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H. R. 3137

To amend the Social Security Act to improve the exchange of information relating to health care services, to provide for measurement of health care quality, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1993

Mr. HOBSON (for himself and Mr. SAWYER) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce, Ways and Means, Armed Services, Veterans' Affairs, Education and Labor, and Post Office and Civil Service

AUGUST 16, 1994

Additional sponsors: Mr. SANTORUM, Mr. ZIMMER, Mr. TORRES, Mr. ANDREWS of Texas, Mr. EMERSON, Mr. GILLMOR, Mrs. BYRNE, Mr. LEWIS of Florida, Mr. PETRI, Mr. DOOLITTLE, Mr. FROST, Mr. OXLEY, Mr. KASICH, Mr. THOMAS of California, Mr. CALVERT, Mr. STOKES, Mr. BROWN of Ohio, Mr. PORTMAN, Mr. CLINGER, Ms. PRYCE of Ohio, Mr. POMBO, and Mr. GINGRICH

A BILL

To amend the Social Security Act to improve the exchange of information relating to health care services, to provide for measurement of health care quality, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Health Care Informa-
3 tion Modernization and Security Act of 1993”.

4 **SEC. 2. ESTABLISHMENT OF HEALTH CARE DATA INTER-**
5 **CHANGE SYSTEM.**

6 (a) IN GENERAL.—The Social Security Act (42
7 U.S.C. 301 et seq.) is amended by adding at the end the
8 following new title:

9 **“TITLE XXI—HEALTH CARE DATA**
10 **INTERCHANGE SYSTEM**

11 “HEALTH CARE DATA PANEL

12 “SEC. 2101. (a) ESTABLISHMENT.—There is estab-
13 lished a panel to be known as the Health Care Data Panel
14 (referred to in this section as the ‘Panel’).

15 “(b) MEMBERSHIP.—

16 “(1) IN GENERAL.—The Panel shall be com-
17 posed of the following members:

18 “(A) The Secretary (or his or her des-
19 ignee).

20 “(B) The Secretary of Defense (or his or
21 her designee).

22 “(C) The Secretary of Veterans Affairs (or
23 his or her designee).

24 “(D) A representative of the Agency for
25 Health Care Policy and Research.

1 “(E) A representative of the National In-
2 stitute of Standards and Technology.

3 “(F) A representative of the National Tele-
4 communication and Information Administra-
5 tion.

6 “(G) Six additional Federal officers deter-
7 mined appropriate by the Secretary.

8 “(2) CHAIRPERSON.—The Secretary shall be
9 the Chairperson of the Panel.

10 “(c) MEETINGS.—

11 “(1) IN GENERAL.—Except as provided in para-
12 graph (2), the Panel shall meet at the call of the
13 Chairperson.

14 “(2) INITIAL AND SUBSEQUENT MEETINGS.—
15 The Panel shall hold a meeting not later than 30
16 days after the date of the enactment of this section
17 and at least annually thereafter.

18 “(3) QUORUM.—A majority of the members of
19 the Panel shall constitute a quorum, but a lesser
20 number of members may hold hearings.

21 “(d) POWERS OF THE PANEL.—

22 “(1) HEARINGS.—The Panel may hold such
23 hearings, sit and act at such times and places, take
24 such testimony, and receive such evidence as the

1 Panel considers advisable to carry out the purposes
2 of this section.

3 “(2) INFORMATION FROM FEDERAL AGEN-
4 CIES.—The Panel may secure directly from any Fed-
5 eral department or agency such information as the
6 Panel considers necessary to carry out the provisions
7 of this section. Upon request of the Chairperson of
8 the Panel, the head of such department or agency
9 shall furnish such information to the Panel.

10 “(3) POSTAL SERVICES.—The Panel may use
11 the United States mails in the same manner and
12 under the same conditions as other departments and
13 agencies of the Federal Government.

14 “(4) GIFTS.—The Panel may accept, use, and
15 dispose of gifts or donations of services or property.

16 “(e) PANEL PERSONNEL MATTERS.—

17 “(1) COMPENSATION OF MEMBERS.—Members
18 of the Panel shall serve without compensation in ad-
19 dition to that received for their services as officers
20 or employees of the Federal Government.

21 “(2) STAFF.—

22 “(A) DETAIL OF GOVERNMENT EMPLOY-
23 EES.—Upon the request of the Chairperson any
24 Federal Government employee may be detailed
25 to the Panel without reimbursement, and such

1 detail shall be without interruption or loss of
2 civil service status or privilege.

3 “(B) CONTRACTS.—The Chairperson may
4 enter into contracts or other arrangements that
5 may be necessary for the Panel to perform its
6 duties.

7 “(C) INTERNAL ORGANIZATION.—The
8 Chairperson may prescribe such rules as the
9 Chairperson determines necessary with respect
10 to the internal organization of the Panel.

11 “(f) DUTIES OF THE PANEL.—

12 “(1) IN GENERAL.—The Panel shall, in con-
13 sultation with the Health Informatics Commission
14 established under section 2102, develop proposed
15 regulations for the implementation and ongoing op-
16 eration of an integrated electronic health care data
17 interchange system which are based on the operating
18 requirements for the system established, selected, or
19 developed by the Panel under paragraphs (1)
20 through (7) of subsection (i). Such proposed regula-
21 tions shall ensure—

22 “(A) the integration of all participants in
23 the health care system (as defined in subsection
24 (l)(1));

1 “(B) the use of uniform processes which
2 will permit participants in the health care sys-
3 tem to communicate electronically for the sub-
4 mission and receipt of health care data;

5 “(C) the privacy of individuals who are pa-
6 tients receiving health care services and the
7 confidentiality of information in the data inter-
8 change system;

9 “(D) that the data in the system is verifi-
10 able, timely, accurate, reliable, useful, complete,
11 relevant, time and date stamped, and com-
12 parable; and

13 “(E) an overall reduction in the adminis-
14 trative burdens and costs of the health care sys-
15 tem, an overall increase in the productivity, ef-
16 fectiveness, and efficiency of the system, and an
17 overall increase in the quality of care furnished
18 by the system.

19 “(2) TIMING FOR DEVELOPMENT AND SUBMIS-
20 SION OF PROPOSED REGULATIONS.—Not later than
21 30 days after the date on which the Panel is re-
22 quired to establish, select, or develop any of the op-
23 erating requirements for the system as set forth in
24 paragraphs (1) through (7) of subsection (i), the
25 Panel shall submit to the Office of Management and

1 Budget (referred to in this section as the ‘OMB’)
2 the proposed regulations developed by the Panel
3 under paragraph (1) which relate to such operating
4 requirements.

5 “(g) IMPLEMENTATION OF THE REGULATORY PRO-
6 POSALS DEVELOPED BY THE PANEL.—

7 “(1) PROMULGATION OF REGULATIONS.—

8 “(A) IN GENERAL.—OMB shall promul-
9 gate regulations based on the proposed regula-
10 tions submitted under paragraph (1) within 90
11 days after the date such proposed regulations
12 are submitted.

13 “(B) REGULATIONS NOT BASED ON

14 “(2) APPLICABILITY.—

15 “(A) IN GENERAL.—The regulations pro-
16 mulgated by OMB shall apply to any health
17 care program administered by the Department
18 of Health and Human Services, the Department
19 of Defense, and the Department of Veterans
20 Affairs and any participants in the health care
21 system affected by such programs.

22 “(B) SPECIAL RULE REGARDING THE MED-
23 ICARE PROGRAM.—The Secretary may incor-
24 porate the capabilities of the common working
25 file used in the medicare program under title

1 XVIII into a uniform working file system devel-
2 oped and operated according to regulations pro-
3 mulgated under subparagraph (A).

4 “(3) COMPLIANCE WITH REGULATIONS.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), not later than 1 year after
7 the date on which any regulations are promul-
8 gated by OMB, the persons described in para-
9 graph (2)(A) shall be required to comply with
10 such regulations.

11 “(B) COMPREHENSIVE QUALITY MEASURE-
12 MENT DATA.—Not later than 2 years after the
13 date on which any regulations are promulgated
14 by OMB relating to standards, conventions, and
15 requirements for comprehensive quality meas-
16 urement data (as described in subsection
17 (i)(1)(E)(iv)), the persons described in para-
18 graph (2)(A) shall be required to comply with
19 such regulations.

20 “(h) MODIFICATIONS.—The Panel shall continuously
21 monitor the implementation of the regulations promul-
22 gated by OMB under paragraph (1) of subsection (g) and
23 shall submit to OMB any proposed modifications to such
24 regulations determined appropriate by the Panel. The re-
25 quirements of subsection (g) shall apply to any such pro-

1 posed modifications in the same manner as such require-
2 ments apply to the proposed regulations initially submit-
3 ted by the Panel.

4 “(i) OPERATING STANDARDS, CONVENTIONS, RE-
5 QUIREMENTS, AND PROCEDURES FOR THE DATA INTER-
6 CHANGE SYSTEM.—

7 “(1) SELECTION AND ESTABLISHMENT OF
8 DATA AND TRANSACTION STANDARDS, CONVEN-
9 TIONS, AND REQUIREMENTS FOR THE DATA INTER-
10 CHANGE SYSTEM.—

11 “(A) IN GENERAL.—The Panel, in con-
12 sultation with the American National Standards
13 Institute (referred to in this section as ‘ANSI’),
14 shall select and establish data and transaction
15 standards, conventions, and requirements that
16 permit the electronic interchange of any health
17 care data the Panel determines necessary for
18 the efficient and effective administration of the
19 health care system.

20 “(B) MINIMUM REQUIREMENTS.—The
21 data and transaction standards, conventions,
22 and requirements selected and established by
23 the Panel under this paragraph shall, at a mini-
24 mum—

1 “(i) ensure that the data interchange
2 system shall have the capability to comply
3 with such standards, conventions, and re-
4 quirements; and

5 “(ii) be based on any standards that
6 are in use and generally accepted on the
7 date of the enactment of this Act or that
8 are recommended by nationally recognized
9 standard setting groups, including ANSI,
10 the National Uniform Billing Committee,
11 the Uniform Claim Form Task Force, the
12 National Committee for Prescription Drug
13 Programs, and the Healthcare Informatics
14 Standards Planning Panel.

15 “(C) APPLICABILITY.—The proposed regu-
16 lations developed by the Panel shall provide
17 that—

18 “(i) any participant in the health care
19 system who has the capability to inter-
20 change data through a uniform working
21 file developed by the Panel under para-
22 graph (2) shall be required to transmit and
23 receive such data using the standards, con-
24 ventions, and requirements developed by
25 the Panel under this paragraph; and

1 “(ii) any participant in the health
2 care system who does not have such capa-
3 bility shall be required to transmit and re-
4 ceive data through a health care informa-
5 tion clearinghouse or a health care value
6 added network that is certified under the
7 procedure established pursuant to sub-
8 section (k).

9 “(D) ADDITIONAL REQUIREMENTS.—

10 “(i) IN GENERAL.—The proposed reg-
11 ulations developed by the Panel shall pro-
12 vide that no participant in the health care
13 system shall be permitted to establish data
14 requirements in addition to such stand-
15 ards, conventions, and requirements estab-
16 lished by the Panel and included in regula-
17 tions promulgated by OMB—

18 “(I) unless two or more partici-
19 pants voluntarily establish such addi-
20 tional requirements and the require-
21 ments meet all of the privacy and con-
22 fidentiality standards developed by the
23 Panel under this section and included
24 in any regulations promulgated by
25 OMB under subsection (g); or

1 “(II) a waiver is granted under
2 clause (ii) to establish such additional
3 requirements.

4 “(ii) CONDITIONS FOR WAIVERS.—

5 “(I) IN GENERAL.—The proposed
6 regulations developed by the Panel
7 shall provide that any participant in
8 the health care system may request a
9 waiver to establish additional data re-
10 quirements.

11 “(II) CONSIDERATION OF WAIV-
12 ER REQUESTS.—The proposed regula-
13 tions developed by the Panel shall pro-
14 vide that no waiver shall be granted
15 under this clause unless the entity
16 granting such waiver considers the
17 value of the additional data to be ex-
18 changed for research or other pur-
19 poses determined appropriate by the
20 Panel, the administrative cost of the
21 additional data requirements, the bur-
22 den of the additional data require-
23 ments, and the burden of the timing
24 of the imposition the additional data
25 requirements.

1 “(III) CERTAIN REQUESTS FOR
2 WAIVERS.—The proposed regulations
3 developed by the Panel shall provide
4 that if a participant in the health care
5 system attempts to impose additional
6 data requirements on any other such
7 participant, the participant on which
8 such requirements are being imposed
9 may contact the Secretary. The Panel
10 shall develop a procedure under which
11 any participant in the health care sys-
12 tem contacting the Secretary under
13 the preceding sentence shall remain
14 anonymous. The Secretary shall notify
15 the participant imposing the addi-
16 tional data requirements that such re-
17 quirements may not be imposed on
18 any other participant unless such
19 other participant voluntarily agrees to
20 such requirements or a waiver is ob-
21 tained under this clause.

22 “(E) TIMETABLE FOR STANDARDS, CON-
23 VENTIONS, AND REQUIREMENTS.—

24 “(i) INITIAL STANDARDS, CONVEN-
25 TIONS, AND REQUIREMENTS RELATING TO

1 FINANCIAL AND ADMINISTRATIVE TRANS-
2 ACTIONS.—Not later than 9 months after
3 the date of the enactment of this section,
4 the Panel shall develop data and trans-
5 action standards, conventions, and require-
6 ments for the following items relating to
7 the financing and administration of health
8 care:

9 “(I) Enrollment.

10 “(II) Eligibility.

11 “(III) Payment and remittance
12 advice.

13 “(IV) Claims.

14 “(V) Claims status.

15 “(VI) Coordination of benefits.

16 “(VII) Crossover billing.

17 “(VIII) First report of injury.

18 “(IX) Standardized claim attach-
19 ments.

20 “(ii) OTHER STANDARDS, CONVEN-
21 TIONS, AND REQUIREMENTS RELATING TO
22 FINANCIAL AND ADMINISTRATIVE TRANS-
23 ACTIONS.—Not later than 9 months after
24 the date of the enactment of this section,
25 the Panel shall develop data and trans-

1 action standards, conventions, and require-
2 ments for items relating to the financing
3 and administration of health care delivery
4 that are not described in clause (i).

5 “(iii) STANDARDS, CONVENTIONS,
6 AND REQUIREMENTS RELATING TO INITIAL
7 QUALITY MEASUREMENT INDICATORS.—
8 Not later than 12 months after the date of
9 the enactment of this section, the Panel
10 shall develop data and transaction stand-
11 ards, conventions, and requirements for
12 participants in the health care system to
13 transmit data derived from the financial
14 and administrative transactions data de-
15 scribed in clause (i) on quality measure-
16 ment, utilization monitoring, risk assess-
17 ment, patient satisfaction, outcomes, and
18 access.

19 “(iv) STANDARDS, CONVENTIONS, AND
20 REQUIREMENTS RELATING TO COM-
21 PREHENSIVE QUALITY MEASUREMENT
22 DATA.—Not later than 24 months after
23 the date of the enactment of this section,
24 the Panel shall develop standards, conven-
25 tions, and requirements for participants in

1 the health care system to transmit com-
2 prehensive data collected at the site of care
3 on quality measurement, utilization mon-
4 itoring, risk assessment, patient satisfac-
5 tion, outcomes, and access.

6 “(v) STANDARDS, CONVENTIONS, AND
7 REQUIREMENTS RELATING TO DATA ON
8 PATIENT CARE RECORDS.—Not later than
9 36 months after the date of the enactment
10 of this section, the Panel shall develop
11 standards, conventions, and requirements
12 related to the inclusion of data from pa-
13 tient care records into the health care data
14 interchange system, including standards,
15 conventions, and requirements on the iden-
16 tification of the origin of any data from
17 such records that is included in such sys-
18 tem.

19 “(F) DATA AND TRANSACTION STAND-
20 ARDS, CONVENTIONS, AND REQUIREMENTS FOR
21 THE CENTERS FOR DISEASE CONTROL AND
22 PREVENTION.—Not later than 36 months after
23 the date of the enactment of this section, the
24 Panel, in collaboration with the Centers for
25 Disease Control and Prevention (referred to in

1 this section as the ‘CDCP’) and in consultation
2 with State departments of health, shall develop
3 data and transaction standards, conventions,
4 and requirements for the electronic interchange
5 of data on vital health statistics collected by
6 CDCP or the States or any other such data as
7 CDCP determines appropriate.

8 “(G) WAIVERS OF COMPLIANCE.—

9 “(i) FINANCIAL AND ADMINISTRATIVE
10 TRANSACTIONS.—The proposed regulations
11 developed by the Panel shall provide that
12 any of the data and transaction standards,
13 conventions, and requirements relating to
14 financial and administrative transactions
15 developed by the Panel under subpara-
16 graph (E)(i) may be waived until January
17 1, 1995 for a health care provider that—

18 “(I) does not have access to a
19 health care information clearinghouse
20 or a health care value added network,
21 is in the process of developing a sys-
22 tem that complies with such stand-
23 ards, conventions, and requirements,
24 and executes an agreement with the
25 appropriate regulatory entity that

1 such provider will meet such stand-
2 ards, conventions, and requirements
3 by a specified date (not later than
4 January 1, 1995); or

5 “(II) is a small rural hospital (as
6 defined by the Panel and included in
7 regulations promulgated by OMB
8 under subsection (g)).

9 “(ii) ADVANCED QUALITY MEASURE-
10 MENT DATA.—The proposed regulations
11 developed by the Panel shall provide that
12 any of the data and transaction standards,
13 conventions, and requirements relating to
14 advanced quality measurement data devel-
15 oped by the Panel under subparagraph
16 (E)(iv) may be waived until January 1,
17 1998 for a health care provider that—

18 “(I) does not have access to a
19 health care information clearinghouse
20 or a health care value added network,
21 is in the process of developing a sys-
22 tem that complies with such stand-
23 ards, conventions, and requirements,
24 and executes an agreement with the
25 appropriate regulatory entity that

1 such provider will meet such stand-
2 ards and requirements by a specified
3 date (not later than January 1,
4 1998); or

5 “(II) agrees to obtain from such
6 provider’s records the data elements
7 that are needed to meet the standards
8 and requirements developed under
9 subparagraph (E)(iv) and agrees to
10 subject the provider’s data transfer
11 process to a quality assurance pro-
12 gram that is satisfactory to the appro-
13 priate regulatory entity.

14 “(2) STANDARDS FOR OPERATION OF A UNI-
15 FORM WORKING FILE.—

16 “(A) IN GENERAL.—Not later than 24
17 months after the date of the enactment of this
18 section the Panel shall establish standards for
19 the development and operation of a uniform
20 working file system that is national in scope.
21 Such standards shall ensure—

22 “(i) that all participants in the health
23 care system may be linked electronically
24 (directly or indirectly) to the uniform
25 working file system;

1 “(ii) that any privacy and confiden-
2 tiality standards established by the Panel
3 under paragraph (5) are satisfied;

4 “(iii) that the uniform working file
5 system improves the efficiency and effec-
6 tiveness of the administration of the health
7 care system, including health care quality
8 measurement;

9 “(iv) the interoperability of the uni-
10 form working file system by—

11 “(I) supporting the data and
12 transaction standards, conventions,
13 and requirements selected and estab-
14 lished by the Panel; and

15 “(II) making use of such stand-
16 ards, conventions, and requirements;
17 and

18 “(v) the support of any other require-
19 ments selected or established by the Panel.

20 “(3) CODE SETS FOR SYSTEM.—

21 “(A) IN GENERAL.—Not later than 9
22 months after the date of the enactment of this
23 section the Panel shall select and establish code
24 sets that are maintained by private and public
25 entities as the Panel’s official code sets for use

1 in a national uniform working file system. The
2 proposed regulations developed by the Panel
3 shall provide that any changes or updates to
4 such code sets that are established or requested
5 by the private or public entity which maintains
6 the code set—

7 “(i) shall preserve the informational
8 value of data retained either within the
9 uniform working file system or within the
10 information systems of parties making use
11 of the data and transactions standards,
12 conventions, and requirements;

13 “(ii) shall include instructions on how
14 existing data containing such codes is to be
15 converted or translated so as to preserve
16 its value;

17 “(iii) shall be incorporated into the of-
18 ficial code set in such a manner as to mini-
19 mize the disruption to the national uniform
20 working file system and minimize the cost
21 to all entities within the system for
22 reprogramming to accommodate such
23 changes or updates; and

24 “(iv) shall be implemented—

1 “(I) only after at least 90 days
2 advance notice has been provided to
3 participants in the health care system;
4 and

5 “(II) no more frequently than on
6 an annual basis.

7 “(4) ESTABLISHMENT OF UNIQUE IDENTIFI-
8 ERS.—

9 “(A) IN GENERAL.—Not later than 9
10 months after the date of the enactment of this
11 section the Panel shall develop unique identifi-
12 ers for each participant in the health care sys-
13 tem.

14 “(B) SPECIAL RULES.—

15 “(i) INDIVIDUALS.—Each individual
16 shall have a unique identifier developed by
17 the Panel.

18 “(ii) HEALTH CARE BENEFIT PLANS
19 OR PROVIDERS.—In developing unique
20 identifiers for each health insurance plan
21 or provider, the Panel shall take into ac-
22 count multiple uses for such identifiers and
23 shall consider multiple physical locations
24 and specialty classifications for providers.
25 The unique identifiers for health insurance

1 plans or providers may be based on the
2 system used under title XVIII on the date
3 of the enactment of this section.

4 “(5) PRIVACY AND CONFIDENTIALITY STAND-
5 ARDS.—

6 “(A) IN GENERAL.—Not later than 9
7 months after the date of the enactment of this
8 section the Panel, after taking into consider-
9 ation the Insurance Information and Privacy
10 Protection Model Act of the National Associa-
11 tion of Insurance Commissioners, other model
12 legislation, and international guidelines, shall
13 develop requirements which protect the privacy
14 of participants in the health care system and
15 ensure the confidentiality of information in the
16 data interchange system.

17 “(B) PRINCIPLES CONSIDERED.—In devel-
18 oping the requirements referred to in subpara-
19 graph (A), the Panel shall take into consider-
20 ation the following principles:

21 “(i) Information relating to an identi-
22 fiable or identified individual should be col-
23 lected only to the extent necessary to carry
24 out the purpose for which the information
25 is collected.

1 “(ii) Information relating to an identi-
2 fiable or identified individual collected for
3 a particular purpose should generally not
4 be used for another purpose without the
5 individual’s informed consent unless the
6 pooling of information renders an individ-
7 ual’s data unidentifiable.

8 “(iii) Information relating to an iden-
9 tifiable or identified individual should be
10 disposed of when no longer necessary to
11 carry out the purpose for which it was col-
12 lected, unless the pooling of information
13 renders an individual’s data unidentifiable.

14 “(iv) Methods to ensure the verifi-
15 ability, timeliness, accuracy, reliability,
16 utility, completeness, relevance, and com-
17 parability of information relating to an
18 identifiable or identified individual should
19 be instituted.

20 “(v) An individual should be notified
21 in advance of the collection of information
22 relating to such individual with regard
23 to—

24 “(I) whether the furnishing of in-
25 formation is mandatory or voluntary;

1 “(II) the recordkeeping practices
2 with respect to any information pro-
3 vided; and

4 “(III) the uses to be made of any
5 information provided.

6 “(vi) If informed consent is necessary
7 for the intended primary or secondary use
8 of information relating to an identifiable or
9 identified individual, the individual should
10 be provided the opportunity to reject such
11 uses at the time the information is col-
12 lected, except where such uses are nec-
13 essary to comply with law.

14 “(vii) An individual should be per-
15 mitted to inspect and correct any informa-
16 tion which concerns such individual and
17 should be able to obtain information on
18 how such information is being used.

19 “(6) TRANSFER OF INFORMATION BETWEEN
20 HEALTH BENEFIT PLANS.—Not later than 9 months
21 after the date of the enactment of this section, the
22 Panel shall develop rules and procedures—

23 “(A) for determining the financial liability
24 of health benefit plans when health care bene-

1 fits are payable under two or more health bene-
2 fit plans; and

3 “(B) concerning the transfer among health
4 benefit plans of appropriate official data sets
5 needed to carry out the coordination of benefits,
6 the sequential processing of claims, and other
7 health data as determined necessary by the
8 Panel for individuals who have more than one
9 health care benefit plan, according to the prior-
10 ities established under the rules and procedures
11 established under subparagraph (A).

12 “(7) FINES AND PENALTIES FOR FAILURE TO
13 COMPLY.—

14 “(A) COMPLIANCE WITH STANDARDS FOR
15 PRIVACY AND CONFIDENTIALITY.—Not later
16 than 9 months after the date of the enactment
17 of this section the Panel shall develop civil fines
18 and penalties, as determined appropriate by the
19 Panel, to enforce any of the requirements devel-
20 oped by the Panel under paragraph (5) relating
21 to privacy and confidentiality. The civil pen-
22 alties developed by the Panel under this sub-
23 paragraph shall not be less than \$1,000 for
24 each violation.

1 “(B) COMPLIANCE WITH OTHER REQUIRE-
2 MENTS.—

3 “(i) IN GENERAL.—Not later than 9
4 months after the date of the enactment of
5 this section the Panel shall develop civil
6 fines and penalties, as determined appro-
7 priate by the Panel, to enforce any of the
8 requirements developed by this Panel
9 under this section other than the require-
10 ments related to privacy and confidential-
11 ity. The civil fines and penalties developed
12 by the Panel under this subparagraph shall
13 not exceed \$100 for each violation.

14 “(ii) LIMITATIONS.—

15 “(I) PENALTIES NOT TO APPLY
16 WHERE NONCOMPLIANCE NOT DISCOV-
17 ERED EXERCISING REASONABLE DILI-
18 GENCE.—No civil fine or penalty de-
19 veloped by the Panel under this sub-
20 paragraph shall be imposed if it is es-
21 tablished that the person liable for the
22 fine or penalty did not know, and by
23 exercising reasonable diligence would
24 not have known, that such person

1 failed to comply with any of the re-
2 quirements described in clause (i).

3 “(II) PENALTIES NOT TO APPLY
4 TO COMPLIANCE FAILURES COR-
5 RECTED WITHIN 30 DAYS.—No civil
6 fine or penalty developed by the Panel
7 under this subparagraph shall be im-
8 posed if—

9 “(aa) the failure to comply
10 was due to reasonable cause and
11 not to willful neglect, and

12 “(bb) the failure to comply
13 is corrected during the 30-day
14 period beginning on the 1st date
15 the person liable for the fine or
16 penalty knew, or by exercising
17 reasonable diligence would have
18 known, that the failure to comply
19 occurred.

20 “(III) WAIVER.—In the case of a
21 failure to comply which is due to rea-
22 sonable cause and not to willful ne-
23 glect, any civil fine or penalty devel-
24 oped by the Panel under this subpara-
25 graph may be waived to the extent

1 that the payment of such fine or pen-
2 alty would be excessive relative to the
3 compliance failure involved.

4 “(j) REPORTS TO THE CONGRESS.—

5 “(1) LEGISLATIVE PROPOSAL ON CERTAIN
6 CRIMINAL FINES AND PENALTIES.—Not later than
7 12 months after the date of the enactment of this
8 section the Panel shall submit to the Congress a leg-
9 islative proposal relating to any criminal fines and
10 penalties determined appropriate by the Panel to en-
11 force any of the requirements developed by the Panel
12 under paragraph (5) relating to privacy and con-
13 fidentiality.

14 “(2) ANNUAL REPORTS.—

15 “(A) IN GENERAL.—The Panel shall annu-
16 ally prepare and submit to Congress a report
17 on—

18 “(i) the status of the data interchange
19 system, including the system’s ability to
20 provide data on cost, quality, and patient
21 satisfaction;

22 “(ii) the savings and costs of imple-
23 menting the data interchange system; and

24 “(iii) any legislative recommendations
25 related to the data interchange system.

1 “(B) AVAILABILITY TO THE PUBLIC.—Any
2 information in the report submitted to Congress
3 under subparagraph (A) shall be made available
4 to the public unless such information may not
5 be disclosed by law.

6 “(k) OVERSIGHT OF UNIFORM WORKING FILE,
7 HEALTH CARE INFORMATION CLEARINGHOUSES, AND
8 VALUE ADDED NETWORKS.—

9 “(1) PERIODIC REVIEWS.—Not later than 9
10 months after the date of the enactment of this sec-
11 tion the Secretary shall establish a procedure for the
12 periodic review of business practices, performance,
13 and fees with respect to the uniform working file
14 and each health care information clearinghouse and
15 value added network to ensure that such entities are
16 not taking unfair advantage of participants in the
17 health care system through the application of any
18 regulations promulgated by OMB under subsection
19 (g).

20 “(2) CERTIFICATION PROCEDURE.—Not later
21 than 12 months after the date of the enactment of
22 this section the Panel shall establish a certification
23 procedure for the uniform working file, health care
24 information clearinghouses, and value added net-

1 works. The requirements for certification shall in-
2 clude—

3 “(A) adherence to the data and transaction
4 standards and requirements and the privacy
5 and confidentiality standards included in any
6 regulations promulgated by OMB under sub-
7 section (g);

8 “(B) making public standardized indica-
9 tors of performance such as accessibility, trans-
10 action responsiveness, administrative efficiency,
11 reliability, dependability, and any other indica-
12 tors determined appropriate by the Secretary;
13 and

14 “(C) any other requirements determined
15 appropriate by the Secretary.

16 “(l) DEFINITIONS.—For purposes of this section:

17 “(1) PARTICIPANT IN THE HEALTH CARE SYS-
18 TEM.—

19 “(A) IN GENERAL.—The term ‘participant
20 in the health care system’ means any Federal
21 health care program, State, administrator, em-
22 ployee welfare benefit plan, health insurance
23 plan, insurer, or provider.

24 “(B) ADMINISTRATOR.—The term ‘admin-
25 istrator’ has the meaning given that term in

1 section 3(16)(A) of the Employee Retirement
2 Income Security Act of 1974.

3 “(C) EMPLOYEE WELFARE BENEFIT
4 PLAN.—The term ‘employee welfare benefit
5 plan’ has the meaning given that term in sec-
6 tion 3(1) of the Employee Retirement Income
7 Security Act of 1974.

8 “(D) HEALTH INSURANCE PLAN.—The
9 term ‘health insurance plan’ means any con-
10 tract or arrangement under which an entity
11 bears all or part of the cost of providing health
12 care items and services, including a hospital or
13 medical expense incurred policy or certificate,
14 hospital or medical service plan contract, or
15 health maintenance subscriber contract (includ-
16 ing any self-insured health insurance plan).

17 “(E) INSURER.—The term ‘insurer’ means
18 any entity that offers a health insurance plan
19 under which such entity is at risk for all or part
20 of the cost of benefits under the plan, and in-
21 cludes any agent of such entity.

22 “(F) PROVIDER.—The term ‘provider’
23 means a physician, hospital, pharmacy, labora-
24 tory, or other person licensed or otherwise au-

1 thorized under applicable State laws to furnish
2 health care items or services.

3 “(H) STATE.—The term ‘State’ has the
4 meaning given to such term by section
5 1101(a)(1).

6 “(2) HEALTH CARE INFORMATION CLEARING-
7 HOUSE.—The term ‘health care information clear-
8 inghouse’ means a public or private entity that—

9 “(A) processes data that cannot be sent di-
10 rectly due to lack of proper formatting or edit-
11 ing; and

12 “(B) facilitates the translation of data to
13 the standardized data set and code sets between
14 persons who normally would send or receive the
15 transaction;

16 but does not store information processed beyond the
17 time required to complete its task and communicate
18 the information.

19 “(3) HEALTH CARE VALUE ADDED NET-
20 WORK.—The term ‘health care value added network’
21 means any entity that provides additional services
22 beyond the transmission of data or value, such as
23 the storage of electronic data or value and the trans-
24 fer of such data or value between health care enti-
25 ties.

1 “(4) CODE SETS.—The term ‘code sets’ means
2 any codes used for supplying specific data in a uni-
3 form data set, including tables of terms, medical di-
4 agnostic codes, medical procedure codes, identifica-
5 tion numbers, and any code sets of the National
6 Uniform Billing Committee, the Health Care Fi-
7 nancing Administration, or ANSI.

8 “NATIONAL HEALTH INFORMATICS COMMISSION

9 “SEC. 2102. (a) APPOINTMENT.—The Health Care
10 Data Interchange Panel (referred to in this section as the
11 ‘Panel’) shall provide for appointment of a National
12 Health Informatics Commission (referred to in this section
13 as the ‘Commission’) to advise the Panel on its activities.

14 “(b) MEMBERSHIP.—

15 “(1) IN GENERAL.—The Commission shall con-
16 sist of 15 members. The Panel shall designate 1
17 member of the Commission as the Chairperson.

18 “(2) EXPERTISE.—Members of the Commission
19 shall be individuals who—

20 “(A) represent different professions and
21 different geographic areas, including urban and
22 rural areas;

23 “(B) represent Federal or State govern-
24 ment health programs;

25 “(C) represent applicable standard-setting
26 groups, including the National Uniform Billing

1 Committee, the Uniform Claim Form Task
2 Force, American National Standards Institute,
3 and the Healthcare Informatics Standards
4 Planning Panel;

5 “(D) represent consumers of health care
6 services; and

7 “(E) have expertise in—

8 “(i) electronic data interchange of
9 health care information and computerized
10 information systems associated with the
11 operation and administration of matters
12 relating to health care;

13 “(ii) the provision and financing of
14 health care;

15 “(iii) conducting and interpreting
16 health economics research;

17 “(iv) research and development of
18 technological and scientific advances in
19 health care;

20 “(v) health care eligibility, enrollment,
21 and claims administration;

22 “(vi) health care financial manage-
23 ment;

24 “(vii) health care reimbursement; or

25 “(viii) health care outcomes research.

1 “(3) TERMS.—The Chairperson shall serve on
2 the Commission at the pleasure of the Panel. Each
3 other member of the Commission shall be appointed
4 for a term of 5 years, except with respect to the
5 members first appointed—

6 “(A) 3 members shall be appointed for a
7 term of 1 year;

8 “(B) 3 members shall be appointed for
9 terms of 2 years;

10 “(C) 3 members shall be appointed for
11 terms of 3 years;

12 “(D) 3 members shall be appointed for
13 terms of 4 years; and

14 “(E) 2 members shall be appointed for
15 terms of 5 years.

16 “(4) VACANCIES.—

17 “(A) IN GENERAL.—A vacancy on the
18 Commission shall be filled in the manner in
19 which the original appointment was made and
20 shall be subject to any conditions which applied
21 with respect to the original appointment.

22 “(B) FILLING UNEXPIRED TERM.—An in-
23 dividual chosen to fill a vacancy shall be ap-
24 pointed for the unexpired term of the member
25 replaced.

1 “(C) EXPIRATION OF TERMS.—The term
2 of any member shall not expire before the date
3 on which the member’s successor takes office.

4 “(c) MEETINGS.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), the Commission shall meet at the call of
7 the Chairperson.

8 “(2) INITIAL MEETING.—No later than 30 days
9 after the date on which all members of the Commis-
10 sion have been appointed, the Commission shall hold
11 its first meeting.

12 “(3) QUORUM.—A majority of the members of
13 the Commission shall constitute a quorum, but a
14 lesser number of members may hold hearings.

15 “(d) DUTIES.—

16 “(1) IN GENERAL.—Not later than 60 days
17 prior to any date on which the Panel is required to
18 select, establish, or develop any requirements relat-
19 ing to the data interchange system, the Commission
20 shall make recommendations to the Panel with re-
21 spect to the issues relating to such requirements.

22 “(2) ADDITIONAL STUDIES AND PROJECTS.—As
23 directed by the Panel, the Commission shall under-
24 take such studies and projects as the Panel may
25 deem necessary.

1 “(e) POWERS OF THE COMMISSION.—

2 “(1) HEARINGS.—The Commission may hold
3 such hearings, sit and act at such times and places,
4 take such testimony, and receive such evidence as
5 the Commission considers advisable to carry out the
6 purposes of this section.

7 “(2) INFORMATION FROM FEDERAL AGEN-
8 CIES.—The Commission may secure directly from
9 any Federal department or agency such information
10 as the Commission considers necessary to carry out
11 the provisions of this section. Upon request of the
12 Chairperson, the head of such department or agency
13 shall furnish such information to the Commission.

14 “(3) POSTAL SERVICES.—The Commission may
15 use the United States mails in the same manner and
16 under the same conditions as other departments and
17 agencies of the Federal Government.

18 “(4) GIFTS.—The Commission may accept, use,
19 and dispose of gifts or donations of services or prop-
20 erty.

21 “(f) COMMISSION PERSONNEL MATTERS.—

22 “(1) COMPENSATION OF MEMBERS.—Each
23 member of the Commission who is not an officer or
24 employee of the Federal Government shall be com-
25 pensated at a rate equal to the daily equivalent of

1 the annual rate of basic pay prescribed for level IV
2 of the Executive Schedule under section 5315 of title
3 5, United States Code, for each day (including travel
4 time) during which such member is engaged in the
5 performance of the duties of the Commission. All
6 members of the Commission who are officers or em-
7 ployees of the United States shall serve without com-
8 pensation in addition to that received for their serv-
9 ices as officers or employees of the United States.

10 “(2) TRAVEL EXPENSES.—The members of the
11 Commission shall be allowed travel expenses, includ-
12 ing per diem in lieu of subsistence, at rates author-
13 ized for employees of agencies under subchapter I of
14 chapter 57 of title 5, United States Code, while
15 away from their homes or regular places of business
16 in the performance of services for the Commission.

17 “(3) STAFF.—

18 “(A) IN GENERAL.—The Chairperson may,
19 without regard to civil service laws and regula-
20 tions, appoint and terminate such personnel as
21 may be necessary to enable the Commission to
22 perform its duties.

23 “(B) COMPENSATION.—The Chairperson
24 may fix the compensation of personnel without
25 regard to the provisions of chapter 51 and sub-

1 chapter III of chapter 53 of title 5, United
2 States Code, relating to classification of posi-
3 tions and General Schedule pay rates, except
4 that the rate of pay for the personnel may not
5 exceed the rate payable for level V of the Exec-
6 utive Schedule under section 5316 of such title.

7 “(C) DETAIL OF GOVERNMENT EMPLOY-
8 EES.—Any Federal Government employee may
9 be detailed to the Commission without reim-
10 bursement, and such detail shall be without
11 interruption or loss of civil service status or
12 privilege.

13 “(D) PROCUREMENT OF TEMPORARY AND
14 INTERMITTENT SERVICES.—The Chairperson
15 may procure temporary and intermittent serv-
16 ices under section 3109(b) of title 5, United
17 States Code, at rates for individuals which do
18 not exceed the daily equivalent of the annual
19 rate of basic pay prescribed for level V of the
20 Executive Schedule under section 5316 of such
21 title.

22 “(E) CONTRACTS.—The Chairperson may
23 enter into contracts or other arrangements that
24 may be necessary for the Commission to per-
25 form its duties.

1 “(F) INTERNAL ORGANIZATION.—The
2 Chairperson may prescribe such rules as the
3 Chairperson determines necessary with respect
4 to the internal organization of the Commission.
5 The Commission shall create such committees
6 (composed of Commission members and others
7 as appointed by the Chairperson) as necessary
8 to enable the Commission to meet its respon-
9 sibilities and functions.

10 “(g) REPORTS.—The Commission shall submit to the
11 Panel such reports as may be requested by the Panel on
12 each study or project conducted by the Commission. Such
13 reports shall contain such information as requested by the
14 Panel.

15 “(h) TERMINATION OF COMMISSION.—The Commis-
16 sion shall terminate 20 years after the date of the enact-
17 ment of this Act.

18 “(i) AUTHORIZATION OF APPROPRIATIONS.—

19 “(1) IN GENERAL.—There are authorized to be
20 appropriated such sums as may be necessary to
21 carry out the purposes of this section.

22 “(2) AVAILABILITY.—Any sums appropriated
23 under the authorization contained in this subsection
24 shall remain available, without fiscal year limitation,
25 until expended.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall be effective on the date of the enact-
3 ment of this Act.

○

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