

## CHAPTER 282

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**HEALTH AND ENVIRONMENT**

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**SENATE BILL 07-196**

BY SENATOR(S) Hagedorn, Johnson, Boyd, Groff, Isgar, Keller, Morse, Schwartz, Shaffer, Tapia, Tochtrop, and Williams;  
also REPRESENTATIVE(S) Massey, Todd, Frangas, Kefalas, Kerr J., Labuda, McGihon, Roberts, and Stafford.

**AN ACT****CONCERNING HEALTH INFORMATION TECHNOLOGY.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Article 1 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 14**  
**HEALTH INFORMATION TECHNOLOGY**

**25-1-1401. Health information technology advisory committee - members - duties - cash fund.** (1) THERE IS HEREBY ESTABLISHED THE HEALTH INFORMATION TECHNOLOGY ADVISORY COMMITTEE, ALSO REFERRED TO IN THIS SECTION AS THE "COMMITTEE". THE COMMITTEE SHALL CONSIST OF AT LEAST EIGHTEEN MEMBERS WHO HAVE EXPERTISE IN THE AREA OF HEALTH INFORMATION TECHNOLOGY, APPOINTED BY THE GOVERNOR WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, WHO SHALL INCLUDE REPRESENTATIVES OF INTERESTED GROUPS, INCLUDING:

- (a) THE ACADEMIC COMMUNITY;
- (b) THE INSURANCE INDUSTRY;
- (c) THE PHARMACEUTICAL INDUSTRY;
- (d) EMPLOYER GROUPS;
- (e) THE ATTORNEY GENERAL'S OFFICE;

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(f) THE GOVERNOR'S OFFICE;

(g) MEDICAL PRACTITIONERS, WHICH MAY INCLUDE REPRESENTATION OF THE MEDICAL INDUSTRY, DOCTORS, NURSING HOMES, AND NURSES;

(h) MEDICARE AND MEDICAID;

(i) THE HEALTH INFORMATION TECHNOLOGY INDUSTRY;

(j) INFORMATION TECHNOLOGY ASSOCIATIONS;

(k) HOME HEALTH PROVIDERS;

(l) MENTAL HEALTH PROVIDERS;

(m) CONSUMERS;

(n) AT LEAST TWO MEMBERS OF THE COLORADO REGIONAL HEALTH INFORMATION ORGANIZATION;

(o) AT LEAST ONE REPRESENTATIVE FROM EACH HOUSE OF THE COLORADO GENERAL ASSEMBLY; AND

(p) AN ASSOCIATION REPRESENTING ALL TYPES OF HOSPITALS THROUGHOUT COLORADO, INCLUDING PRIVATE AND GOVERNMENT-OPERATED, METROPOLITAN AND RURAL, INVESTOR-OWNED AND NOT-FOR-PROFIT.

(2) (a) THE COMMITTEE MEMBERS SHALL ELECT A PRESIDING OFFICER.

(b) MEMBERS OF THE COMMITTEE SHALL SERVE WITHOUT COMPENSATION.

(3) (a) ON OR BEFORE JANUARY 1, 2009, THE COMMITTEE SHALL DEVELOP A LONG-RANGE PLAN FOR HEALTH CARE INFORMATION TECHNOLOGY, INCLUDING THE USE OF ELECTRONIC MEDICAL RECORDS, COMPUTERIZED CLINICAL SUPPORT SYSTEMS, COMPUTERIZED PHYSICIAN ORDER ENTRY, REGIONAL DATA SHARING INTERCHANGES FOR HEALTH CARE INFORMATION, DATA PRIVACY AND SECURITY MEASURES, INTEROPERABLE HEALTH INFORMATION TECHNOLOGY, AND OTHER METHODS OF INCORPORATING INFORMATION TECHNOLOGY IN PURSUIT OF GREATER COST-EFFECTIVENESS, IMPROVED EFFICIENCY, REDUCED REDUNDANCY, AND BETTER PATIENT OUTCOMES IN HEALTH CARE AND A DECREASE IN PRICE DISPARITIES IN INSURANCE COVERAGE FOR RESIDENTS OF THIS STATE. IN DEVELOPING THE LONG-RANGE PLAN, THE COMMITTEE SHALL STUDY THE EFFECT OF HEALTH CARE INFORMATION TECHNOLOGY ON PRICE DISPARITIES IN THE DELIVERY OF HEALTH CARE SERVICES FOR RESIDENTS OF THIS STATE. AS PART OF THE PROCESS OF MAKING RECOMMENDATIONS FOR INTEROPERABILITY, HEALTH INFORMATION EXCHANGE, AND HEALTH INFORMATION TECHNOLOGY, THE COMMITTEE SHALL CONSIDER UNIFORM NATIONAL STANDARDS, AS THEY ARE DEVELOPED OR RECOGNIZED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE AMERICAN NATIONAL STANDARDS INSTITUTE, THE HEALTH INFORMATION TECHNOLOGY STANDARDS PANEL, AND OTHER NATIONAL STANDARD-SETTING ORGANIZATIONS.

(b) THE LONG-RANGE PLAN SHALL CONSIDER:

(I) MAJOR STATEWIDE HEALTH CONCERNS;

(II) THE AVAILABILITY AND USE OF CURRENT HEALTH RESOURCES OF THE STATE, INCLUDING RESOURCES ASSOCIATED WITH INFORMATION TECHNOLOGY AND STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION;

(III) FUTURE HEALTH SERVICE, INFORMATION TECHNOLOGY, AND FACILITY NEEDS OF THE STATE; AND

(IV) THE AVAILABILITY AND USE OF THE CURRENT HEALTH RESOURCES AND STRATEGIES RELATED TO STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION.

(c) THE LONG-RANGE PLAN MAY:

(I) PROPOSE STRATEGIES FOR THE CORRECTION OF MAJOR DEFICIENCIES IN THE SERVICE DELIVERY SYSTEM;

(II) PROPOSE STRATEGIES FOR INCORPORATING INFORMATION TECHNOLOGY IN THE SERVICE DELIVERY SYSTEM;

(III) PROPOSE STRATEGIES FOR INVOLVING STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION IN PROVIDING HEALTH CARE SERVICES AND FOR COORDINATING THOSE STRATEGIES WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING IN ORDER TO CLOSE GAPS IN HEALTH CARE SERVICES;

(IV) PROPOSE CHANGES TO STATE LAWS AND RULES IN ORDER TO MAKE THE LAWS CONSISTENT ON BOTH THE STATE AND INTERSTATE LEVEL IN ORDER TO ADVANCE THE INTEROPERABILITY OF HEALTH INFORMATION TECHNOLOGY;

(V) MAKE RECOMMENDATIONS AND PROPOSE CHANGES TO STATE PRIVACY AND SECURITY LAWS IN ORDER TO BEST SUPPORT PRIVACY AND SECURITY IN THE TRANSMISSION OF ELECTRONIC HEALTH INFORMATION AT THE STATE AND INTERSTATE LEVEL;

(VI) PROPOSE STRATEGIES FOR THE EXPANSION OF TECHNOLOGY INFORMATION SHARING AND ACCESS IN THE SERVICE DELIVERY SYSTEM;

(VII) PROVIDE DIRECTION TO THE GOVERNOR'S OFFICE OF INFORMATION TECHNOLOGY AND THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, TO IMPLEMENT THE STRATEGIES PROPOSED BY THE LONG-RANGE PLAN; AND

(VIII) PROPOSE STRATEGIES AND INVESTIGATE FUNDING SOURCES AND CONTINUED FINANCIAL SUPPORT FOR ANY STRATEGIES PROPOSED BY THE COMMITTEE.

(d) THE PLAN MAY INCLUDE ANY OTHER ISSUES OR PROPOSALS AS DETERMINED BY THE COMMITTEE.

(4) THERE IS HEREBY CREATED IN THE STATE TREASURY THE HEALTH INFORMATION TECHNOLOGY CASH FUND, WHICH IS AUTHORIZED TO RECEIVE GIFTS, GRANTS, AND DONATIONS FOR THE PURPOSES OF THIS PART 14 AND SECTION 25.5-5-321, C.R.S. MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY.

**25-1-1402. Western states compact on health information technology interoperability.** IN ADDITION TO THE DUTIES OUTLINED IN SECTION 25-1-1401, THE HEALTH INFORMATION TECHNOLOGY ADVISORY COMMITTEE SHALL PURSUE AN INTERSTATE COMPACT THAT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING STATES: ARIZONA, KANSAS, MONTANA, OKLAHOMA, NEW MEXICO, NORTH DAKOTA, SOUTH DAKOTA, UTAH, AND WYOMING. THE INTERSTATE COMPACT SHALL INCLUDE AN AGREEMENT REGARDING HEALTH INFORMATION EXCHANGE AND HEALTH INFORMATION TECHNOLOGY INTEROPERABILITY. THE COMPACT SHALL OUTLINE THE AGREEMENT TO WORK COLLECTIVELY TO CREATE INTERNAL STATE HEALTH INFORMATION TECHNOLOGY AND HEALTH INFORMATION EXCHANGE PROGRAMS WITH THE GOAL OF CONNECTING AND EXCHANGING INFORMATION BETWEEN THE COMPACT STATES TO PROVIDE LOWER-COST, HIGHER-QUALITY, AND ACCESSIBLE HEALTH CARE SERVICES AND BENEFITS.

**25-1-1403. Repeal of part.** THIS PART 14 IS REPEALED, EFFECTIVE JULY 1, 2012.

**SECTION 2.** Part 3 of article 5 of title 25.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**25.5-5-321. Telemedicine - home health care - rules.** (1) ON OR AFTER JANUARY 1, 2008, IN-PERSON CONTACT BETWEEN A HOME HEALTH CARE OR A HOME- AND COMMUNITY-BASED SERVICES PROVIDER AND A PATIENT SHALL NOT BE REQUIRED UNDER THE STATE'S MEDICAL ASSISTANCE PROGRAM FOR HOME HEALTH CARE SERVICES OR HOME- AND COMMUNITY-BASED SERVICES DELIVERED THROUGH TELEMEDICINE THAT ARE OTHERWISE ELIGIBLE FOR REIMBURSEMENT UNDER THE PROGRAM. THIS PROGRAM SHALL INCLUDE HEALTH CARE PROFESSIONAL OVERSIGHT AND INTERVENTION AS APPROPRIATE. THE SERVICES DELIVERED THROUGH TELEMEDICINE SHALL BE SUBJECT TO REIMBURSEMENT POLICIES PROMULGATED BY RULE OF THE STATE BOARD AFTER CONSULTATION WITH HOME HEALTH CARE AND HOME- AND COMMUNITY-BASED SERVICES PROVIDERS. THIS SECTION ALSO APPLIES TO MANAGED CARE ORGANIZATIONS THAT CONTRACT WITH THE STATE DEPARTMENT PURSUANT TO THE STATEWIDE MANAGED CARE SYSTEM, BUT ONLY TO THE EXTENT THAT:

(a) HOME HEALTH CARE OR HOME- AND COMMUNITY-BASED SERVICES DELIVERED THROUGH TELEMEDICINE ARE COVERED BY AND REIMBURSED UNDER THE MEDICAID PER DIEM PAYMENT PROGRAM; AND

(b) MANAGED CARE CONTRACTS WITH MANAGED CARE ORGANIZATIONS ARE AMENDED TO ADD COVERAGE OF HOME HEALTH CARE OR HOME- AND COMMUNITY-BASED SERVICES DELIVERED THROUGH TELEMEDICINE AND ANY APPROPRIATE PER DIEM RATE ADJUSTMENTS ARE INCORPORATED.

(2) (a) THE REIMBURSEMENT RATE FOR HOME HEALTH CARE OR HOME- AND COMMUNITY-BASED SERVICES DELIVERED THROUGH TELEMEDICINE THAT ARE

OTHERWISE ELIGIBLE FOR REIMBURSEMENT UNDER THE MEDICAL ASSISTANCE PROGRAM SHALL BE SET BY RULE OF THE STATE BOARD AND SHALL BE:

(I) IN THE FORM OF A FLAT FEE PER MONTH IN ONE OR MORE LEVELS, DEPENDING ON ACUITY; AND

(II) BUDGET-NEUTRAL OR RESULT IN COST SAVINGS TO THE PROGRAM.

(b) ANY COST SAVINGS IDENTIFIED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE FOR USE IN PAYING FOR HOME- AND COMMUNITY-BASED SERVICES UNDER PART 6 OF THIS ARTICLE, COMMUNITY-BASED LONG-TERM CARE, AND HOME HEALTH SERVICES.

(3) WHEN SETTING THE REIMBURSEMENT RATE FOR SERVICES UNDER SUBSECTION (2) OF THIS SECTION, THE STATE BOARD SHALL CONSIDER, TO THE EXTENT APPLICABLE, REDUCTIONS IN TRAVEL COSTS BY HOME HEALTH CARE OR HOME- AND COMMUNITY-BASED SERVICE PROVIDERS TO DELIVER THE SERVICES AND SUCH OTHER FACTORS AS THE STATE DEPARTMENT DEEMS RELEVANT. REIMBURSEMENT SHALL NOT BE PROVIDED FOR PURCHASE OR LEASE OF TELEMEDICINE EQUIPMENT.

(4) (a) A HOME HEALTH CARE OR HOME- AND COMMUNITY-BASED SERVICES PROVIDER WHO DELIVERS SERVICES THROUGH TELEMEDICINE SHALL PROVIDE TO EACH PATIENT, BEFORE TREATING THAT PATIENT THROUGH TELEMEDICINE FOR THE FIRST TIME, THE FOLLOWING WRITTEN STATEMENTS:

(I) THAT THE PATIENT RETAINS THE OPTION TO REFUSE THE DELIVERY OF HOME HEALTH CARE OR HOME- AND COMMUNITY-BASED SERVICES VIA TELEMEDICINE AT ANY TIME WITHOUT AFFECTING THE PATIENT'S RIGHT TO FUTURE CARE OR TREATMENT AND WITHOUT RISKING THE LOSS OR WITHDRAWAL OF ANY PROGRAM BENEFITS TO WHICH THE PATIENT WOULD OTHERWISE BE ENTITLED;

(II) THAT ALL APPLICABLE CONFIDENTIALITY PROTECTIONS SHALL APPLY TO THE SERVICES; AND

(III) THAT THE PATIENT SHALL HAVE ACCESS TO ALL MEDICAL INFORMATION RESULTING FROM THE TELEMEDICINE SERVICES AS PROVIDED BY APPLICABLE LAW FOR PATIENT ACCESS TO HIS OR HER MEDICAL RECORDS.

(b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL NOT APPLY IN AN EMERGENCY.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO:

(a) ALTER THE SCOPE OF PRACTICE OF ANY HOME HEALTH CARE OR HOME- AND COMMUNITY-BASED SERVICES PROVIDER; OR

(b) AUTHORIZE THE DELIVERY OF HOME HEALTH CARE OR HOME- AND COMMUNITY-BASED SERVICES IN A SETTING OR MANNER NOT OTHERWISE AUTHORIZED BY LAW.

**SECTION 3. Appropriation - adjustment to the 2007 long bill.** (1) In

addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of health care policy and financing, for allocation to the executive director's office, for the fiscal year beginning July 1, 2007, the sum of forty thousand nineteen dollars (\$40,019) and 0.5 FTE, or so much thereof as may be necessary, for the implementation of this act. Said sum shall be subject to the "(M)" notation as defined in the general appropriation act. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2007, the department of health care policy and financing will receive the sum of eighty-seven thousand two hundred sixty-nine dollars (\$87,269) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing state appropriation amounts.

(2) In addition to any other appropriation, there is hereby appropriated, out of moneys in the general fund not otherwise appropriated, to the department of public health and environment, for allocation to the administration and support division, for the fiscal year beginning July 1, 2007, the sum of seventeen thousand seven hundred eighty dollars (\$17,780) and 0.2 FTE.

(3) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 2007, the sum of eight thousand one hundred thirty-two dollars (\$8,132), or so much thereof as may be necessary, for the provision of legal services to the department of public health and environment related to the implementation of this act. Said sum shall be cash funds exempt received from the department of public health and environment out of appropriations made in subsection (2) of this section.

**SECTION 4. Appropriation - adjustment to the 2007 long bill.** (1) In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, for allocation to the executive director's office, for the fiscal year beginning July 1, 2007, the sum of one hundred twenty-seven thousand two hundred eighty-eight dollars (\$127,288) and 0.5 FTE, or so much thereof as may be necessary, for the implementation of this act. Of said sum, forty thousand nineteen dollars (\$40,019) shall be cash funds exempt from the health information technology cash fund created in section 25-1-1401, Colorado Revised Statutes, and eighty-seven thousand two hundred sixty-nine dollars (\$87,269) shall be from federal funds.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of public health and environment, for allocation to the administrative and support division, for the fiscal year beginning July 1, 2007, the sum of seventeen thousand seven hundred eighty dollars (\$17,780) and 0.2 FTE. Said sum shall be cash funds exempt from the health information technology cash fund created in section 25-1-1401, Colorado Revised Statutes.

(3) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 2007, the sum of eight thousand one hundred thirty-two dollars (\$8,132), or so much thereof as may be necessary, for the provision of legal services to the department of public health and environment related to the implementation of this act. Said sum shall be cash funds

exempt received from the department of public health and environment out of appropriations made in subsection (2) of this section.

**SECTION 5. Effective date.** (1) Except as provided in subsections (2) to (4) of this section, this act shall take effect upon passage.

(2) Section 2 of this act shall take effect January 1, 2008.

(3) Section 4 of this act and section 25-1-1401 (4), Colorado Revised Statutes, contained in section 1 of this act shall not take effect if:

(a) House Bill 07-1021 is enacted at the First Regular Session of the Sixty-sixth General Assembly and becomes law;

(b) The final fiscal estimate for House Bill 07-1021, as determined from the appropriations enacted in said bill, shows a net reduction in the amount of general fund revenues appropriated for the state fiscal year 2007-08, that is equal to or greater than the estimated increase in the general fund appropriation in this act resulting from this act, if it takes effect, for the state fiscal year 2007-08, as reflected in the final fiscal impact statement prepared on this act by the legislative council staff; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2007, that the requirement set forth in paragraph (b) of this subsection (3) has been met.

(4) Section 3 of this act shall not take effect if House Bill 07-1021 is not enacted at the First Regular Session of the Sixty-sixth General Assembly and does not become law.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 2007