

§ 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 recog-

nize 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 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 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.

¹ So in original. Probably should be “subsections”.

¹ So in original. Probably should be “section”.

² So in original. Probably should be “sections”.

¹ See References in Text note below.