

AN ACT concerning health.

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

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

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

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

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

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

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

(2) Foster the widespread adoption of electronic

health records and participation in the ILHIE.

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

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

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

(c) The Executive Director and directors shall be chosen

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

Section 25. Health Information Exchange Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5 ILCS 80/4.31 new)

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

The Illinois Health Information Exchange and Technology Act.

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

(5 ILCS 140/7.5)

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

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

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

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

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

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

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

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

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

(i) Information contained in a local emergency energy plan

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

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

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

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

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

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

(o) Information that is prohibited from being disclosed

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

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

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

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

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

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

regulations promulgated thereunder.

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

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

(30 ILCS 500/1-10)

Sec. 1-10. Application.

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

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

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



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

(3) Purchase of care.

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

(5) Collective bargaining contracts.

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

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

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

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

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

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

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

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

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

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

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

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