

(E) 1 member shall be appointed by the minority leader of the House of Representatives.

(F) Such other members as shall be appointed by the President as representatives of other relevant Federal agencies.

(G) 13 members shall be appointed by the Comptroller General of the United States of whom—

(i) 3 members shall advocates¹ for patients or consumers;

(ii) 2 members shall represent health care providers, one of which shall be a physician;

(iii) 1 member shall be from a labor organization representing health care workers;

(iv) 1 member shall have expertise in health information privacy and security;

(v) 1 member shall have expertise in improving the health of vulnerable populations;

(vi) 1 member shall be from the research community;

(vii) 1 member shall represent health plans or other third-party payers;

(viii) 1 member shall represent information technology vendors;

(ix) 1 member shall represent purchasers or employers; and

(x) 1 member shall have expertise in health care quality measurement and reporting.

(3) Participation

The members of the HIT Policy Committee appointed under paragraph (2) shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of the Policy Committee.

(4) Terms

(A) In general

The terms of the members of the HIT Policy Committee shall be for 3 years, except that the Comptroller General shall designate staggered terms for the members first appointed.

(B) Vacancies

Any member appointed to fill a vacancy in the membership of the HIT Policy Committee that occurs prior to the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has been appointed. A vacancy in the HIT Policy Committee shall be filled in the manner in which the original appointment was made.

(5) Outside involvement

The HIT Policy Committee shall ensure an opportunity for the participation in activities of the Committee of outside advisors, including individuals with expertise in the development of policies for the electronic exchange and use of health information, including in the areas of health information privacy and security.

(6) Quorum

A majority of the member of the HIT Policy Committee shall constitute a quorum for purposes of voting, but a lesser number of members may meet and hold hearings.

(7) Failure of initial appointment

If, on the date that is 45 days after February 17, 2009, an official authorized under paragraph (2) to appoint one or more members of the HIT Policy Committee has not appointed the full number of members that such paragraph authorizes such official to appoint, the Secretary is authorized to appoint such members.

(8) Consideration

The National Coordinator shall ensure that the relevant and available recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.

(d) Application of FACA

The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

(e) Publication

The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all policy recommendations made by the HIT Policy Committee under this section.

(July 1, 1944, ch. 373, title XXX, §3002, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 234.)

REFERENCES IN TEXT

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

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 300jj-13. HIT Standards Committee

(a) Establishment

There is established a committee to be known as the HIT Standards Committee to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption under section 300jj-14 of this title, consistent with the implementation of the strategic plan described in section 300jj-11(c)(3) of this title and beginning with the areas listed in section 300jj-12(b)(2)(B) of this title in accordance with policies developed by the HIT Policy Committee.

(b) Duties

(1) Standards development

(A) In general

The HIT Standards Committee shall recommend to the National Coordinator standards, implementation specifications, and certification criteria described in subsection

¹ So in original.

(a) that have been developed, harmonized, or recognized by the HIT Standards Committee. The HIT Standards Committee shall update such recommendations and make new recommendations as appropriate, including in response to a notification sent under section 300jj-14(a)(2)(B) of this title. Such recommendations shall be consistent with the latest recommendations made by the HIT Policy Committee.

(B) Harmonization

The HIT Standards Committee recognize¹ harmonized or updated standards from an entity or entities for the purpose of harmonizing or updating standards and implementation specifications in order to achieve uniform and consistent implementation of the standards and implementation specifications.

(C) Pilot testing of standards and implementation specifications

In the development, harmonization, or recognition of standards and implementation specifications, the HIT Standards Committee shall, as appropriate, provide for the testing of such standards and specifications by the National Institute for Standards and Technology under section 17911(a) of this title.

(D) Consistency

The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements adopted pursuant to section 1320d-2 of this title.

(2) Forum

The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

(3) Schedule

Not later than 90 days after February 17, 2009, the HIT Standards Committee shall develop a schedule for the assessment of policy recommendations developed by the HIT Policy Committee under section 300jj-12 of this title. The HIT Standards Committee shall update such schedule annually. The Secretary shall publish such schedule in the Federal Register.

(4) Public input

The HIT Standards Committee shall conduct open public meetings and develop a process to allow for public comment on the schedule described in paragraph (3) and recommendations described in this subsection. Under such process comments shall be submitted in a timely manner after the date of publication of a recommendation under this subsection.

(5) Consideration

The National Coordinator shall ensure that the relevant and available recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.

(c) Membership and operations

(1) In general

The National Coordinator shall take a leading position in the establishment and operations of the HIT Standards Committee.

(2) Membership

The membership of the HIT Standards Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

(3) Participation

The members of the HIT Standards Committee appointed under this subsection shall represent a balance among various sectors of the health care system so that no single sector unduly influences the recommendations of such Committee.

(4) Outside involvement

The HIT Policy Committee shall ensure an opportunity for the participation in activities of the Committee of outside advisors, including individuals with expertise in the development of standards for the electronic exchange and use of health information, including in the areas of health information privacy and security.

(5) Balance among sectors

In developing the procedures for conducting the activities of the HIT Standards Committee, the HIT Standards Committee shall act to ensure a balance among various sectors of the health care system so that no single sector unduly influences the actions of the HIT Standards Committee.

(6) Assistance

For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

(d) Application of FACA

The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, shall apply to the HIT Standards Committee.

(e) Publication

The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all recommendations made by the HIT Standards Committee under this section.

(July 1, 1944, ch. 373, title XXX, §3003, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 238.)

¹ So in original.

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 300jj-14. Process for adoption of endorsed recommendations; adoption of initial set of standards, implementation specifications, and certification criteria

(a) Process for adoption of endorsed recommendations

(1) Review of endorsed standards, implementation specifications, and certification criteria

Not later than 90 days after the date of receipt of standards, implementation specifications, or certification criteria endorsed under section 300jj-11(c) of this title, the Secretary, in consultation with representatives of other relevant Federal agencies, shall jointly review such standards, implementation specifications, or certification criteria and shall determine whether or not to propose adoption of such standards, implementation specifications, or certification criteria.

(2) Determination to adopt standards, implementation specifications, and certification criteria

If the Secretary determines—

(A) to propose adoption of any grouping of such standards, implementation specifications, or certification criteria, the Secretary shall, by regulation under section 553 of title 5, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation.

(3) Publication

The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under paragraph (1).

(b) Adoption of standards, implementation specifications, and certification criteria

(1) In general

Not later than December 31, 2009, the Secretary shall, through the rulemaking process consistent with subsection (a)(2)(A), adopt an initial set of standards, implementation specifications, and certification criteria for the areas required for consideration under section 300jj-12(b)(2)(B) of this title. The rulemaking for the initial set of standards, implementation specifications, and certification criteria may be issued on an interim, final basis.

(2) Application of current standards, implementation specifications, and certification criteria

The standards, implementation specifications, and certification criteria adopted before

February 17, 2009, through the process existing through the Office of the National Coordinator for Health Information Technology may be applied towards meeting the requirement of paragraph (1).

(3) Subsequent standards activity

The Secretary shall adopt additional standards, implementation specifications, and certification criteria as necessary and consistent with the schedule published under section 300jj-13(b)(2)¹ of this title.

(July 1, 1944, ch. 373, title XXX, §3004, as added Pub. L. 111-5, div. A, title XIII, §13101, Feb. 17, 2009, 123 Stat. 240.)

§ 300jj-15. Application and use of adopted standards and implementation specifications by Federal agencies

For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 300jj-14 of this title, see section 17901 of this title.

(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.

¹So in original. Probably should be a reference to section 300jj-13(b)(3).