

SECOND REGULAR SESSION

HOUSE BILL NO. 2609

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HAAHR.

6524H.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 191, RSMo, by adding thereto one new section relating to health information blocking, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.240, to read as follows:

191.240. 1. As used in this section, the following terms shall mean:

(1) **"Certified electronic health record system", a computer-based information system that is used to create, collect, store, manipulate, share, exchange, or make available health records for the purposes of the delivery of patient care, and has been certified by an Office of the National Coordinator for Health Information Technology-authorized certification body;**

(2) **"Electronic health record", any computerized, digital, or other electronic record of individual health-related information that is created, held, managed, or consulted by a health care provider including, but not limited to, continuity of care documents, discharge summaries, and other information or data relating to patient demographics, medical history, medication, allergies, immunizations, laboratory test results, radiology or other diagnostic images, vital signs, and statistics;**

(3) **"Health care provider", any individual, corporation, facility, or institution licensed by the state to provide health care services;**

(4) **"Health information blocking":**

(a) **Knowingly interfering with or knowingly engaging in business practices or other conduct that is reasonably likely to interfere with the ability of patients, health care**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 providers, or other authorized persons to access, exchange, or use electronic health records
19 including, but not limited to, the use of technologies or practices that knowingly and
20 unreasonably:

21 a. Restrict the ability to transmit an order or request for health care services,
22 supplies, or goods to other providers or suppliers;

23 b. Restrict the ability of users of certified electronic health record systems to receive
24 notification of incoming reports or other clinical information; or

25 c. Restrict patient access to information regarding other providers or suppliers;
26 and

27 (b) Knowingly using a certified electronic health record system to:

28 a. Steer patient referrals to health care providers who are affiliated, under
29 contract, or otherwise in a preexisting commercial relationship with the referring health
30 care provider; and

31 b. Prevent or unreasonably interfere with patient referrals to health care providers
32 who are not affiliated, under contract, or otherwise in a preexisting commercial
33 relationship with the referring health care provider.

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35 Health information blocking shall not include legitimate referrals between providers
36 participating in an accountable care organization or similar value-based collaborative care
37 model.

38 2. Electronic health records shall, to the fullest extent possible:

39 (1) Be readily available to other health care providers as necessary to provide care
40 and treatment to a patient;

41 (2) Be made accessible to the patient in a convenient manner, including upon
42 request; and

43 (3) Be made available in a timely and convenient manner to other health care
44 providers as directed by the patient or the patient's authorized representative.

45 3. Whenever the attorney general has reasonable cause to believe that actions
46 amounting to health information blocking have occurred, the attorney general may bring
47 a civil action in a court of competent jurisdiction. Such court may order any appropriate
48 relief, including a fine of up to five thousand dollars for each occurrence of health
49 information blocking. Nothing in this subsection shall be deemed to limit the power or
50 authority of the state or attorney general to investigate and seek any other administrative,
51 legal, or equitable relief as allowed by law.

52 4. A patient, health care provider, or any other person injured by health
53 information blocking shall have a private cause of action against the individual or entity

54 **who caused the injury and, upon a court of competent jurisdiction's finding of a violation**
55 **of this section, shall be entitled to actual, incidental, and consequential damages; statutory**
56 **damages equal to the amount specified in subsection 3 of this section; punitive damages,**
57 **if appropriate; and court costs and reasonable attorney fees. Nothing in this subsection**
58 **shall be deemed to limit any other right or remedy otherwise available to the person**
59 **bringing a cause of action under this subsection.**

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