

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2206

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Peaden

SUBJECT: Electronic Medical Records

DATE: March 24, 2004 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/CS</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill creates the Statewide Electronic Medical Records Task Force to advise the Agency for Health Care Administration (AHCA) in developing policies relating to electronic medical records. The Governor must appoint members to the task force, and AHCA must provide personnel support to the task force. The bill appropriates \$2 million to AHCA and authorizes AHCA to enter into contracts to carry out the requirements of the bill. The task force must report annually to the Governor, the Senate President and the Speaker of the House of Representatives on certain issues outlined in the bill. The law establishing the task force will be repealed on July 1, 2007.

This bill creates two unnumbered sections of law.

## II. Present Situation:

### Electronic Medical Records

An electronic medical record is a patient's medical record in a digital format that a physician could transmit electronically to a hospital, to another physician, or to the patient. While most business and governmental record-keeping has been stored and transmitted electronically for many years, medical records are still largely paper records.

In recent years, private and public sector policy leaders have called for electronic medical records in a standard format that could be transmitted among medical professionals. The Institute of Medicine (IOM) issued a report in November 2003<sup>1</sup>, calling for the development of a national

<sup>1</sup> Institute of Medicine, Aspden, Philip, Corrigan, Janet M., Wolcott, Julie, and Erickson, Shari M., Eds. Patient Safety: Achieving a New Standard. The National Academies Press 2004. Readable at: <http://books.nap.edu/catalog/10863.html>

health information infrastructure with targeted support from the federal government for its development. Such a federal initiative has been compared to the Hill-Burton Act that provided funds for the construction of community hospitals. The proposal could also be compared with the federal legislation that established the e-rate for schools and libraries to permit nationwide access to the Internet.

The Healthy Florida Foundation<sup>2</sup>, a group of diverse Florida organizations representing health care providers, insurers, organized labor, state government and community initiatives recommends encouraging development of electronic medical records through financial incentives and the establishment of a universal electronic medical record system in Florida within 5 years that would permit caregivers and patients to share medical records and access clinical information.

The Governor's Task Force on Access to Affordable Health Insurance recommended that the state encourage the development of electronic medical records by providing financial incentives and promoting the use of digital technology and information systems, involving Florida's medical schools in that effort.

In July 2003, the U.S. Secretary of Health and Human Services (HHS) announced that the department had taken two steps in building a national health information infrastructure by arranging for: (1) the establishment of a standardized medical vocabulary system and (2) the design of a standardized model of an electronic health record.<sup>3</sup> Through an agreement with the College of American Pathologists, HHS will license the College's standardized medical vocabulary system and make it available at no cost. HHS also commissioned IOM to design a standardized model of an electronic health record. After the standardized model record is evaluated, HHS will make it available at no cost.

### **Advisory Bodies**

The various types of advisory bodies that are typically established to advise state government are defined in s. 20.03, F.S., as follows:

*Council or advisory council* means an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

*Committee or task force* means an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.

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<sup>2</sup> <http://www.healthyfloridafoundation.org/>

<sup>3</sup> <http://www.os.dhhs.gov/news/press/2003pres/20030701.html>

*Coordinating council* means an interdepartmental advisory body created by law to coordinate programs and activities for which one department has primary responsibility but in which one or more other departments have an interest.

*Commission*, unless otherwise required by the State Constitution, means a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

Under s. 20.052, F.S., each advisory body, commission, board of trustees, or any other collegial body created by specific statutory enactment as an adjunct to an executive agency must be established, evaluated, or maintained in accordance with the following provisions:

- It may be created only when it is found to be necessary and beneficial to the furtherance of a public purpose.
- It must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of a public purpose. The executive agency to which the advisory body, commission, board of trustees, or other collegial body is made an adjunct must advise the Legislature at the time the advisory body, commission, board of trustees, or other collegial body ceases to be essential to the furtherance of a public purpose.
- The Legislature and the public must be kept informed of the numbers, purposes, memberships, activities, and expenses of advisory bodies, commissions, boards of trustees, and other collegial bodies established as adjuncts to executive agencies.
- An advisory body, commission, board of trustees, and other collegial body may not be created or reestablished unless:
  - It meets a statutorily defined purpose;
  - Its powers and responsibilities conform with the definitions for governmental units in s. 20.03, F.S.;
  - Its members, unless expressly provided otherwise in the State Constitution, are appointed for 4-year staggered terms; and
  - Its members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061, F.S.

The private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer. Unless an exemption is otherwise specifically provided by law, all meetings of an advisory body, commission, board of trustees, or other collegial body adjunct to an executive agency are public meetings under s. 286.011, F.S. Minutes, including a record of all votes cast, must be maintained for all meetings. If an advisory body, commission, board of trustees, or other collegial body that is adjunct to an executive agency is abolished, its records must be appropriately stored, within 30 days after the effective date of its abolition, by the executive agency to which it was adjunct, and any property assigned to it must be reclaimed by the executive agency. The advisory body, commission, board of trustees, or other collegial body may not perform any activities after the effective date of its abolition.

### III. Effect of Proposed Changes:

**Section 1.** Creates the Statewide Electronic Medical Records Task Force to serve as a body of experts to advise AHCA in developing policies related to electronic medical records and the technology required for sharing clinical information among caregivers. The task force must be appointed by the Governor and must meet at least quarterly. Members of the task force will serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, F.S. AHCA must provide personnel to support the functions of the task force and to assist the task force in creating the electronic medical records system. AHCA may enter into contracts to carry out the provisions of the bill.

The task force must advise the Governor, the Legislature, and the agency on the following:

- Public and private sector initiatives relating to electronic medical records and the communication systems used to share clinical information among caregivers;
- Regulatory barriers that interfere with the sharing of clinical information among caregivers;
- Investment incentives that might be used to promote the use of recommended technologies by health care providers;
- Educational strategies that could be implemented to educate health care providers about the recommended technologies for sharing clinical information; and
- Standards for public access to facilitate the disclosure of pricing, costs, and quality.

The task force must send to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report by November 30, 2004, and annually thereafter. Each report must include any recommendations or implementation plan developed by the task force. If the task force proposes an implementation plan, the proposed plan must include, but need not be limited to, the capital investment required to begin implementing the system; the costs to operate the system; the financial incentives recommended to increase capital investment; data concerning the providers initially committed to participate in the system, by region; the standards for systemic functionality and features; any marketing plan to increase participation; and implementation schedules for key components.

The act will expire July 1, 2007.

**Section 2.** Appropriates the sum of \$2 million from the General Revenue Fund to the Agency for Health Care Administration for the purpose of implementing this act during the 2004-2005 fiscal year.

**Section 3.** Provides that the bill will take effect upon becoming a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Members of the task force would serve without compensation and would be entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.

**C. Government Sector Impact:**

The bill appropriates \$2 million from the General Revenue Fund to the Agency for Health Care Administration for the purpose of implementing this act during the 2004-2005 fiscal year.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The membership of the task force is not specified, either by number of members or representation to be included on the task force.

On page 2, lines 6 and 7, the bill requires AHCA to assist the task force in “creating” the electronic medical records system, however, the task force is charged with advising the Governor, the Legislature, and AHCA on a variety of issues, but is not charged with actually creating an electronic medical records system. Thus, it is unclear how the \$2 million appropriation would be spent. If the intention of the bill is to create an electronic medical records system, the \$2 million could be the beginning of a long-term commitment of significant resources. If the advisory role of the task force is limited to the areas included in the bill, it is not clear why AHCA would need \$2 million in FY 2004-2005.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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