

CHAPTER 150**(SB 19)**

AN ACT relating to electronic health information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.267 is amended to read as follows:

- (1) The duties and responsibilities of the board shall be to implement and oversee the operation of an electronic health network in this Commonwealth, to be known as the Ke-HN.
- (2) The board shall:
 - (a) Exercise all of the administrative functions of the board;
 - (b) Appoint an advisory group that shall meet at least quarterly for the purpose of collaborating with health care providers and payors, computer technology companies, telecommunication companies, and other affected entities to ensure input into the implementation of the Ke-HN;
 - (c) Review models for an electronic health network;
 - (d) Oversee the development of comparative business cases for the models reviewed and choose a model to be implemented in this Commonwealth. In selecting a model for implementation, the board shall consider the following elements:
 1. Various models and configurations for Ke-HN, either as developed from the board's research or as recommended by public and private experts. Each model or configuration shall be capable of supporting administrative and clinical functions listed in subsection (4) of this section, including the capability to integrate with an electronic Medicaid management information system, provide immediate health alerts to health care providers across the state, ~~and~~ support health care provider education related to the identification and treatment of rare and unusual diseases, ***serve as a registry of the existence and location of advance directives related to health care or mental health treatment, and serve as a registry of organ donations.*** The model chosen may be implemented in phases, as determined by the board;
 2. Projected costs of the network, indicating those which would be allocated to state government, health care providers, insurers, or others;
 3. Options for financing the start-up, administrative, and maintenance costs, projected returns on investments, a timetable for realizing those returns, and any proposed subscription or transaction fees associated with the Ke-HN;
 4. Procedures intended to secure protected health information in accordance with HIPAA;
 5. Timetables for implementation of the Ke-HN, whether as a fully established network, in phases, or through the use of a pilot project or regional approach to the Ke-HN;
 6. Suggested incentives to promote the use of Ke-HN by health care providers and payors, and the Medicaid program; and
 7. Incentives, including but not limited to tax credits, low-interest loans, and grants, under Subchapters 22, 23, 24, 26, and 28 of KRS Chapter 154 for a company that develops or manufactures software necessary for the development of the Ke-HN, if the company meets all the eligibility requirements under the respective subchapter in KRS Chapter 154;
 - (e) Receive comments from the advisory group created in paragraph (b) of this subsection;
 - (f) Submit a description of the model chosen for implementation to the Legislative Research Commission for the opportunity for any comments;
 - (g) If state funds are required for implementation of the model chosen, seek funding through the appropriations process;
 - (h) Oversee the implementation of the model chosen subject to the appropriation of funds. Oversight shall include the following:

1. Developing any central interchange, including any central server and software;
 2. Developing the Ke-HN of providers and payors who participate in the network, which shall be on a voluntary basis;
 3. Making recommendations regarding the features and functions which shall be included in the distributed components of the network; and
 4. Performing an outcomes assessment of the benefits achieved by the network;
- (i) Identify and adopt standards for all computer systems communicating with the Ke-HN, including but not limited to:
1. The HIPAA standards for electronic transactions as the federal regulations become final, or more stringent standards for content and networking as determined by the board;
 2. Medical lexicon for administrative billing and clinical purposes;
 3. Procedure and billing codes; and
 4. Prevalent health care industry standards for software and networking that ensure that applications work on all types of computer systems and equipment;
- (j) Establish procedures to ensure that Ke-HN transactions are in compliance with HIPAA guidelines;
- (k) Facilitate the implementation of the federal HIPAA guidelines, and identify any additional variables specific to Kentucky that are required to be in transactions within the HIPAA guidelines;
- (l) Oversee the operations of the Ke-HN, including but not limited to making recommendations for financing the central interchange for the network and making recommendations to organizations about implementing the network in their respective organizations;
- (m) Oversee the development of the central interchange that supports communication between components of the Medicaid management information system;
- (n) Implement educational efforts about the Ke-HN;
- (o) Develop incentives for providers and payors to use the Ke-HN;
- (p) Identify options for, adopt, and implement approaches to various aspects of the Ke-HN necessary for its creation and operation, including but not limited to technology architecture, governance and oversight, development and implementation plans, and other areas identified by the board relating to its charge;
- (q) Facilitate the development of private and public partnerships to build the Ke-HN;
- (r) Assign priority in phasing in the network to geographical locations that are critical to homeland security and protection of the Commonwealth's energy production;
- (s) Collaborate with federal agencies in the development and implementation of the Ke-HN as a demonstration model for the nation;
- (t) Collaborate with the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
- (u) Assist with the securing of state, federal, or private funding for the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
- (v) Stimulate the development of state and local population health information capacities;
- (w) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary to carry out the responsibilities of the board;
- (x) Receive and dispense funds appropriated for its use by the General Assembly or may solicit, apply for, and receive any funds, property, or services from any person, governmental agency, or organization to carry out its statutory responsibilities;
- (y) Report to the Governor, secretary of the Cabinet for Health and Family Services, commissioner of the Department of Innovation and Commercialization for a Knowledge Based Economy, Legislative Research Commission, Interim Joint Committee on Health and Welfare, and Interim Joint Committee

on Banking and Insurance annually on the development of the Ke-HN and the impact on quality and cost of health care; and

- (z) Collaborate with the Telehealth Board to link functions of the telehealth network to the Ke-HN, as determined by the Telehealth Board.
- (3) The board may:
- (a) Use any software program or expand any Medicaid management information system or electronic provider and payor network developed by the Medicaid program to support electronic health transactions between payors, insurers, health care providers, and patients that are not Medicaid-related, unless prohibited by federal law or regulation;
 - (b) Contract, in accordance with KRS Chapter 45A, with an independent third party for any service necessary to carry out the responsibilities of the board subject to the appropriation of funds;
 - (c) Award grants to health care providers and payors to implement projects related to health informatics, with highest priority given to health care providers and payors that serve rural and inner-city areas of this Commonwealth; and
 - (d) Enter into an agreement with the University of Kentucky or the University of Louisville to develop comparative business models or implement any phase of the Ke-HN, using private or federal funds received by the university for the purpose designated in the agreement.
- (4) In its fully implemented form, the Kentucky e-Health Network is envisioned to support or encourage the following types of electronic transactions or activities that would be phased in over time:
- (a) Automatic drug-drug interaction and allergy alerts;
 - (b) Automatic preventive medicine alerts;
 - (c) Electronic access to the results of laboratory, X-ray, or other diagnostic examinations;
 - (d) Disease management;
 - (e) Disease surveillance and reporting;
 - (f) Educational offerings for health care providers;
 - (g) Health alert system and other applications related to homeland security;
 - (h) Links to drug formularies and cost information;
 - (i) Links to evidence-based medical practice;
 - (j) Links to patient educational materials;
 - (k) Medical record information transfer to other providers with the patient's consent;
 - (l) Physician order entry;
 - (m) Prescription drug tracking;
 - (n) Registries for vital statistics, cancer, case management, immunizations, and other public health registries;
 - (o) ***Registry of the existence and location of advance directives related to health care and mental health treatment;***
 - (p) ***Registry of organ donations executed under KRS 311.165 to 311.235;***
 - (q) Secured electronic consultations between providers and patients;
 - ~~(r)~~ ~~(p)~~ A single-source insurance credentialing system for health care providers; and
 - ~~(s)~~ ~~(q)~~ The following transactions covered by HIPAA:
 1. Electronic health care claims submission;
 2. Electronic payment;

3. Coordination of benefits;
4. Health care claim status;
5. Enrollment and disenrollment in a health plan;
6. Eligibility for a health plan;
7. Health plan premium payments;
8. Referral certification and authorization;
9. First report of injury; and
10. Health claims attachments.

Approved April 5, 2006.