

Understanding the Minnesota Interoperable Electronic Health Record Mandate

Mandate

The 2007 Minnesota Legislature mandated in Minnesota Statute §62J.495 (Electronic Health Record Technology), that “[b]y January 1, 2015, all hospitals and health care providers must have in place an interoperable electronic health record (EHR) system within their hospital system or clinical practice setting. The commissioner of health, in consultation with the Minnesota e-Health Advisory Committee (Committee), shall develop a statewide plan to meet this goal, including uniform standards to be used for the interoperable system for sharing and synchronizing patient data across systems.” See page 4 of this document for the entire statute.

This document provides recommendations from the Committee and the Minnesota Department of Health (MDH).

Exceptions to the Mandate

The statute specifies exceptions to the mandate: “**Individual health care providers in private practice with no other providers and health care providers that do not accept reimbursement from a group purchaser, as defined in section §62J.03, subdivision 6, are excluded from the requirements of this section.**”

Compliance

Currently, there is no fine or state-administered penalty for not complying with the mandate. Nonetheless, MDH recommends that all providers covered by the mandate demonstrate progress toward achieving the EHR and interoperability requirements. Potential benefits of compliance include:

- increased efficiency and quality outcomes;
- improved ability to avoid adverse events; and
- timely access to information from your patients’ other providers.

Providers should seek their own legal counsel’s advice, as appropriate, regarding compliance with this law.

Guidance

Providers Impacted

The interoperable EHR mandate requires all providers move forward in achieving interoperability. When an exempt provider does adopt an EHR, system, they must still follow the statute’s criteria on EHR requirements. The statute defines a health care provider, through Minnesota Statute §62J.03 (Definitions), as “a person or organization other than a nursing home that provides health care or medical care services within

Minnesota for a fee and is eligible for reimbursement under the medical assistance program.” Although this definition exempts nursing homes, the recommendation is that all providers make progress toward achieving interoperable EHRs. See Table 1 for a list of health and health care setting impacted by the mandate.

EHR Requirements

To meet the requirements of the statute, providers must meet the following criteria when implementing a secure EHR system. The Committee and MDH encourage providers to have an EHR capacity to securely:

- incorporate clinical lab test results as structured data;
- support transitions of care, care coordination, population health and quality improvement, and
- allow patients access to view online, download and transmit their health information.

Certified EHR

The Office of the National Coordinator (ONC) pursuant to the Federal Health Information Technology must certify the EHR for Economic and Clinical Health (HITECH) Act. This criterion applies to providers if a certified EHR is available for their setting. This criterion shall be met if a provider is using an EHR that has been certified within the last three years, even if a more current version of the EHR has been certified within the three-year period. A comprehensive list of currently certified EHRs is available at <http://oncchpl.force.com/ehrcert>.

Qualified EHR

If a provider does not have a certified EHR available for their setting, then the provider must have a qualified EHR. This is an electronic record of health-related information on an individual that includes patient demographic and clinical health information, and has the capacity to:

- provide clinical decision support;
- capture and query information relevant to health care quality; and
- exchange electronic health information with, and integrate such information from, other sources.

e-Prescribing

A provider who is a prescriber or dispenser of legend drugs must have an EHR that meets the requirements of Minnesota Statute §62J.497 (Electronic Prescription Drug Program). More information on e-prescribing is found at <http://www.health.state.mn.us/e-health/eprescribing/index.html>.

Generate Clinical Quality Measures

The EHR must have the ability to generate information on clinical quality measures (CQMs) including those required under the HITECH Act and associated rules, which are referred to as the meaningful use CQMs. The Committee and MDH recognize that some of the meaningful use CQMs may not be within the scope of practice for all providers and therefore encourage providers to use practice-appropriate measures related to each of the meaningful use CQM domains listed below:

- patient and family engagement;
- patient safety;
- care coordination;
- efficient use of healthcare resources;
- population and public health, and
- clinical processes/effectiveness.

The complete list of meaningful use CQMs is available at <http://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/ClinicalQualityMeasures.html>.

Interoperability Requirements

Once the provider has met the above EHR requirements, interoperability is achieved through using standards for exchange and by connecting to a State-Certified Health Information Exchange (HIE) Service Provider.

Recommended Exchange Transactions

The Committee and MDH recommend providers focus on the exchange transactions identified by the HITECH Act and associated rules, including:

- electronic prescribing;
- public health transactions;
- laboratory data transactions;
- quality reporting transactions;
- care coordination, and
- transfer of care and referral summaries.

For more information on transactions, go to <http://www.health.state.mn.us/divs/hpsc/ohit/hieguidance/>.

Standards for Exchange

The EHR must meet the current standards established according to the HITECH Act and associated rules as applicable, including health information technology standards established by the ONC. The standards for Minnesota are consistent with federal standards and some are contained in Minnesota Statute §62J.497 (Electronic Prescription Drug Program). In addition, the standards are intended to be consistent with administrative simplification transactions as required under Minnesota Statute §62J.536 (Uniform Electronic Transactions and Implementation Guide Standards). Standards recommended to achieve interoperability in Minnesota can be found at

<http://www.health.state.mn.us/e-health/standards/index.html>.

Connect to State-Certified HIE Service Provider

The EHR must be connected to a State-Certified Health Information Organization (HIO) either directly or through a connection facilitated by a State-Certified Health Data Intermediary (HDI) as defined in Minnesota Statute §62J.498 (Health Information Exchange).

For more information on State-Certified Service Providers as well as understanding and selecting health information exchange options in Minnesota, go to <http://www.health.state.mn.us/e-health/hie.html>.

Privacy and Security

Providers must implement privacy and security practices required under state laws and the federal HIPAA and HITECH Act and associated rules. Information and resources relating to Minnesota's Health Records Act can be found at <http://www.health.state.mn.us/e-health/privacy/index.html>. Federal rules and resources are available at <http://www.healthit.gov/providers-professionals/ehr-privacy-security>.

Interoperable EHR Mandate and Meaningful Use

In addition to the interoperable EHR mandate, the HITECH Act and associated rules require eligible professionals, eligible hospitals and critical access hospitals to make progress in achieving interoperability to access Medicare and Medicaid EHR incentive program payments (known as meaningful use). The recommendation is that eligible professionals and hospitals meet the standards and best practices developed as part of the HITECH Act and associated rules. This will align Minnesota providers with national trends in achieving interoperable EHRs.

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Table 1. Health and Health Care Settings Impacted by the Minnesota Interoperable EHR Mandate

This table includes health and health care settings that MDH and the e-Health Advisory Committee considers to be impacted by the interoperable EHR mandate in order to ensure that the benefits of e-health apply across the entire continuum of care. It is recognized that providers will achieve these benefits by utilizing EHR systems that they own or to which they have access.¹

<p>Adult Day Services Includes hospital/health system-based and independent</p> <p>Behavioral Health (Mental and Chemical) Includes mental health centers; group/private practice; and chemical dependency services</p> <p>Birth Centers Includes hospital/health system-based and independent</p> <p>Chiropractic Offices Includes hospital/health system-based and independent</p> <p>Clinics – Primary Care Includes community clinics/FQHCs; family medicine; migrant health; obstetrics/gynecology; pediatrics/adolescent; school-based; employer-based; urgent care; and convenience care</p> <p>Clinics – Specialty Care Includes allergy/immunology; anesthesiology; bariatric; cardiology; cardiovascular surgery; colon and rectal surgery; cosmetic/ plastic/reconstructive; dermatology; endocrinology; family planning; gastroenterology; geriatrics; genetic services; head and neck; infectious disease; internal medicine; nephrology; neurology; neurosurgery; occupational medicine; oncology/hematology; ophthalmology; orthopedic medicine/surgery; osteopathic clinics; otolaryngology; pain management; perinatology; psychiatry; podiatry; pulmonary; radiation oncology; radiology; rheumatology; sleep disorders; sports medicine; surgery, and urology</p> <p>Complementary/Integrative Care Includes healing therapies such as acupuncture</p> <p>Dental Practices Includes general practice; oral surgery; and orthodontics</p>	<p>Government Agencies <i>City/County Agencies</i> Includes jails, human services and local health departments</p> <p><i>Minnesota State Agencies</i> Includes Corrections; Health; Human Services; and Veterans Affairs</p> <p>Habilitation Therapy Includes occupational therapy, physical therapy, recreational therapy, and speech and speech-language therapy</p> <p>Home Care Agencies Includes hospital/health system-based and independent Medicare-certified home health agencies and home care agencies</p> <p>Hospice Includes hospital/health system-based and independent</p> <p>Hospitals Includes inpatient, outpatient and emergency departments</p> <p>Laboratories Includes clinic-based, hospital/health system-based and independent</p> <p>Long Term Care Facilities Includes skilled nursing facilities and assisted living settings that provide health or medical services</p> <p>Pharmacies Includes pharmacies in any license category (except veterinary) established by the Board of Pharmacy</p> <p>Surgical Centers Includes hospital/health system-based and independent</p>
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¹ Updated from the 2008 Statewide Implementation Plan for Interoperable EHRs (<http://www.health.state.mn.us/ehealth/ehrplan.html>). MDH understands the §62J.03 portion of the 2015 Interoperable EHR Mandate to include any health care provider who provides a service that could be reimbursed by Medical Assistance or MinnesotaCare, whether or not the provider accepts these patients or accepts payment for the service. The list of specific health and health care services provided through these programs is updated in the [Minnesota Health Care Programs Provider Manual](#).

62J.495 ELECTRONIC HEALTH RECORD TECHNOLOGY (Excerpt)

Subdivision 1. Implementation.

By January 1, 2015, all hospitals and health care providers, as defined in section §62J.03, subdivision 8, must have in place an interoperable electronic health records system within their hospital system or clinical practice setting. The commissioner of health, in consultation with the e-Health Advisory Committee, shall develop a statewide plan to meet this goal, including uniform standards to be used for the interoperable system for sharing and synchronizing patient data across systems. The standards must be compatible with federal efforts. The uniform standards must be developed by January 1, 2009, and updated on an ongoing basis. The commissioner shall include an update on standards development as part of an annual report to the legislature. Individual health care providers in private practice with no other providers and health care providers that do not accept reimbursement from a group purchaser, as defined in section §62J.03, subdivision 6, are excluded from the requirements of this section.

Subd. 1a. Definitions.

(a) "Certified electronic health record technology" means an electronic health record that is certified pursuant to section 3001(c)(5) of the HITECH Act to meet the standards and implementation specifications adopted under section 3004 as applicable.

(b) "Commissioner" means the commissioner of health.

(c) "Pharmaceutical electronic data intermediary" means any entity that provides the infrastructure to connect computer systems or other electronic devices utilized by prescribing practitioners with those used by pharmacies, health plans, third-party administrators, and pharmacy benefit managers in order to facilitate the secure transmission of electronic prescriptions, refill authorization requests, communications, and other prescription-related information between such entities.

(d) "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act in division A, title XIII and division B, title IV of the American Recovery and Reinvestment Act of 2009, including federal regulations adopted under that act.

(e) "Interoperable electronic health record" means an electronic health record that securely exchanges health information with another electronic health record system that meets requirements specified in subdivision 3, and national requirements for certification under the HITECH Act.

(f) "Qualified electronic health record" means an electronic record of health-related information on an individual that includes patient demographic and clinical health information and has the capacity to:

- (1) provide clinical decision support;
- (2) support physician order entry;
- (3) capture and query information relevant to health care quality; and
- (4) exchange electronic health information with, and integrate such information from, other sources.

Subd. 3. Interoperable electronic health record requirements.

To meet the requirements of subdivision 1, hospitals and health care providers must meet the following criteria when implementing an interoperable electronic health records system within their hospital system or clinical practice setting.

(a) The electronic health record must be a qualified electronic health record.

(b) The electronic health record must be certified by the Office of the National Coordinator pursuant to the HITECH Act. This criterion only applies to hospitals and health care providers if a certified electronic health record product for the provider's particular practice setting is available. This criterion shall be considered met if a hospital or health care provider is using an electronic health records system that has been certified within the last three years, even if a more current version of the system has been certified within the three-year period.

(c) The electronic health record must meet the standards established according to section 3004 of the HITECH Act as applicable.

(d) The electronic health record must have the ability to generate information on clinical quality measures and other measures reported under sections 4101, 4102, and 4201 of the HITECH Act.

(e) The electronic health record system must be connected to a state-certified health information organization either directly or through a connection facilitated by a state-certified health data intermediary as defined in section 62J.498.

(f) A health care provider who is a prescriber or dispenser of legend drugs must have an electronic health record system that meets the requirements of section 62J.497.

62J.03 HEALTH CARE COST CONTAINMENT, DEFINITIONS. (Excerpt)

Subdivision 8. Provider or health care provider

"Provider" or "health care provider" means a person or organization other than a nursing home that provides health care or medical care services within Minnesota for a fee and is eligible for reimbursement under the medical assistance program under chapter 256B. For purposes of this subdivision, "for a fee" includes traditional fee-for-service arrangements, capitation arrangements, and any other arrangement in which a provider receives compensation for providing health care services or has the authority to directly bill a group purchaser, health carrier, or individual for providing health care services. For purposes of this subdivision, "eligible for reimbursement under the medical assistance program" means that the provider's services would be reimbursed by the medical assistance program if the services were provided to medical assistance enrollees and the provider sought reimbursement, or that the services would be eligible for reimbursement under medical assistance except that those services are characterized as experimental, cosmetic, or voluntary.