

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Health Information Exchange and Technology Act.

6 Section 5. Purpose. Health information technology improves
7 the quality of patient care, increases the efficiency of health
8 care practices, improves safety, and reduces healthcare
9 errors. The State of Illinois has an interest in encouraging
10 the adoption of a health information system to improve the
11 safety, quality, and value of health care, to protect and keep
12 health information secure, and to use the health information
13 exchange system to advance and meet population health goals. To
14 ensure that the benefits of health information technology are
15 available to the consumers of Illinois and to encourage greater
16 patient participation in health care decisions, the State must
17 provide a framework for the exchange of health information and
18 encourage the widespread adoption of electronic health systems
19 and the use of electronic health records among health care
20 providers and patients. The creation of a State-level health
21 information exchange system will allow, among other benefits,
22 the widespread utilization of electronic health records by
23 health care providers and patients in order to ensure that

1 Illinois' health care providers can achieve the meaningful use
2 of electronic records, as defined by federal law, and
3 participate fully in the health information technology
4 incentives available from the federal government under the
5 Medicare and Medicaid programs.

6 Section 10. Creation of the Health Information Exchange
7 Authority. There is hereby created the Illinois Health
8 Information Exchange Authority ("Authority"), which is hereby
9 constituted as an instrumentality and an administrative agency
10 of the State of Illinois.

11 As part of its program to promote, develop, and sustain
12 health information exchange at the State level, the Authority
13 shall do the following:

14 (1) Establish the Illinois Health Information Exchange
15 ("ILHIE"), to promote and facilitate the sharing of health
16 information among health care providers within Illinois
17 and in other states. ILHIE shall be an entity operated by
18 the Authority to serve as a State-level electronic medical
19 records exchange providing for the transfer of health
20 information, medical records, and other health data in a
21 secure environment for the benefit of patient care, patient
22 safety, reduction of duplicate medical tests, reduction of
23 administrative costs, and any other benefits deemed
24 appropriate by the Authority.

25 (2) Foster the widespread adoption of electronic

1 health records and participation in the ILHIE.

2 Section 15. Governance of the Illinois Health Information
3 Exchange Authority.

4 (a) The Authority shall consist of and be governed by one
5 Executive Director and 8 directors who are hereby authorized to
6 carry out the provisions of this Act and to exercise the powers
7 conferred under this Act.

8 (b) The Executive Director and 8 directors shall be
9 appointed to 3-year staggered terms by the Governor with the
10 advice and consent of the Senate. Of the members first
11 appointed after the effective date of this Act, 3 shall be
12 appointed for a term of one year, 3 shall be appointed for a
13 term of 2 years, and 3 shall be appointed for a term of 3 years.
14 The Executive Director and directors may serve successive terms
15 and, in the event the term of the Executive Director or a
16 director expires, he or she shall serve in the expired term
17 until a new Executive Director or director is appointed and
18 qualified. Vacancies shall be filled for the unexpired term in
19 the same manner as original appointments. The Governor may
20 remove a director or the Executive Director for incompetency,
21 dereliction of duty, malfeasance, misfeasance, or nonfeasance
22 in office or any other good cause. The Executive Director shall
23 be compensated at an annual salary of 75% of the salary of the
24 Governor.

25 (c) The Executive Director and directors shall be chosen

1 with due regard to broad geographic representation and shall be
2 representative of a broad spectrum of health care providers and
3 stakeholders, including representatives from any of the
4 following fields or groups: health care consumers, consumer
5 advocates, physicians, nurses, hospitals, federally qualified
6 health centers as defined in Section 1905(1)(2)(B) of the
7 Social Security Act and any subsequent amendments thereto,
8 health plans or third-party payors, employers, long-term care
9 providers, pharmacists, State and local public health
10 entities, outpatient diagnostic service providers, behavioral
11 health providers, home health agency organizations, health
12 professional schools in Illinois, health information
13 technology, or health information research.

14 (d) The directors of the Illinois Department of Healthcare
15 and Family Services, the Illinois Department of Public Health,
16 and the Illinois Department of Insurance and the Secretary of
17 the Illinois Department of Human Services, or their designees,
18 and a designee of the Office of the Governor, shall serve as
19 ex-officio members of the Authority.

20 (e) The Authority is authorized to conduct its business by
21 a majority of the appointed members. The Authority may adopt
22 bylaws in order to conduct meetings. The bylaws may permit the
23 Authority to meet by telecommunication or electronic
24 communication.

25 (f) The Authority shall appoint an Illinois Health
26 Information Exchange Authority Advisory Committee ("Advisory

1 Committee") with representation from any of the fields or
2 groups listed in subsection (c) of this Section. The purpose of
3 the Advisory Committee shall be to advise and provide
4 recommendations to the Authority regarding the ILHIE. The
5 Advisory Committee members shall serve 2-year terms. The
6 Authority may establish other advisory committees and
7 subcommittees to conduct the business of the Authority.

8 (g) Directors of the Authority, members of the Advisory
9 Committee, and any other advisory committee and subcommittee
10 members may be reimbursed for ordinary and contingent travel
11 and meeting expenses for their service at the rate approved for
12 State employee travel.

13 Section 20. Powers and duties of the Illinois Health
14 Information Exchange Authority. The Authority has the
15 following powers, together with all powers incidental or
16 necessary to accomplish the purposes of this Act:

17 (1) The Authority shall create and administer the ILHIE
18 using information systems and processes that are secure,
19 are cost effective, and meet all other relevant privacy and
20 security requirements under State and federal law.

21 (2) The Authority shall establish and adopt standards
22 and requirements for the use of health information and the
23 requirements for participation in the ILHIE by persons or
24 entities including, but not limited to, health care
25 providers, payors, and local health information exchanges.

1 (3) The Authority shall establish minimum standards
2 for accessing the ILHIE to ensure that the appropriate
3 security and privacy protections apply to health
4 information, consistent with applicable federal and State
5 standards and laws. The Authority shall have the power to
6 suspend, limit, or terminate the right to participate in
7 the ILHIE for non-compliance or failure to act, with
8 respect to applicable standards and laws, in the best
9 interests of patients, users of the ILHIE, or the public.
10 The Authority may seek all remedies allowed by law to
11 address any violation of the terms of participation in the
12 ILHIE.

13 (4) The Authority shall identify barriers to the
14 adoption of electronic health records systems, including
15 researching the rates and patterns of dissemination and use
16 of electronic health record systems throughout the State.
17 The Authority shall make the results of the research
18 available on its website.

19 (5) The Authority shall prepare educational materials
20 and educate the general public on the benefits of
21 electronic health records, the ILHIE, and the safeguards
22 available to prevent unauthorized disclosure of health
23 information.

24 (6) The Authority may appoint or designate an
25 institutional review board in accordance with federal and
26 State law to review and approve requests for research in

1 order to ensure compliance with standards and patient
2 privacy and security protections as specified in paragraph
3 (3) of this Section.

4 (7) The Authority may enter into all contracts and
5 agreements necessary or incidental to the performance of
6 its powers under this Act. The Authority's expenditures of
7 private funds are exempt from the Illinois Procurement
8 Code, pursuant to Section 1-10 of that Act. Notwithstanding
9 this exception, the Authority shall comply with the
10 Business Enterprise for Minorities, Females, and Persons
11 with Disabilities Act.

12 (8) The Authority may solicit and accept grants, loans,
13 contributions, or appropriations from any public or
14 private source and may expend those moneys, through
15 contracts, grants, loans, or agreements, on activities it
16 considers suitable to the performance of its duties under
17 this Act.

18 (9) The Authority may determine, charge, and collect
19 any fees, charges, costs, and expenses from any healthcare
20 provider or entity in connection with its duties under this
21 Act. Moneys collected under this paragraph (9) shall be
22 deposited into the Health Information Exchange Fund.

23 (10) The Authority may, under the direction of the
24 Executive Director, employ and discharge staff, including
25 administrative, technical, expert, professional, and legal
26 staff, as is necessary or convenient to carry out the

1 purposes of this Act. The Authority may establish and
2 administer standards of classification regarding
3 compensation, benefits, duties, performance, and tenure
4 for that staff and may enter into contracts of employment
5 with members of that staff for such periods and on such
6 terms as the Authority deems desirable. All employees of
7 the Authority are exempt from the Personnel Code as
8 provided by Section 4 of the Personnel Code.

9 (11) The Authority shall consult and coordinate with
10 the Department of Public Health to further the Authority's
11 collection of health information from health care
12 providers for public health purposes. The collection of
13 public health information shall include identifiable
14 information for use by the Authority or other State
15 agencies to comply with State and federal laws. Any
16 identifiable information so collected shall be privileged
17 and confidential in accordance with Sections 8-2101,
18 8-2102, 8-2103, 8-2104, and 8-2105 of the Code of Civil
19 Procedure.

20 (12) All identified or deidentified health information
21 in the form of health data or medical records contained in,
22 stored in, submitted to, transferred by, or released from
23 the Illinois Health Information Exchange, and identified
24 or deidentified health information in the form of health
25 data and medical records of the Illinois Health Information
26 Exchange in the possession of the Illinois Health

1 Information Exchange Authority due to its administration
2 of the Illinois Health Information Exchange, shall be
3 exempt from inspection and copying under the Freedom of
4 Information Act. The terms "identified" and "deidentified"
5 shall be given the same meaning as in the Health Insurance
6 Accountability and Portability Act of 1996, Public Law
7 104-191, or any subsequent amendments thereto, and any
8 regulations promulgated thereunder.

9 (13) To address gaps in the adoption of, workforce
10 preparation for, and exchange of electronic health records
11 that result in regional and socioeconomic disparities in
12 the delivery of care, the Authority may evaluate such gaps
13 and provide resources as available, giving priority to
14 healthcare providers serving a significant percentage of
15 Medicaid or uninsured patients and in medically
16 underserved or rural areas.

17 Section 25. Health Information Exchange Fund.

18 (a) The Health Information Exchange Fund (the "Fund") is
19 created as a separate fund outside the State treasury. Moneys
20 in the Fund are not subject to appropriation by the General
21 Assembly. The State Treasurer shall be ex-officio custodian of
22 the Fund. Revenues arising from the operation and
23 administration of the Authority and the ILHIE shall be
24 deposited into the Fund. Fees, charges, State and federal
25 moneys, grants, donations, gifts, interest, or other moneys

1 shall be deposited into the Fund. "Private funds" means gifts,
2 donations, and private grants.

3 (b) The Authority is authorized to spend moneys in the Fund
4 on activities suitable to the performance of its duties as
5 provided in Section 20 of this Act and authorized by this Act.
6 Disbursements may be made from the Fund for purposes related to
7 the operations and functions of the Authority and the ILHIE.

8 (c) The Illinois General Assembly may appropriate moneys to
9 the Authority and the ILHIE, and those moneys shall be
10 deposited into the Fund.

11 (d) The Fund is not subject to administrative charges or
12 charge-backs, including but not limited to those authorized
13 under Section 8h of the State Finance Act.

14 (e) The Authority's accounts and books shall be set up and
15 maintained in accordance with the Office of the Comptroller's
16 requirements, and the Authority's Executive Director shall be
17 responsible for the approval of recording of receipts, approval
18 of payments, and proper filing of required reports. The moneys
19 held and made available by the Authority shall be subject to
20 financial and compliance audits by the Auditor General in
21 compliance with the Illinois State Auditing Act.

22 Section 30. Participation in health information systems
23 maintained by State agencies.

24 (a) By no later than January 1, 2015, each State agency
25 that implements, acquires, or upgrades health information

1 technology systems shall use health information technology
2 systems and products that meet minimum standards adopted by the
3 Authority for accessing the ILHIE. State agencies that have
4 health information which supports and develops the ILHIE shall
5 provide access to patient-specific data to complete the patient
6 record at the ILHIE. Notwithstanding any other provision of
7 State law, the State agencies shall provide patient-specific
8 data to the ILHIE.

9 (b) Participation in the ILHIE shall have no impact on the
10 content of or use or disclosure of health information of
11 patient participants that is held in locations other than the
12 ILHIE. Nothing in this Act shall limit or change an entity's
13 obligation to exchange health information in accordance with
14 applicable federal and State laws and standards.

15 Section 35. Illinois Administrative Procedure Act. The
16 provisions of the Illinois Administrative Procedure Act are
17 hereby expressly adopted and shall apply to all administrative
18 rules and procedures of the Authority, except that Section 5-35
19 of the Illinois Administrative Procedure Act relating to
20 procedures for rulemaking does not apply to the adoption of any
21 rule required by federal law when the Authority is precluded by
22 that law from exercising any discretion regarding that rule.

23 Section 40. Reliance on data. Any health care provider who
24 relies in good faith upon any information provided through the

1 ILHIE in his, her, or its treatment of a patient shall be
2 immune from criminal or civil liability arising from any
3 damages caused by such good faith reliance. This immunity does
4 not apply to acts or omissions constituting gross negligence or
5 reckless, wanton, or intentional misconduct. Notwithstanding
6 this provision, the Authority does not waive any immunities
7 provided under State or federal law.

8 Section 900. The Regulatory Sunset Act is amended by adding
9 Section 4.31 as follows:

10 (5 ILCS 80/4.31 new)

11 Sec. 4.31. Act repealed on January 1, 2021. The following
12 Act is repealed on January 1, 2021:

13 The Illinois Health Information Exchange and Technology
14 Act.

15 Section 905. The Freedom of Information Act is amended by
16 changing Section 7.5 as follows:

17 (5 ILCS 140/7.5)

18 Sec. 7.5. Statutory Exemptions. To the extent provided for
19 by the statutes referenced below, the following shall be exempt
20 from inspection and copying:

21 (a) All information determined to be confidential under
22 Section 4002 of the Technology Advancement and Development Act.

1 (b) Library circulation and order records identifying
2 library users with specific materials under the Library Records
3 Confidentiality Act.

4 (c) Applications, related documents, and medical records
5 received by the Experimental Organ Transplantation Procedures
6 Board and any and all documents or other records prepared by
7 the Experimental Organ Transplantation Procedures Board or its
8 staff relating to applications it has received.

9 (d) Information and records held by the Department of
10 Public Health and its authorized representatives relating to
11 known or suspected cases of sexually transmissible disease or
12 any information the disclosure of which is restricted under the
13 Illinois Sexually Transmissible Disease Control Act.

14 (e) Information the disclosure of which is exempted under
15 Section 30 of the Radon Industry Licensing Act.

16 (f) Firm performance evaluations under Section 55 of the
17 Architectural, Engineering, and Land Surveying Qualifications
18 Based Selection Act.

19 (g) Information the disclosure of which is restricted and
20 exempted under Section 50 of the Illinois Prepaid Tuition Act.

21 (h) Information the disclosure of which is exempted under
22 the State Officials and Employees Ethics Act, and records of
23 any lawfully created State or local inspector general's office
24 that would be exempt if created or obtained by an Executive
25 Inspector General's office under that Act.

26 (i) Information contained in a local emergency energy plan

1 submitted to a municipality in accordance with a local
2 emergency energy plan ordinance that is adopted under Section
3 11-21.5-5 of the Illinois Municipal Code.

4 (j) Information and data concerning the distribution of
5 surcharge moneys collected and remitted by wireless carriers
6 under the Wireless Emergency Telephone Safety Act.

7 (k) Law enforcement officer identification information or
8 driver identification information compiled by a law
9 enforcement agency or the Department of Transportation under
10 Section 11-212 of the Illinois Vehicle Code.

11 (l) Records and information provided to a residential
12 health care facility resident sexual assault and death review
13 team or the Executive Council under the Abuse Prevention Review
14 Team Act.

15 (m) Information provided to the predatory lending database
16 created pursuant to Article 3 of the Residential Real Property
17 Disclosure Act, except to the extent authorized under that
18 Article.

19 (n) Defense budgets and petitions for certification of
20 compensation and expenses for court appointed trial counsel as
21 provided under Sections 10 and 15 of the Capital Crimes
22 Litigation Act. This subsection (n) shall apply until the
23 conclusion of the trial of the case, even if the prosecution
24 chooses not to pursue the death penalty prior to trial or
25 sentencing.

26 (o) Information that is prohibited from being disclosed

1 under Section 4 of the Illinois Health and Hazardous Substances
2 Registry Act.

3 (p) Security portions of system safety program plans,
4 investigation reports, surveys, schedules, lists, data, or
5 information compiled, collected, or prepared by or for the
6 Regional Transportation Authority under Section 2.11 of the
7 Regional Transportation Authority Act or the St. Clair County
8 Transit District under the Bi-State Transit Safety Act.

9 (q) Information prohibited from being disclosed by the
10 Personnel Records Review Act.

11 (r) Information prohibited from being disclosed by the
12 Illinois School Student Records Act.

13 (s) Information the disclosure of which is restricted under
14 Section 5-108 of the Public Utilities Act.

15 (t) All identified or deidentified health information in
16 the form of health data or medical records contained in, stored
17 in, submitted to, transferred by, or released from the Illinois
18 Health Information Exchange, and identified or deidentified
19 health information in the form of health data and medical
20 records of the Illinois Health Information Exchange in the
21 possession of the Illinois Health Information Exchange
22 Authority due to its administration of the Illinois Health
23 Information Exchange. The terms "identified" and
24 "deidentified" shall be given the same meaning as in the Health
25 Insurance Accountability and Portability Act of 1996, Public
26 Law 104-191, or any subsequent amendments thereto, and any

1 regulations promulgated thereunder.

2 (Source: P.A. 96-542, eff. 1-1-10.)

3 Section 910. The Illinois Procurement Code is amended by
4 changing Section 1-10 as follows:

5 (30 ILCS 500/1-10)

6 Sec. 1-10. Application.

7 (a) This Code applies only to procurements for which
8 contractors were first solicited on or after July 1, 1998. This
9 Code shall not be construed to affect or impair any contract,
10 or any provision of a contract, entered into based on a
11 solicitation prior to the implementation date of this Code as
12 described in Article 99, including but not limited to any
13 covenant entered into with respect to any revenue bonds or
14 similar instruments. All procurements for which contracts are
15 solicited between the effective date of Articles 50 and 99 and
16 July 1, 1998 shall be substantially in accordance with this
17 Code and its intent.

18 (b) This Code shall apply regardless of the source of the
19 funds with which the contracts are paid, including federal
20 assistance moneys. This Code shall not apply to:

21 (1) Contracts between the State and its political
22 subdivisions or other governments, or between State
23 governmental bodies except as specifically provided in
24 this Code.

1 (2) Grants, except for the filing requirements of
2 Section 20-80.

3 (3) Purchase of care.

4 (4) Hiring of an individual as employee and not as an
5 independent contractor, whether pursuant to an employment
6 code or policy or by contract directly with that
7 individual.

8 (5) Collective bargaining contracts.

9 (6) Purchase of real estate, except that notice of this
10 type of contract with a value of more than \$25,000 must be
11 published in the Procurement Bulletin within 7 days after
12 the deed is recorded in the county of jurisdiction. The
13 notice shall identify the real estate purchased, the names
14 of all parties to the contract, the value of the contract,
15 and the effective date of the contract.

16 (7) Contracts necessary to prepare for anticipated
17 litigation, enforcement actions, or investigations,
18 provided that the chief legal counsel to the Governor shall
19 give his or her prior approval when the procuring agency is
20 one subject to the jurisdiction of the Governor, and
21 provided that the chief legal counsel of any other
22 procuring entity subject to this Code shall give his or her
23 prior approval when the procuring entity is not one subject
24 to the jurisdiction of the Governor.

25 (8) Contracts for services to Northern Illinois
26 University by a person, acting as an independent

1 contractor, who is qualified by education, experience, and
2 technical ability and is selected by negotiation for the
3 purpose of providing non-credit educational service
4 activities or products by means of specialized programs
5 offered by the university.

6 (9) Procurement expenditures by the Illinois
7 Conservation Foundation when only private funds are used.

8 (10) Procurement expenditures by the Illinois Health
9 Information Exchange Authority involving private funds
10 from the Health Information Exchange Fund. "Private funds"
11 means gifts, donations, and private grants.

12 (c) This Code does not apply to the electric power
13 procurement process provided for under Section 1-75 of the
14 Illinois Power Agency Act and Section 16-111.5 of the Public
15 Utilities Act.

16 (d) Except for Section 20-160 and Article 50 of this Code,
17 and as expressly required by Section 9.1 of the Illinois
18 Lottery Law, the provisions of this Code do not apply to the
19 procurement process provided for under Section 9.1 of the
20 Illinois Lottery Law.

21 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;
22 95-876, eff. 8-21-08; 96-840, eff. 12-23-09.)

23 Section 995. Severability. If any provision of this Act or
24 application thereof to any person or circumstance is held
25 invalid, such invalidity does not affect other provisions or

1 applications of this Act which can be given effect without the
2 invalid application or provision, and to this end the
3 provisions of this Act are declared to be severable.

4 Section 999. Effective date. This Act takes effect upon
5 becoming law.