

[First Reprint]
ASSEMBLY, No. 1476

STATE OF NEW JERSEY

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By Assemblymen FELICE, KAVANAUGH, Assemblywomen
Vandervalk and Murphy

1 AN ACT creating the Health Information Electronic Data Interchange
2 Policy ¹Advisory¹ Council in the Department of Health and ¹Senior
3 Services, and¹ supplementing Title 26 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

- 7
8 1. The Legislature finds and declares that:
- 9 a. The delivery of health care services and payment for those
10 services is often a fragmented process, sometimes inaccurately
11 described as a "system," that is comprised of health care providers,
12 insurance carriers or other benefit payers, employers who provide the
13 insurance or other benefit plans under which their employees are
14 covered, and patients, who are, ultimately, the consumers.
- 15 b. These various sectors perform separate, but interdependent
16 functions in the health care service delivery process, and while they
17 may perceive themselves and operate as economically independent
18 units, they are nevertheless functionally dependent in providing or
19 consuming health care services for which they then expect prompt
20 payment.
- 21 c. While the technology exists to advance communication in every
22 sector of this process, each sector operates as a computerized
23 information island, fully functional in itself but without the ability or
24 motivation for computer-to-computer communication with other such
25 islands.
- 26 d. As a result, despite the available technology, a plethora of bills
27 can emanate from even relatively simple diagnostic or treatment
28 services and the resulting massive flow of information, on paper,
29 creates much of the increasing administrative burden placed on the
30 system¹[], accounting for anywhere from 17 to 24 percent of health

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AHL committee amendments adopted May 1, 1997.

1 care costs]¹.

2 e. It has been estimated that ¹the health care industry in¹ New
3 Jersey currently processes 150 million health care claims annually,
4 85% of which are on paper, and that ¹[\$760 million in] significant¹
5 administrative cost savings¹[, or approximately \$370.00 for each
6 family in New Jersey,]¹ could be realized with the use of standardized
7 enrollment and claim forms, standardized health care communication
8 protocols and the use of electronic data interchange, or EDI, to
9 receive, transmit and store medical and claims information.

10 f. Thus, while state-of-the-art technology is the expected norm in
11 the diagnosis and treatment of illness and injury, in terms of recording,
12 routing and paying for those services, the several parties to the process
13 are using the venerable "paper trail" for billing purposes, which allows
14 them to avoid communicating in a more efficient manner.

15 g. Given the multiple parties and divergent interests which are
16 involved in and affected by the health care services delivery process,
17 a council representing those various interests and concerns, to
18 ¹[develop] assist in the development of standards for¹ an effective
19 electronic data interchange network for use by the various parties; and
20 to assist and enable them to achieve some commonality of purpose in
21 the exchange of such information, is necessary and appropriate if the
22 citizens of New Jersey are to benefit from the efficiencies and
23 economies such an interchange can effect.

24

25 2. The Health Information Electronic Data Interchange Policy
26 ¹Advisory¹ Council hereinafter referred to as the council, is created in
27 the Executive Branch of State Government. For the purposes of
28 complying with the provisions of Article V, Section IV, paragraph 1
29 of the New Jersey Constitution, the council is allocated within the
30 Department of Health ¹and Senior Services¹, but notwithstanding this
31 allocation, the council shall be independent of any supervision or
32 control by the department or by any board or officer thereof, and shall
33 request appropriations for its expenses independently therefrom.

34

35 3. The council shall consist of ¹[25] 31¹ members, as follows:

36 a. The Commissioner of Health ¹and Senior Services¹ or ¹[his] the
37 commissioner's¹ designee, ex officio, who shall serve as chairman of
38 the council;

39 b. The Commissioner of ¹Banking and¹ Insurance or ¹[her] the
40 commissioner's¹ designee, ex officio;

41 c. The Commissioner of Human Services or ¹[his] the
42 commissioner's¹ designee, ex officio;

43 d. The State Treasurer or ¹[his] the State Treasurer's¹ designee,
44 ex officio;

45 e. The Attorney General or ¹[her] the Attorney General's¹
46 designee, ex officio;

- 1 f. The Director of the Division of Pensions and Benefits, in ¹[his]
2 the director's¹ capacity as the secretary to the State Health Benefits
3 Commission or ¹[his] the secretary's¹ designee, ex officio;
- 4 g. The President of the ¹[University of Medicine and Dentistry of
5 New Jersey] New Jersey Hospital Association¹, or ¹[his] the
6 President's¹ designee, ex officio;
- 7 h. The President of the ¹[New Jersey Institute of Technology]
8 University of Medicine and Dentistry of New Jersey.¹ or ¹[his] the
9 President's¹ designee, ex officio;
- 10 i. The President of Thomas Edison State College or ¹[his] the
11 President's¹ designee, ex officio;
- 12 j. ¹[Four] Six¹ members to be appointed by the President of the
13 Senate, no more than ¹[two] three¹ of whom shall be of the same
14 political party, as follows:
- 15 (1) One representative of the medical profession, upon the
16 recommendation of the Medical Society of New Jersey;
- 17 (2) One representative of business, upon the recommendation of
18 the New Jersey Business and Industry Association;
- 19 (3) One representative of a health maintenance organization, upon
20 the recommendation of the New Jersey Health Maintenance
21 Organization Association; ¹[and]¹
- 22 (4) One representative of a health insurer domiciled in this State;
23 ¹(5) One representative of the home health care industry, upon the
24 recommendation of the Home Health Assembly of New Jersey; and
25 (6) One representative of physical therapists in the State, upon
26 recommendation of the American Physical Therapy Association of
27 New Jersey;¹
- 28 k. ¹[Four] Six¹ members to be appointed by the Speaker of the
29 General Assembly, no more than ¹[two] three¹ of whom shall be of the
30 same political party, as follows:
- 31 (1) One representative of the pharmacy profession, upon the
32 recommendation of the Pharmacist Institute of New Jersey;
- 33 (2) One representative of organized labor, upon the
34 recommendation of the New Jersey State AFL-CIO;
- 35 (3) One representative of hospitals, upon the recommendation of
36 the New Jersey Hospital Association; ¹[and]¹
- 37 (4) One representative of a health service corporation, or if none
38 exists, a hospital or medical service corporation, domiciled in this
39 State; ¹[and]
- 40 (5) One representative of the dental profession, upon the
41 recommendation of the New Jersey Dental Association; and
42 (6) One representative of the occupational therapists in this State,
43 upon the recommendation of the New Jersey Occupational Therapy
44 Association;¹
- 45 l. ¹[Eight] 10¹ members to be appointed by the Governor, ¹[with
46 the advice and consent of the Senate,]¹ no more than ¹[four] five¹ of

1 whom shall be of the same political party, as follows:

2 (1) One representative of the chiropractic profession, upon the
3 recommendation of the New Jersey Chiropractic Society;

4 (2) One representative of small business, upon the recommendation
5 of the New Jersey State Chamber of Commerce;

6 (3) One representative of long-term health care facilities, upon the
7 recommendation of the New Jersey Association of Health Care
8 Facilities;

9 (4) One representative of a health insurer authorized to transact
10 business in this State, but not domiciled in this State¹, upon the
11 recommendation of the Health Insurance Association of America¹;

12 (5) One representative of the nursing profession, upon the
13 recommendation of the New Jersey State Nurses Association;

14 ¹(6) One representative of the osteopathic profession, upon the
15 recommendation of the New Jersey Association of Osteopathic
16 Physicians and Surgeons;

17 (7) One representative of the mental health professions, upon the
18 recommendation of the Statewide Mental Health Coalition;¹ and

19 ¹[(6)] (8)¹ Three members of the public, none of whom shall
20 represent the sectors of business, labor, health care providers or the
21 professions or insurers listed above, but who shall be consumers of
22 health care services.

23

24 4. a. The council shall organize upon the appointment of a
25 majority of its authorized membership.

26 b. Appointed members of the council shall serve for three year
27 terms, except that, of the members first appointed, ¹[one] two¹ each
28 of the members appointed by the President of the Senate and the
29 Speaker of the General Assembly and two of the members appointed
30 by the Governor shall be appointed for terms of one year, and ¹[one]
31 two¹ each of the members appointed by the President of the Senate
32 and the Speaker of the General Assembly and two of the members
33 appointed by the Governor shall be appointed for terms of two years.

34 c. Each member shall hold office for the term of appointment and
35 until a successor is appointed and qualified. All vacancies shall be
36 filled in the same manner as the original appointment. Members
37 appointed to fill a vacancy occurring for any reason other than the
38 expiration of the term shall serve for the unexpired term only. An
39 appointed member of the council shall be eligible for reappointment.
40 An appointed member may be removed for cause.

41 d. Appointed members shall serve without compensation, but shall
42 be reimbursed for necessary expenses incurred in the performance of
43 their duties.

44 e. Action may be taken and motions and resolutions may be
45 adopted by the council by an affirmative vote of not less than ¹[12
46 members] a majority of the quorum required to conduct business¹.

1

2 5. ¹[a.]¹ The council shall appoint an executive director, who shall
3 serve as secretary to the council. The executive director shall serve at
4 the pleasure of the council and shall be in the unclassified service of
5 the Civil Service. Upon the appointment of a majority of the members
6 of the council, the Commissioner of Health ¹and Senior Services¹ shall
7 appoint an acting executive director from among his staff, who shall
8 serve until the appointment of an executive director by the council and
9 who shall not be eligible for appointment by the council.

10 ¹[b. To the extent assistance is not available under subsection c. of
11 this section, the council may appoint other employees as may be
12 necessary, within the limits of funds appropriated to it or otherwise
13 made available to it for its purposes. The executive director shall be
14 responsible for the selection of properly qualified staff members, who
15 shall have backgrounds appropriate to the work of the council.
16 Appointed staff members shall be employed in the unclassified service
17 of the Civil Service, except that employees performing stenographic
18 or clerical duties shall be in the career service and appointed pursuant
19 to Title 11A of the New Jersey Statutes. Permanent career service
20 employees who are appointed to an unclassified position with the
21 council shall have a right of reinstatement to the career service to a
22 level held prior to service with the council, unless the employee has
23 been separated, after opportunity for a hearing, from the service with
24 the council for reasons which constitute cause for removal from the
25 career service.

26 c.] The Commissioner of Health and Senior Services shall provide
27 staff support to assist the council in carrying out its responsibilities.¹
28 The council is entitled to the assistance and services of the employees
29 of any State, county or municipal department, board, bureau,
30 commission or agency, as it may require and as may be available to it
31 for its purposes.

32 ¹[d.]¹ The council is authorized to contract with outside providers
33 for services in support of council responsibilities and documented as
34 otherwise unavailable to the council.

35

36 6. a. The council shall develop ¹standards for¹ an effective
37 electronic data interchange (EDI) network for use by the various
38 sectors in the health care services delivery process. In particular, the
39 council's responsibilities shall include, but not be limited to:

40 (1) ¹[Promulgating Statewide protocol] Developing¹ standards for
41 interorganizational communication among the participants in the health
42 care services delivery process.

43 (2) ¹[Promulgating Statewide protocol] Developing¹ standards for
44 the transmission of forms and information among the various sectors
45 of the health care services delivery process.

46 (3) Encouraging health insurers and other benefit providers to issue

1 ¹[magnetic stripe "smart cards," or similar type]¹ patient identification
2 cards or equipment, ¹such as magnetic stripe, "smart cards" or other
3 patient identification technology.¹ that provide rapid, efficient
4 electronic access to health care services, to covered individuals.

5 (4) Encouraging and facilitating the development of ¹[privately
6 owned and operated open] secure¹ networks which would be
7 interconnected and available to all participants of the health care
8 services delivery process.

9 b. In developing the ¹standards for the¹ EDI network pursuant to
10 subsection a. of this section, the council shall ¹[adopt and utilize]
11 consider¹ the following guidelines:

12 (1) National standards, such as those developed by the American
13 National Standards Institute (ANSI) and the Health Care Financing
14 Administration (HCFA) ¹[should] shall¹ be ¹evaluated and¹ adopted
15 wherever possible.

16 (2) ¹[All] To the greatest extent possible, all¹ participants shall be
17 provided with equal functionality in their access to the network.
18 Interconnection speeds and types of connections may vary, but the
19 services offered shall be available to all participants.

20 (3) ¹[If multiple networks are established, the sum total of all
21 networks shall act as a single network for all participants.

22 (4) As a national information super-highway is developed, New
23 Jersey's health care] The State's¹ EDI network¹ shall ¹[provide a]
24 encourage¹ direct ¹[connection] connections¹ to ¹[the highway and
25 attach to the interim super-highway,]¹ the Internet ¹or similar
26 networks for communication and research purposes¹.

27 ¹[(5)] (4)¹ The network's design shall be flexible and allow for new
28 services to be offered without impacting existing services.

29 ¹[(6)] (5)¹ Wherever possible, the ¹State's EDI¹ network shall
30 utilize existing networks that are available for other applications and
31 shall take into consideration existing proprietary networks which can
32 connect to and transmit specified health care enrollment, claim and
33 medical information to the open networks in the State.

34 ¹[(7) All] (6) Whenever possible, all¹ participants in the network
35 shall establish a single connection to the network and this single
36 connection should support all functions of the network.

37 ¹[(8)] (7)¹ All providers of network services shall agree to work
38 in an ethical manner so as not to achieve a competitive advantage
39 when collecting or accumulating content information from the
40 transmissions carried on their network.

41 ¹c. To the maximum extent possible and practicable, the council
42 shall coordinate its responsibilities and activities with other health
43 information initiatives undertaken by the Department of Health and
44 Senior Services and other State agencies.¹

45
46 7. The council shall ¹[also perform the following functions in

1 furtherance of] support¹ the State's responsibilities to monitor the
2 quantity and quality of health care services in the following manner¹:

3 a. The council shall examine carefully the Community Health
4 Management Information System (CHMIS) model and similar
5 information network models of a health care monitoring data base and
6 consider ¹[adopting their] recommending appropriate¹ design features.

7 b. The council shall ¹[assure] recommend¹ that the ¹State's¹ EDI
8 network provides appropriate structure for capture of data for
9 monitoring health care quantity and quality by the State.

10 c. The council shall ¹[assure] recommend¹ that a data base system
11 is developed to capture data and store it in appropriate form for
12 routine monitoring reports and policy research.

13 d. The council¹, in coordination with other State agencies,¹ shall
14 ¹[provide continuous oversight] develop recommendations¹ with
15 respect to the establishment of, and compliance with, health care
16 information confidentiality and security requirements by health care
17 providers and payers ¹, including the maintenance of the confidentiality
18 of proprietary information of health care providers and payers¹.

19 e. The council shall ¹[establish] recommend¹ a procedure for
20 routinely producing and distributing monitoring reports on the
21 performance of payers and providers.

22

23 8. In addition to its responsibilities pursuant to sections 6 and 7 of
24 this act, the council shall:

25 a. ¹[Consult with] Advise¹ the Commissioner of ¹Banking and¹
26 Insurance, in the ¹[promulgation of demonstration] development of
27 recommended¹ standards, ¹[and]¹ using national standards wherever
28 possible, for the electronic receipt, transmission and storage of health
29 care claim information by hospital service, medical service and health
30 service corporations, health insurers and health maintenance
31 organizations pursuant to section 7 of P.L. , c. (C.)(now pending
32 before the Legislature as Assembly, No. 1481 and Senate, No. 48 of
33 1996).

34 b. ¹[Consult with] Advise¹ the Commissioner of ¹Banking and¹
35 Insurance in ¹[his promulgation] the development¹ of standard health
36 care enrollment and claim forms pursuant to section 7 of P.L. , c.
37 (C.)(now pending before the Legislature as Assembly, No. 1473 and
38 Senate, No.49 of 1996).

39 c. Consult with the Commissioner of Health ¹and Senior Services¹
40 in his preparation of the annual report on health care expenditures in
41 New Jersey required by P.L. , c. (C.)(now before the Legislature
42 as Assembly, No. 1479 and Senate, No. 43 of 1996.).

43

44 9. a. The council shall submit an annual report to the Governor
45 and the Legislature which assesses current efforts, and makes such
46 recommendations, including legislative or administrative action for

1 proposed efforts, to reduce health care administrative costs through
2 electronic data interchange and other automated information
3 technology, and which specifies the costs of implementation and
4 discusses any anticipated difficulties with respect to the use of the
5 technology.

6 b. In addition, every fifth annual report shall also include an
7 analysis of the council's accomplishment of its stated objectives, a
8 forecast of emerging technologies and the EDI needs of the health care
9 services ¹[delivery process] industry¹ for the ensuing five years, and
10 how the council anticipates responding to those needs and
11 incorporating those technologies in its operations over the next five
12 years, including any recommendations for change in its membership or
13 charge, or other legislative or administrative action.

14 c. ¹[The] If funds are available, the¹ reports required by this
15 section shall be prepared with the cooperation and assistance of the
16 New Jersey Institute of Technology and Thomas Edison State College
17 and the council shall use the funds appropriated to it or otherwise
18 made available to it to fund the costs of Thomas Edison State College
19 and the New Jersey Institute of Technology for their services provided
20 to the council in this regard.

21

22 ¹[10. For the fiscal year beginning July 1, 1997 and thereafter,
23 funds for the operation of the council shall be appropriated from the
24 Electronic Data Interchange Technology Development Fund
25 established in P.L. , c. (C.)(now before the Legislature as
26 Assembly, No. 1480 and Senate, No. 45 of 1996.).]¹

27

28 ¹[11.] 10.¹ The council ¹[may adopt, in accordance with the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), such rules and regulations as it deems necessary to carry out its
31 responsibilities under this act] shall make recommendations to the
32 Commissioner of Health and Senior Services through resolutions
33 adopted by a recorded majority vote of the council regarding the
34 development of standards for the State's EDI network. If the
35 commissioner disagrees with the recommendations of the council, the
36 commissioner shall present the reasons therefor to the council¹.

37

38 ¹[12. For the fiscal year beginning July 1, 1996, there is
39 appropriated \$250,000 from the General Fund to the Health

1 Information Electronic Data Interchange Policy Council to effectuate
2 the purposes of this act.]¹

3

4 ¹[13.] 11.¹ This act shall take effect immediately.

5

6

7

8

9 Establishes Health Information Electronic Data Interchange Policy
10 Advisory Council.