

AMENDMENTS TO LB411

Introduced by Lathrop, 12.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 81-6,125, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 81-6,125 (1) The purpose of the Population Health Information Act
6 is to designate a health information exchange to provide the data
7 infrastructure needed to assist in creating a healthier Nebraska and
8 operating the electronic health records initiative.

9 (2) The designated health information exchange shall:

10 (a) ~~(1)~~ Aggregate clinical information from health care entities
11 needed to support the operation of the medical assistance program under
12 the Medical Assistance Act;

13 (b) ~~(2)~~ Act as the designated entity for purposes of access to and
14 analysis of health data;

15 (c) ~~(3)~~ Collect and analyze data for purposes of informing the
16 Legislature, the department, health care providers, and health care
17 entities as to the cost of, access to, and quality of health care in
18 Nebraska;

19 (d) ~~(4)~~ Act as a collector and reporter of public health data for
20 registry submissions, electronic laboratory reporting, immunization
21 reporting, and syndromic surveillance from an electronic health record,
22 which does not include claims data; and

23 (e) ~~(5)~~ Enable any health care provider or health care entity to
24 access information available within the designated health information
25 exchange to evaluate and monitor care and treatment of a patient in
26 accordance with the privacy and security provisions set forth in the
27 federal Health Insurance Portability and Accountability Act of 1996,

1 Public Law 104-191.

2 (3)(a) On or before September 30, 2021, each health care facility
3 listed in subdivision (b) of this subsection shall participate in the
4 designated health information exchange through sharing of clinical
5 information. Such clinical information shall include the clinical data
6 that the health care facility captured in its existing electronic health
7 record as permitted by state and federal laws, rules, and regulations.
8 Any patient health information shared with the designated health
9 information exchange as determined by policies adopted by the Health
10 Information Technology Board shall be provided in accordance with the
11 privacy and security provisions set forth in the federal Health Insurance
12 Portability and Accountability Act of 1996 and regulations adopted under
13 the act.

14 (b) This subsection applies to an ambulatory surgical center, a
15 critical access hospital, a general acute hospital, a health clinic, a
16 hospital, an intermediate care facility, a long-term care hospital, a
17 mental health substance use treatment center, a PACE center, a pharmacy,
18 a psychiatric or mental hospital, a public health clinic, or a
19 rehabilitation hospital, as such terms are defined in the Health Care
20 Facility Licensure Act, or a diagnostic, laboratory, or imaging center.

21 (c) This subsection does not apply to (i) a state-owned or state-
22 operated facility or (ii) an assisted-living facility, a nursing
23 facility, or a skilled nursing facility, as such terms are defined in the
24 Health Care Facility Licensure Act.

25 (d) Any connection established by July 1, 2021, between a health
26 care facility and the designated health information exchange to
27 facilitate such participation shall be at no cost to the participating
28 health care facility.

29 (e) A health care facility may apply to the board for a waiver from
30 the requirement to participate under this subsection due to a
31 technological burden. The board shall review the application and

1 determine whether to waive the requirement. If the board waives the
2 requirement for a health care facility, the board shall review the waiver
3 annually to determine if the health care facility continues to qualify
4 for the waiver.

5 (f) The board shall not require a health care facility to purchase
6 or contract for an electronic records management system or service.

7 (4)(a) On or before January 1, 2022, each health insurance plan
8 shall participate in the designated health information exchange through
9 sharing of information. Subject to subsection (5) of this section, such
10 information shall be determined by policies adopted by the Health
11 Information Technology Board.

12 (b) For purposes of this subsection:

13 (i) Health insurance plan includes any group or individual sickness
14 and accident insurance policy, health maintenance organization contract,
15 subscriber contract, employee medical, surgical, or hospital care benefit
16 plan, or self-funded employee benefit plan to the extent not preempted by
17 federal law; and

18 (ii) Health insurance plan does not include (A) accident-only,
19 disability-income, hospital confinement indemnity, dental, hearing,
20 vision, or credit insurance, (B) coverage issued as a supplement to
21 liability insurance, (C) insurance provided as a supplement to medicare,
22 (D) insurance arising from workers' compensation provisions, (E)
23 automobile medical payment insurance, (F) insurance policies that provide
24 coverage for a specified disease or any other limited benefit coverage,
25 or (G) insurance under which benefits are payable with or without regard
26 to fault and which is statutorily required to be contained in any
27 liability insurance policy.

28 (5) The designated health information exchange and the department
29 shall enter into an agreement to allow the designated health information
30 exchange to collect, aggregate, analyze, report, and release de-
31 identified data, as defined by the federal Health Insurance Portability

1 and Accountability Act of 1996, that is derived from the administration
2 of the medical assistance program. Such written agreement shall be
3 executed no later than September 30, 2021.

4 (6) In addition to the right to opt out as provided in section
5 71-2454, an individual shall have the right to opt out of the designated
6 health information exchange or the sharing of information required under
7 subsections (3) and (4) of this section. The designated health
8 information exchange shall adopt a patient opt-out policy consistent with
9 the federal Health Insurance Portability and Accountability Act of 1996
10 and other applicable federal requirements. Such policy shall not apply to
11 mandatory public health reporting requirements.

12 Sec. 2. Section 81-6,128, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 81-6,128 (1) The Health Information Technology Board shall:

15 (a) Establish criteria for data collection and disbursement by the
16 statewide health information exchange described in section 71-2455 and
17 the prescription drug monitoring program created under section 71-2454 to
18 improve the quality of information provided to clinicians;

19 (b) Evaluate and ensure that the statewide health information
20 exchange is meeting technological standards for reporting of data for the
21 prescription drug monitoring program, including the data to be collected
22 and reported and the frequency of data collection and disbursement;

23 (c) Provide the governance oversight necessary to ensure that any
24 health information in the statewide health information exchange and the
25 prescription drug monitoring program may be accessed, used, or disclosed
26 only in accordance with the privacy and security protections set forth in
27 the federal Health Insurance Portability and Accountability Act of 1996,
28 Public Law 104-191, and regulations promulgated thereunder. All protected
29 health information is privileged, is not a public record, and may be
30 withheld from the public pursuant to section 84-712.05; and

31 (d) Provide recommendations to the statewide health information

1 exchange on any other matters referred to the board.

2 (2) The board shall adopt policies and procedures necessary to carry
3 out its duties.

4 (3) The authority of the board to direct the use or release of data
5 under this section or section 71-2454 shall apply only to requests
6 submitted to the board after September 1, 2021.

7 (4) ~~(3)~~ The board may hold meetings by telecommunication or
8 electronic communication subject to the Open Meetings Act. Any official
9 action or vote of the members of the board shall be preserved in the
10 records of the board.

11 (5) ~~(4)~~ By November 15, 2021, and November 15 of each year
12 thereafter, the board shall develop and submit an annual report to the
13 Governor and the Health and Human Services Committee of the Legislature
14 regarding considerations undertaken, decisions made, accomplishments, and
15 other relevant information. The report submitted to the Legislature shall
16 be submitted electronically.

17 Sec. 3. Original sections 81-6,125 and 81-6,128, Revised Statutes
18 Cumulative Supplement, 2020, are repealed.

19 Sec. 4. Since an emergency exists, this act takes effect when
20 passed and approved according to law.