

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

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

(a) In general

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

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

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

(b) Rule of construction

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

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

REFERENCES IN TEXT

The HITECH Act, referred to in subsec. (a), is title XIII of div. A and title IV of div. B of Pub. L. 111-5, Feb. 17, 2009, 123 Stat. 226, 467, also known as the Health Information Technology for Economic and Clinical Health Act. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 201 of this title and Tables.

§ 300jj-17. Federal health information technology

(a) In general

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

(b) Certification

In making such electronic health record technology publicly available, the National Coordinator shall ensure that the qualified electronic health record technology described in subsection (a) is certified under the program developed under section 300jj-11(c)(3) of this title to be in compliance with applicable standards adopted under section 300jj-13(a) of this title.

(c) Authorization to charge a nominal fee

The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection¹ (a)

and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

(d) Rule of construction

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

(July 1, 1944, ch. 373, title XXX, §3007, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 241.)

§ 300jj-18. Transitions

(a) ONCHIT

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

(b) National eHealth Collaborative

Nothing in sections¹ 300jj-12 or 300jj-13 of this title or this subsection shall be construed as prohibiting the AHIC Successor, Inc. doing business as the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with section² 300jj-12 and 300jj-13 of this title so as to allow the Secretary to recognize such AHIC Successor, Inc. as the HIT Policy Committee or the HIT Standards Committee.

(c) Consistency of recommendations

In carrying out section 300jj-13(b)(1)(A) of this title, until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

(July 1, 1944, ch. 373, title XXX, §3008, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 241.)

REFERENCES IN TEXT

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

§ 300jj-19. Miscellaneous provisions

(a) Relation to HIPAA privacy and security law

(1) In general

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

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

(B) The purposes of this subchapter include ensuring that the health information technology standards and implementation

¹ So in original. Probably should be "subsections".

¹ So in original. Probably should be "section".

² So in original. Probably should be "sections".

specifications adopted under section 300jj-14 of this title take into account the requirements of HIPAA privacy and security law.

(2) Definition

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

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

(B) regulations under such provisions.

(b) Flexibility

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

(July 1, 1944, ch. 373, title XXX, §3009, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 242.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part C of title XI of the Act is classified generally to part C (§1320d et seq.) of subchapter XI of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (a)(2)(A), is section 264 of Pub. L. 104-191, which is set out as a note under section 1320d-2 of this title.

The Health Information Technology for Economic and Clinical Health Act, referred to in subsec. (a)(2)(A), is title XIII of div. A and title IV of div. B of Pub. L. 111-5, Feb. 17, 2009, 123 Stat. 226, 467, also known as the HITECH Act. Subtitle D of title IV of the Act probably means subtitle D of title XIII of div. A of the Act, which is classified generally to subchapter III (§17921 et seq.) of chapter 156 of this title. Title IV of div. B of the Act does not contain a subtitle D. For complete classification of this Act to the Code, see Short Title of 2009 Amendment note set out under section 201 of this title and Tables.

PART B—INCENTIVES FOR THE USE OF HEALTH INFORMATION TECHNOLOGY

§ 300jj-31. Immediate funding to strengthen the health information technology infrastructure

(a) In general

The Secretary shall, using amounts appropriated under section 300jj-38 of this title, invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator (and as available) under section 300jj-11 of this title. The Secretary shall invest funds through the different agencies with expertise in such goals, such as the Office of the National Coordinator for Health Information Technology, the Health Resources and Services Ad-

ministration, the Agency for Healthcare Research and Quality, the Centers of Medicare & Medicaid Services, the Centers for Disease Control and Prevention, and the Indian Health Service to support the following:

(1) Health information technology architecture that will support the nationwide electronic exchange and use of health information in a secure, private, and accurate manner, including connecting health information exchanges, and which may include updating and implementing the infrastructure necessary within different agencies of the Department of Health and Human Services to support the electronic use and exchange of health information.

(2) Development and adoption of appropriate certified electronic health records for categories of health care providers not eligible for support under title XVIII or XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.] for the adoption of such records.

(3) Training on and dissemination of information on best practices to integrate health information technology, including electronic health records, into a provider's delivery of care, consistent with best practices learned from the Health Information Technology Research Center developed under section 300jj-32(b) of this title, including community health centers receiving assistance under section 254b of this title, covered entities under section 256b of this title, and providers participating in one or more of the programs under titles XVIII, XIX, and XXI of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq., 1397aa et seq.] (relating to Medicare, Medicaid, and the State Children's Health Insurance Program).

(4) Infrastructure and tools for the promotion of telemedicine, including coordination among Federal agencies in the promotion of telemedicine.

(5) Promotion of the interoperability of clinical data repositories or registries.

(6) Promotion of technologies and best practices that enhance the protection of health information by all holders of individually identifiable health information.

(7) Improvement and expansion of the use of health information technology by public health departments.

(b) Coordination

The Secretary shall ensure funds under this section are used in a coordinated manner with other health information promotion activities.

(c) Additional use of funds

In addition to using funds as provided in subsection (a), the Secretary may use amounts appropriated under section 300jj-38 of this title to carry out health information technology activities that are provided for under laws in effect on February 17, 2009.

(d) Standards for acquisition of health information technology

To the greatest extent practicable, the Secretary shall ensure that where funds are expended under this section for the acquisition of health information technology, such funds shall

¹ See References in Text note below.