

# HIMSS

## Fact Sheet

### State Policy and Certified Health Information Technologies

#### **Background**

State legislators, executives, and collaboratives throughout the United States are calling for the use of certified health information technologies in state initiatives to help ensure the seamless, secure, and accurate electronic exchange of health information among healthcare providers, payers, and consumers. As of March 2008, HIMSS identified 9 separate pieces of state legislation that reference the use of certified health information technologies. Leveraging its position throughout the state, a public-private collaborative in Vermont is encouraging healthcare providers to adopt electronic health records (EHRs) that are certified by the Certification Commission for Health Information Technology (CCHIT). Most notably, the Commonwealth of Virginia's executive and legislative branches can be recognized for their continued efforts to promote the use of certified health information technologies.

#### **State Legislation**

HIMSS has identified 9 pieces of state legislation in 6 states that reference the use of certified health information technologies. HIMSS used the legislative tracking system TrendTRACK to develop and conduct specific legislative searches to identify the legislation. TrendTRACK can only capture legislative activity in current state legislative sessions.

A common theme throughout state legislation in 2008 is the requirement of public funds to be used solely for the purchase of health information technology products that are certified by an appropriate entity, that being national, regional, or state. Two pieces of legislation (Connecticut and Massachusetts) exclusively identifies CCHIT as the authorized certification body. Additional legislation that references the certification of health information technologies pertains to the establishment of goals for statewide electronic health information exchange (eHIE) in addition to the development of certification compliance processes. Below, please find a brief overview of the legislation:

#### ***Connecticut:***

##### 1. SB 365

**Synopsis:** An Act relating to electronic medical records to ensure that the state-wide health information technology plan is developed in a timely fashion and that such plan promotes the use of data standards that allow for interstate operability.

**Link:** <http://www.cga.ct.gov/2008/TOB/S/2008SB-00635-R00-SB.htm>

**Certification Reference:** The state-wide health information technology plan shall include, but not be limited to: (1) General standards and protocols for health information exchange. (2) Electronic data standards to facilitate the development of a state-wide, integrated electronic health information system for use by health

care providers and institutions that are funded by the state. Such electronic data standards shall (A) include provisions relating to security, privacy, data content, structures and format, vocabulary and transmission protocols, (B) be compatible with any national data standards in order to allow for interstate interoperability, (C) permit the collection of health information in a standard electronic format, and (D) be compatible with the requirements for an electronic health information system. In the event that state electronic data standards differ from the national data standards adopted by the Certification Commission for Healthcare Information Technology, the state-wide health information technology plan shall explain the reasons for the differing standards, and how such differing standards allow for interstate operability. (3) Pilot programs for health information exchange, and projected costs and sources of funding for such pilot programs (*Section 1, Subsection D*).

**Status:** Public hearing in the Senate Joint Committee on Public Health scheduled for March 2008.

**Iowa:**

1. HF 2301

**Synopsis:** An Act relating to health information technology including creating an electronic health information commission.

**Link:** <http://coolice.legis.state.ia.us/CoolICE/default.asp?Category=BillInfo&Service=Billbook&ga=82&menu=text&hbi=HF2301>

**Certification Reference:** Widespread adoption of health information technology is critical to a successful health information technology system and is best achieved when all of the following occur:

- a. The market provides a variety of certified products from which to choose in order to best fit the needs of the user...(*Section 2, Subsection 3a*)

**Status:** Sponsored by Representative Upmeyer. Resides in Subcommittee as of February 2008

2. HSB 636

**Synopsis:** An Act relating to health care reform in Iowa including the Iowa health care coverage exchange; medical homes; prevention and chronic care management; the Iowa health information technology system; health care quality, consumer information, strategic planning, and resource development; and the certificate of need program.

**Link:** <http://coolice.legis.state.ia.us/CoolICE/default.asp?Category=BillInfo&Service=Billbook&ga=82&menu=text&hbill=HSB636>

**Certification Reference:** Widespread adoption of health information technology is critical to a successful health information technology system and is best achieved when all of the following occur:

- a. The market provides a variety of certified products from which to choose in order to best fit the needs of the user (*Section 18, Subsection 3a*).

**Status:** Sponsored by Representative Smith. Assigned to the Committee on Human Resources, February 2008. Related legislation includes: SSB 3140

3. HSB 757

**Synopsis:** An Act relating to health care reform including health care coverage intended for children, health information technology, end of life care promotion, preexisting conditions and dependent children coverage, and medical homes, providing an appropriation, and including an applicability provision.

**Link:** <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=BillInfo&Service=Billbook&ga=82&menu=text&hbill=HSB757>

**Certification Reference:** Widespread adoption of health information technology is critical to a successful health information technology system and is best achieved when all of the following occur:

- a. The market provides a variety of certified products from which to choose in order to best fit the needs of the user (*Section 3, Subsection 3a*).

**Status:** Sponsored by Representative Smith. Assigned to the Committee on Human Resources, February 2008.

**Massachusetts:**

1. SB 263

**Synopsis:** An Act to promote the use of health information technology.

**Link:** <http://www.mass.gov/legis/bills/senate/185/st00/st00263.htm>

**Certification Reference:** No state funds may be made available to any entity under this Act for the purchase of a health information technology product, unless— (1) the product is certified by the appropriate entity; or (2) if a certification process has not yet been developed for the product by an appropriate entity, the Federal department or agency involved has determined that the product incorporates, to the extent feasible, appropriate interoperability data standards and compliance criteria adopted by the entity for another product (*Subsection F*).

**Status:** Sponsored by Senator Moore. Joint Committee on Economic Development and Emerging Technologies held hearing in July 2007 (Biennial Session).

2. SB 2526

**Synopsis:** An Act to promote cost containment, transparency and efficiency in the delivery of quality healthcare.

**Link:** <http://www.mass.gov/legis/bills/senate/185/st02/st02526.htm>

**Certification References:** 1. The council shall establish goals for adoption of health information technology including, but not limited to, electronic prescription transactions for new prescriptions, prescription renewals, cancellations, changes between prescribers and dispensers, ancillary messages and administrative transactions known as e-prescribing, the process of electronic entry of physician instructions for the treatment of patients, whether hospitalized or ambulatory, under the care of said physician, known as computerized physician

order entry, and individual patient records in digital format or electronic health records; provided, however, that any system, network, software or equipment utilized in the attainment of said goals shall be certified by the certification commission for healthcare information technology, an independent, non-profit organization that has been officially named by the federal government as the “recognized certification body” for health information technology products and networks; and provided further, that goals shall state the percentage adoption by providers expected by a given year, any incentives or other provisions for attainment of the goals, and any penalties for failure to attain said goals (*Section 2, Subsection U*). 2. No state funds may be made available to any entity under this section for the purchase of a health information technology product, unless the product or network, as the case may be, is certified by the Certification Commission on Healthcare Information Technology (CCHIT), or any successor agency or organization established for the purpose of certifying that health information technology shall meet interoperability standards. (*Section 6, Subsection L*). 3. Notwithstanding any special or general law to the contrary, no later than October 1, 2012, the department of public health, in consultation with the health care quality and cost council, shall promulgate regulations requiring hospitals and community health centers, as a standard of eligibility for original licensure and renewal of licensure, to implement computerized physician order entry systems as defined by the department provided, however, that said product, system or network shall be certified by the Certification Commission for Healthcare Information Technology (CCHIT), or any successor agency or organization established for the purpose of certifying that health information technology shall meet national interoperability standards (*Section 32*). 4. Notwithstanding any special or general law to the contrary, no later than October 1, 2015, the department of public health, in consultation with the health care quality and cost council, shall promulgate regulations requiring hospitals and community health centers, as a standard of eligibility for original licensure and renewal of licensure, to implement interoperable electronic health records systems, as defined by the department provided, however, that said product, system or network shall be certified by the Certification Commission for Healthcare Information Technology (CCHIT), or any successor agency or organization established for the purpose of certifying that health information technology shall meet national interoperability standards (*Section 33*).  
**Status:** Sponsored by Senator Murray. Hearing scheduled for March 2008 in the Senate Joint Committee on Health Care Financing.

***New York:***

**1. SB 4679**

**Synopsis:** An Act to amend the public health law, in relation to enacting the "Health E-Links New York Act"; and to amend the state technology law, in relation to making certain conforming change.

**Link:** <http://assembly.state.ny.us/leg/?bn=S04679>

**Certification References:** 1. This Division of Health Information Technology Adoption shall coordinate with relevant offices within the Department to develop

recommendations regarding health information technology compliance certification processes, evaluate compliance certification processes for health information technology and assesses its effect on health information technology implementation (*Section 1006*). 2. The Commissioner may recognize a private entity or entities to assist in the certification described in this section using the criteria developed by the Commissioner pursuant to this section. The Commissioner, in consultation with the Advisory Board, may accept recommendation on the development of the criteria from a state agency or private entity (*Section 1011*).

**Status:** Sponsored by Senator Hannon. Referred to the Senate Health Committee in January 2008.

**Washington:**

**1. SB 5423**

**Synopsis:** An Act Relating to improving the quality of health care through the use of health information technologies.

**Link:** <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=5423&year=2007>

**Certification References:** 1. Subject to the limits in this section, an eligible person is authorized a credit against the tax due under this chapter for the acquisition of health information technologies certified as eligible for credit by the health care authority as provided in RCW 41.05.021. The credit allowed under this section: (a) Is limited to fifty percent of the amount expended to acquire computer hardware, software, labor, or services necessary for the development, enhancement, or installation of certified health information technologies. Expenditures may include those amounts for leased equipment and software.

2. No application is necessary for the tax credit. An eligible person claiming this credit must keep records necessary for the department to verify eligibility under this section. This includes, but is not limited to, a personal attestation or documentation substantiating that the health information technologies acquired by the person are certified by a state, regional, or national commission for health information technology, the American health information committee, the United States department of health and human services, related to: (a) Interoperability; (b) security; and (c) the protection of confidentiality (*Section 1*).

**Status:** Sponsored by Senator Keiser. Legislation was reintroduced in January 2008.

**Wisconsin:**

**1. AB 111**

**Synopsis:** The bill creates income and franchise tax credits for the purchase of certain information technology equipment by health care providers and health facilities. Under the bill, a health care provider may claim a credit equal to 50 percent of the amount the provider paid in the taxable year for information technology hardware or software that is used to maintain medical records in electronic form.

**Link:**

<http://nxt.legis.state.wi.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=WI:Default&d=billhist&jd=top>

**Certification Reference:** Subject to the limitations provided in this subsection, a claimant may claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following: 1. An amount equal to 50 percent of the amount the claimant paid in the taxable year for information technology hardware or software that is used to maintain medical records in electronic form, if the claimant is a health care provider, as defined in s. 146.81 (1), and, in the case of software used as the basis for a credit under this subsection, if the software is certified by the Certification Commission for Healthcare Information Technology (*Section 2*)

**Status:** Sponsored by Representative Moulton. Public hearing in the House Committee on Health and Healthcare Reform was held on the legislation in June 2007. Related legislation includes: SB 45.

**Vermont Information Technology Leaders, Inc.**

In addition to the above proposed state legislation, HIMSS has learned that the Vermont Information Technology Leaders, Inc. (VITL) is leveraging their role as the state's most prominent public-private leadership organization for eHIE to encourage the use of certified health information technology products within the State of Vermont. On January 31, 2008, VITL released a Pre-Screened Electronic Health Record (EHR) Product List, to help ensure interoperability among healthcare providers throughout Vermont. The list includes six products that meet VITL's criteria in functionality, service and support, and technology and are also certified by CCHIT. VITL hopes that the Pre-Screened EHR Product List will shorten the selection process and speed up the adoption rate for EHRs in Vermont. Under Vermont's current EHR Pilot Project, grant recipients are instructed to work with vendors that are included on the Pre-Screened EHR Product List. Additional information on the Pre-Screened EHR Product List can be accessed at: <http://www.vitl.net/interior.php/pid/8/sid/37>.<sup>i</sup>

**Virginia**

Virginia's executive and legislative branches continue to promote the use of certified health information technologies within their eHIE activities. In 2006, Governor Tim Kaine announced Executive Order 29, which called for the establishment of the Governor's Health Information Technology Council. Among many things, the Governor instructed the Council to establish an interoperability framework and develop public-private pilot projects to help increase the adoption of EHRs across the state. To help ensure the success of these goals, the Governor also instructed the Commission to encourage vendors and entrepreneurs working in the state to build on standards developed by CCHIT. The Executive Order can be accessed at: [http://www.governor.virginia.gov/initiatives/ExecutiveOrders/2006/EO\\_29.cfm](http://www.governor.virginia.gov/initiatives/ExecutiveOrders/2006/EO_29.cfm).<sup>ii</sup>

Taking efforts to ensure interoperability a step further in 2007, the Virginia General Assembly passed and Governor Kaine signed into law legislation to establish an interoperable infrastructure for EHRs. Specifically, HB 2198, sponsored by Delegate

Nixon, requires any state agency that purchases a system or software that pertains to or interacts with electronic patient information or EHRs to be certified by a recognized certification body or to adhere to standards for interoperability and data exchange. HB 2198 can be accessed at: <http://leg1.state.va.us/cgi-bin/legp504.exe?071+fuh+HB2198+501013>.

### **HIMSS Comments**

As states work to achieve intra- and inter-state eHIE, stakeholders will continue to call for the adoption and use of certified health information technologies. As seen in Virginia, states are beginning to recognize that public funds can best be allocated to health information technologies that are proven to seamlessly, securely, and accurately facilitate the electronic exchange of health information. HIMSS will continue to monitor state activity surrounding certified health information technologies. For more information on state HIT policy, please access the HIMSS State Dashboard (<http://www.himss.org/StateDashboard/>) or contact HIMSS State Government Relations at (703) 562- 8800.

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<sup>i</sup> “VITL Announces Pre-Screened EHR Product List”. Press Release. January 31, 2008. Available at: <http://www.vitl.net/interior.php/pid/8/sid/37>. Accessed on March 5, 2008.

<sup>ii</sup> “Establishing the Health Information Technology Council”. Executive Order 29, Virginia Governor Tim Kaine. Available at: [http://www.governor.virginia.gov/initiatives/ExecutiveOrders/2006/EO\\_29.cfm](http://www.governor.virginia.gov/initiatives/ExecutiveOrders/2006/EO_29.cfm). Accessed on March 5, 2008.