of this title, the Panel shall establish a certification procedure for the uniform working file, health care information clearinghouses, and value-added networks. The requirements for certification shall include—

(1) adherence to the data and transaction standards and requirements and the privacy and confidentiality standards included in any regulations promulgated by OMB;

(2) making public standardized indicators of performance such as accessibility, transaction responsiveness, administrative efficiency, reliability, dependability, and any other indicators determined appropriate by the Secretary; and

(3) any other requirements determined appropriate by the Secretary.

SEC. 212. ANNUAL REPORTS TO CONGRESS.

(a) IN GENERAL.—The Panel shall annually prepare and submit to Congress a report on—

(1) the status of the data interchange system, including the system's ability to provide data on cost, quality, and patient satisfaction;

(2) the savings and costs of implementing the data interchange system; and

(3) any legislative recommendations related to the data interchange system.

(b) AVAILABILITY TO THE PUBLIC.—Any information in the report submitted to Congress under subsection (a) shall be made available to the public unless such information may not be disclosed by law.

SEC. 213. HEALTH CARE DATA PANEL.

(a) ESTABLISHMENT.—There is established a panel to be known as the Health Care Data Panel.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Panel shall be composed of the following members:

(A) The Secretary.

(B) The Secretary of Defense.

(C) The Secretary of Veterans Affairs.

(D) A representative of the Agency for Health Care Policy and Research.

(E) A representative of the National Institute of Standards and Technology.

(F) A representative of the National Telecommunication and Information Administration.

(G) 6 additional Federal officers determined appropriate by the Secretary.

(2) CHAIR.—The Secretary shall be the Chair of the Panel.

(c) MEETINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Panel shall meet at the call of the Chair.

(2) INITIAL AND SUBSEQUENT MEETINGS.—The Panel shall hold a meeting not later than 30 days after the date of the enactment of this section and at least annually thereafter.

(3) QUORUM.—A majority of the members of the Panel shall constitute a quorum, but a lesser number of members may hold hearings.

(d) POWERS OF THE PANEL.—

(1) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from any Federal department or agency such information as the Panel considers necessary to carry out the provisions of this section. Upon request of the Chair of the Panel, the head of such department or agency shall furnish such information to the Panel.

(3) POSTAL SERVICES.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

(e) PANEL PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Members of the Panel shall serve without compensation in addi-

tion to that received for their services as officers or employees of the Federal Government.

(2) STAFF.—

(A) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Chair, any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(B) CONTRACTS.—The Chair may enter into contracts or other arrangements that may be necessary for the Panel to perform its duties.

(C) INTERNAL ORGANIZATION.—The Chair may prescribe such rules as the Chair determines necessary with respect to the internal organization of the Panel.

SEC. 214. NATIONAL HEALTH INFORMATICS COMMISSION.

(a) APPOINTMENT.—The Panel shall provide for appointment of a National Health Informatics Commission (referred to in this section as the ''Commission'') to advise the Panel on its activities.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall consist of 15 members. The Panel shall designate 1 member of the Commission as the Chair.

(2) EXPERTISE.—Members of the Commission shall be individuals who—

(A) represent different professions and different geographic areas, including urban and rural areas;

(B) represent Federal or State government health programs;

(C) represent applicable standard-setting groups, including the National Uniform Billing Committee, the Uniform Claim Form Task Force, American National Standards Institute, and the Healthcare Informatics Standards Planning Panel;

(D) represent consumers of health care services; and

(E) have expertise in—

(i) electronic data interchange of health care information and computerized information systems associated with the operation and administration of matters relating to health care;

(ii) the provision and financing of health care;

(iii) conducting and interpreting health economics research;

(iv) research and development of technological and scientific advances in health care;

(v) health care eligibility, enrollment, and claims administration;

(vi) health care financial management;

(vii) health care reimbursement; or

(viii) health care outcomes research.

(3) TERMS.—The Chair shall serve on the Commission at the pleasure of the Panel. Each other member of the Commission shall be appointed for a term of 5 years, except with respect to the members first appointed—

(A) 3 members shall be appointed for a term of 1 year;

(B) 3 members shall be appointed for terms of 2 years;

(C) 3 members shall be appointed for terms of 3 years;

(D) 3 members shall be appointed for terms of 4 years; and

(E) 2 members shall be appointed for terms of 5 years.

(4) VACANCIES.—

(A) IN GENERAL.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(C) EXPIRATION OF TERMS.—The term of any member shall not expire before the date on which the member's successor takes office.

(c) MEETINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission shall meet at the call of the Chair.

(2) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(d) DUTIES.—

(1) IN GENERAL.—Not later than 60 days prior to any date on which the Panel is required to select, establish, or develop any requirements relating to the data interchange system, the Commission shall make recommendations to the Panel with respect to the issues relating to such requirements.

(2) ADDITIONAL STUDIES AND PROJECTS.—As directed by the Panel, the Commission shall undertake such studies and projects as the Panel may deem necessary.

(e) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chair,

the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) COMMISSION PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, includ-

ing per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chair may, without regard to civil service laws and regulations, appoint and terminate such personnel as may be necessary to enable the Commission to perform its duties.

(B) COMPENSATION.—The Chair may fix the compensation of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(C) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without

interruption or loss of civil service status or privilege.

(D) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chair may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(E) CONTRACTS.—The Chair may enter into contracts or other arrangements that may be necessary for the Commission to perform its duties.

(F) INTERNAL ORGANIZATION.—The Chair may prescribe such rules as the Chair determines necessary with respect to the internal organization of the Commission. The Commission shall create such committees (composed of Commission members and others as appointed by the Chair) as necessary to enable the Commission to meet its responsibilities and functions.

(g) REPORTS.—The Commission shall submit to the Panel such reports as may be requested by the Panel on

each study or project conducted by the Commission. Such reports shall contain such information as requested by the Panel.

(h) TERMINATION OF COMMISSION.—The Commission shall terminate 20 years after the date of the enactment of this title.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

SEC. 215. DEFINITIONS.

For purposes of this title:

(1) ADMINISTRATOR.—The term ''administrator'' has the meaning given that term in section 3(16)(A) of the Employee Retirement Income Security Act of 1974.

(2) CODE SETS.—The term ''code sets'' means any codes used for supplying specific data in a uniform data set, including tables of terms, medical diagnostic codes, medical procedure codes, identification numbers, and any code sets of the National

Uniform Billing Committee, the Health Care Financing Administration, or ANSI.

(3) EMPLOYEE WELFARE BENEFIT PLAN.—The term ''employee welfare benefit plan'' has the meaning given that term in section 3(1) of the Employee Retirement Income Security Act of 1974.

(4) HEALTH CARE INFORMATION CLEARINGHOUSE.—The term ''health care information clearinghouse'' means a public or private entity that—

(A) processes data that cannot be sent directly due to lack of proper formatting or editing; and

(B) facilitates the translation of data to the standardized data set and code sets between persons who normally would send or receive the transaction;

but does not store information processed beyond the time required to complete its task and communicate the information.

(5) HEALTH CARE VALUE-ADDED NETWORK.—The term ''health care value-added network'' means any entity that provides additional services beyond the transmission of data or value, such as the storage of electronic data or value and the transfer of such data or value between health care entities.

(6) HEALTH PLAN.—the term ''health plan'' means an insured health plan and a self-insured health plan.

(7) INSURED HEALTH PLAN.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''insured health plan'' means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer.

(B) EXCEPTION.—Such term does not include any of the following—

(i) coverage only for accident, dental, vision, disability income, or long-term care insurance, or any combination thereof,

(ii) medicare supplemental health insurance,

(iii) coverage issued as a supplement to liability insurance,

(iv) worker's compensation or similar insurance,

(v) automobile medical-payment insurance,

(vi) coverage for a specified disease or illness, or

(vii) a hospital or fixed indemnity policy (unless the Secretary determines that such a policy provides sufficiently comprehensive coverage of a benefit so that it should be treated as an insured health plan),

or any combination thereof.

(8) INSURER.—The term ''insurer'' means any entity that offers a health plan under which such entity is at risk for all or part of the cost of benefits under the plan, and includes any agent of such entity.

(9) PARTICIPANT IN THE HEALTH CARE SYSTEM.—The term ''participant in the health care system'' means any Federal health care program, State, employee welfare benefit plan, health plan, administrator, insurer, or provider.

(10) PROVIDER.—The term ''provider'' means a physician, hospital, pharmacy, laboratory, or other person licensed or otherwise authorized under applicable State laws to furnish health care items or services.

(11) SELF-INSURED HEALTH PLAN.—The term ''self-insured health plan''—

(A) means an employee welfare benefit plan or other arrangement insofar as the plan or arrangement provides health benefits and that is funded in a manner other than through the purchase of 1 or more insured health plans, but

(B) does not include any coverage or insurance described in paragraph (7)(B).

(12) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

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