

**103RD GENERAL ASSEMBLY****State of Illinois****2023 and 2024****SB2294**

Introduced 2/10/2023, by Sen. Julie A. Morrison

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Health Information Exchange and Technology Act. Provides that the Act is repealed on July 1, 2023. Amends the Department of Healthcare and Family Services Law. Provides that staff employed by the Illinois Health Information Exchange Office (Office) on the effective date of the amendatory Act shall remain employed and continue their service within the Department of Healthcare and Family Services after the repeal of the Act and the dissolution of the Office. Provides that the status and rights of such employees shall not be affected by the repeal of the Act or the dissolution of the Office except that, notwithstanding any other State law to the contrary, those employees shall maintain their seniority and their positions shall convert to titles of a comparable organizational level under the Personnel Code and become subject to the Personnel Code. Provides that on the effective date of the amendatory Act, or as soon thereafter as practical, the State Comptroller shall direct and the State Treasurer shall transfer the remaining balance from the Health Information Exchange Fund to the General Revenue Fund; and that upon completion of the transfer, the Health Information Exchange Fund is dissolved, and any future deposits due to that Fund and any outstanding obligations or liabilities of that Fund shall pass to the General Revenue Fund. Removes all reference to the Illinois Health Information Exchange Office in various Acts. Amends the Administration Article of the Illinois Public Aid Code. Replaces references to the Long-Term Services and Supports Disparities Task Force with the Long-Term Services and Supports Disparities Workgroup. Provides that the Department of Healthcare and Family Services shall establish the Workgroup within the Medicaid Advisory Committee in accordance with certain federal requirements. Makes changes to provisions concerning the Workgroup's membership and duties. Effective July 1, 2023.

LRB103 26927 KTG 53291 b

1 AN ACT concerning State government.

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

4 Section 1. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

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

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

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

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

22 (d) Information and records held by the Department of
23 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible
2 disease or any information the disclosure of which is
3 restricted under the Illinois Sexually Transmissible
4 Disease Control Act.

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

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

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

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

19 (i) Information contained in a local emergency energy
20 plan submitted to a municipality in accordance with a
21 local emergency energy plan ordinance that is adopted
22 under Section 11-21.5-5 of the Illinois Municipal Code.

23 (j) Information and data concerning the distribution
24 of surcharge moneys collected and remitted by carriers
25 under the Emergency Telephone System Act.

26 (k) Law enforcement officer identification information

1 or driver identification information compiled by a law
2 enforcement agency or the Department of Transportation
3 under Section 11-212 of the Illinois Vehicle Code.

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

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

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

19 (o) Information that is prohibited from being
20 disclosed under Section 4 of the Illinois Health and
21 Hazardous Substances Registry Act.

22 (p) Security portions of system safety program plans,
23 investigation reports, surveys, schedules, lists, data, or
24 information compiled, collected, or prepared by or for the
25 Department of Transportation under Sections 2705-300 and
26 2705-616 of the Department of Transportation Law of the

1 Civil Administrative Code of Illinois, the Regional
2 Transportation Authority under Section 2.11 of the
3 Regional Transportation Authority Act, or the St. Clair
4 County Transit District under the Bi-State Transit Safety
5 Act.

6 (q) Information prohibited from being disclosed by the
7 Personnel Record Review Act.

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

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

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

26 (u) Records and information provided to an independent

1 team of experts under the Developmental Disability and
2 Mental Health Safety Act (also known as Brian's Law).

3 (v) Names and information of people who have applied
4 for or received Firearm Owner's Identification Cards under
5 the Firearm Owners Identification Card Act or applied for
6 or received a concealed carry license under the Firearm
7 Concealed Carry Act, unless otherwise authorized by the
8 Firearm Concealed Carry Act; and databases under the
9 Firearm Concealed Carry Act, records of the Concealed
10 Carry Licensing Review Board under the Firearm Concealed
11 Carry Act, and law enforcement agency objections under the
12 Firearm Concealed Carry Act.

13 (v-5) Records of the Firearm Owner's Identification
14 Card Review Board that are exempted from disclosure under
15 Section 10 of the Firearm Owners Identification Card Act.

16 (w) Personally identifiable information which is
17 exempted from disclosure under subsection (g) of Section
18 19.1 of the Toll Highway Act.

19 (x) Information which is exempted from disclosure
20 under Section 5-1014.3 of the Counties Code or Section
21 8-11-21 of the Illinois Municipal Code.

22 (y) Confidential information under the Adult
23 Protective Services Act and its predecessor enabling
24 statute, the Elder Abuse and Neglect Act, including
25 information about the identity and administrative finding
26 against any caregiver of a verified and substantiated

1 decision of abuse, neglect, or financial exploitation of
2 an eligible adult maintained in the Registry established
3 under Section 7.5 of the Adult Protective Services Act.

4 (z) Records and information provided to a fatality
5 review team or the Illinois Fatality Review Team Advisory
6 Council under Section 15 of the Adult Protective Services
7 Act.

8 (aa) Information which is exempted from disclosure
9 under Section 2.37 of the Wildlife Code.

10 (bb) Information which is or was prohibited from
11 disclosure by the Juvenile Court Act of 1987.

12 (cc) Recordings made under the Law Enforcement
13 Officer-Worn Body Camera Act, except to the extent
14 authorized under that Act.

15 (dd) Information that is prohibited from being
16 disclosed under Section 45 of the Condominium and Common
17 Interest Community Ombudsperson Act.

18 (ee) Information that is exempted from disclosure
19 under Section 30.1 of the Pharmacy Practice Act.

20 (ff) Information that is exempted from disclosure
21 under the Revised Uniform Unclaimed Property Act.

22 (gg) Information that is prohibited from being
23 disclosed under Section 7-603.5 of the Illinois Vehicle
24 Code.

25 (hh) Records that are exempt from disclosure under
26 Section 1A-16.7 of the Election Code.

1 (ii) Information which is exempted from disclosure
2 under Section 2505-800 of the Department of Revenue Law of
3 the Civil Administrative Code of Illinois.

4 (jj) Information and reports that are required to be
5 submitted to the Department of Labor by registering day
6 and temporary labor service agencies but are exempt from
7 disclosure under subsection (a-1) of Section 45 of the Day
8 and Temporary Labor Services Act.

9 (kk) Information prohibited from disclosure under the
10 Seizure and Forfeiture Reporting Act.

11 (ll) Information the disclosure of which is restricted
12 and exempted under Section 5-30.8 of the Illinois Public
13 Aid Code.

14 (mm) Records that are exempt from disclosure under
15 Section 4.2 of the Crime Victims Compensation Act.

16 (nn) Information that is exempt from disclosure under
17 Section 70 of the Higher Education Student Assistance Act.

18 (oo) Communications, notes, records, and reports
19 arising out of a peer support counseling session
20 prohibited from disclosure under the First Responders
21 Suicide Prevention Act.

22 (pp) Names and all identifying information relating to
23 an employee of an emergency services provider or law
24 enforcement agency under the First Responders Suicide
25 Prevention Act.

26 (qq) Information and records held by the Department of

1 Public Health and its authorized representatives collected
2 under the Reproductive Health Act.

3 (rr) Information that is exempt from disclosure under
4 the Cannabis Regulation and Tax Act.

5 (ss) Data reported by an employer to the Department of
6 Human Rights pursuant to Section 2-108 of the Illinois
7 Human Rights Act.

8 (tt) Recordings made under the Children's Advocacy
9 Center Act, except to the extent authorized under that
10 Act.

11 (uu) Information that is exempt from disclosure under
12 Section 50 of the Sexual Assault Evidence Submission Act.

13 (vv) Information that is exempt from disclosure under
14 subsections (f) and (j) of Section 5-36 of the Illinois
15 Public Aid Code.

16 (ww) Information that is exempt from disclosure under
17 Section 16.8 of the State Treasurer Act.

18 (xx) Information that is exempt from disclosure or
19 information that shall not be made public under the
20 Illinois Insurance Code.

21 (yy) Information prohibited from being disclosed under
22 the Illinois Educational Labor Relations Act.

23 (zz) Information prohibited from being disclosed under
24 the Illinois Public Labor Relations Act.

25 (aaa) Information prohibited from being disclosed
26 under Section 1-167 of the Illinois Pension Code.

1 (bbb) Information that is prohibited from disclosure
2 by the Illinois Police Training Act and the Illinois State
3 Police Act.

4 (ccc) Records exempt from disclosure under Section
5 2605-304 of the Illinois State Police Law of the Civil
6 Administrative Code of Illinois.

7 (ddd) Information prohibited from being disclosed
8 under Section 35 of the Address Confidentiality for
9 Victims of Domestic Violence, Sexual Assault, Human
10 Trafficking, or Stalking Act.

11 (eee) Information prohibited from being disclosed
12 under subsection (b) of Section 75 of the Domestic
13 Violence Fatality Review Act.

14 (fff) Images from cameras under the Expressway Camera
15 Act. This subsection (fff) is inoperative on and after
16 July 1, 2023.

17 (ggg) Information prohibited from disclosure under
18 paragraph (3) of subsection (a) of Section 14 of the Nurse
19 Agency Licensing Act.

20 (hhh) Information submitted to the Department of State
21 Police in an affidavit or application for an assault
22 weapon endorsement, assault weapon attachment endorsement,
23 .50 caliber rifle endorsement, or .50 caliber cartridge
24 endorsement under the Firearm Owners Identification Card
25 Act.

26 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;

1 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.
2 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,
3 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;
4 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.
5 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,
6 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;
7 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff.
8 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23.)

9 Section 5. The Department of Healthcare and Family
10 Services Law is amended by adding Section 2205-40 as follows:

11 (20 ILCS 2205/2205-40 new)

12 Sec. 2205-40. Dissolution of the Health Information
13 Exchange Office and Fund.

14 (a) Staff employed by the Illinois Health Information
15 Exchange Office (Office) on the effective date of this
16 amendatory Act of the 103rd General Assembly shall remain
17 employed and continue their service within the Department of
18 Healthcare and Family Services after the repeal of the
19 Illinois Health Information Exchange and Technology Act and
20 the cessation or dissolution of the Office. The status and
21 rights of such employees shall not be affected by the repeal of
22 the Illinois Health Information Exchange and Technology Act or
23 the cessation of the Office except that, notwithstanding any
24 other State law to the contrary, those employees shall

1 maintain their seniority and their positions shall convert to
2 titles of comparable organizational level under the Personnel
3 Code and become subject to the Personnel Code. Other than the
4 changes described in this paragraph, the rights of employees,
5 the State of Illinois, and State agencies under the Personnel
6 Code or under any pension, retirement, or annuity plan shall
7 not be affected by this amendatory Act of the 103rd General
8 Assembly.

9 (b) Notwithstanding any other provision of law to the
10 contrary, and in addition to any other transfers that may be
11 provided by law, on the effective date of this amendatory Act
12 of the 103rd General Assembly, or as soon thereafter as
13 practical, the State Comptroller shall direct and the State
14 Treasurer shall transfer the remaining balance from the Health
15 Information Exchange Fund to the General Revenue Fund. Upon
16 completion of the transfer, the Health Information Exchange
17 Fund is dissolved, and any future deposits due to that Fund and
18 any outstanding obligations or liabilities of that Fund shall
19 pass to the General Revenue Fund.

20 Section 10. The Illinois Health Information Exchange and
21 Technology Act is amended by changing Section 997 as follows:

22 (20 ILCS 3860/997)

23 (Section scheduled to be repealed on January 1, 2027)

24 Sec. 997. Repealer. This Act is repealed on July 1, 2023

1 ~~January 1, 2027.~~

2 (Source: P.A. 102-43, eff. 7-6-21.)

3 Section 15. The Illinois Public Aid Code is amended by
4 changing Section 12-4.48 as follows:

5 (305 ILCS 5/12-4.48)

6 Sec. 12-4.48. Long-Term Services and Supports Disparities
7 Workgroup ~~Task Force~~.

8 (a) The Department of Healthcare and Family Services shall
9 establish a Long-Term Services and Supports Disparities
10 Workgroup of the Medicaid Advisory Committee in accordance
11 with the requirements of 42 CFR 431.12 ~~Task Force~~.

12 (b) Members of the Workgroup ~~Task Force~~ shall be appointed
13 by the Director of the Department of Healthcare and Family
14 Services and may ~~shall~~ include representatives of the
15 following agencies, organizations, or groups:

16 (1) (Blank). ~~The Governor's office.~~

17 (2) (Blank). ~~The Department of Healthcare and Family~~
18 ~~Services.~~

19 (3) (Blank). ~~The Department of Human Services.~~

20 (4) (Blank). ~~The Department on Aging.~~

21 (5) (Blank). ~~The Department of Human Rights.~~

22 (6) (Blank). ~~Area Agencies on Aging.~~

23 (7) (Blank). ~~The Department of Public Health.~~

24 (8) Managed Care Plans.

1 (9) The for-profit urban nursing home or assisted
2 living industry.

3 (10) The for-profit rural nursing home or assisted
4 living industry.

5 (11) The not-for-profit nursing home or assisted
6 living industry.

7 (12) The home care association or home care industry.

8 (13) The adult day care association or adult day care
9 industry.

10 (14) An association representing workers who provide
11 long-term services and supports.

12 (15) A representative of providers that serve the
13 predominantly ethnic minority populations.

14 (16) Case Management Organizations.

15 (17) Three consumer representatives which may include
16 a consumer of long-term services and supports or an
17 individual who advocates for such consumers. For purposes
18 of this provision, "consumer representative" means a
19 person who is not an elected official and who has no
20 financial interest in a health or long-term care delivery
21 system.

22 (b-5) In addition, one representative from each of the
23 following may serve ex officio: the Governor's Office; the
24 Department of Healthcare and Family Services; the Department
25 of Human Services; the Department on Aging; the Department of
26 Public Health; and the Department of Human Rights.

1 (c) The Workgroup ~~The Task Force shall not meet unless all~~
2 ~~consumer representative positions are filled. The Task Force~~
3 shall reflect diversity in race, ethnicity, and gender.

4 (d) The Chair of the Workgroup ~~Task Force~~ shall be
5 appointed by the Director of the Department of Healthcare and
6 Family Services.

7 (e) The Director of the Department of Healthcare and
8 Family Services shall assign appropriate staff and resources
9 to support the efforts of the Workgroup. ~~The Workgroup Task~~
10 ~~Force. The Task Force~~ shall meet as often as necessary but not
11 less than 4 times per calendar year.

12 (f) The Workgroup ~~Task Force~~ shall promote and facilitate
13 communication, coordination, and collaboration among relevant
14 State agencies and communities of color, limited
15 English-speaking communities, and the private and public
16 entities providing services to those communities.

17 (g) The Workgroup ~~Task Force~~ shall do all of the
18 following:

19 (1) Document the number and types of Long-Term
20 Services and Supports (LTSS) providers in the State and
21 the number of clients served in each setting.

22 (2) Document the number and racial profiles of
23 residents using LTSS, including, but not limited to,
24 residential nursing facilities, assisted living
25 facilities, adult day care, home health services, and
26 other home and community based long-term care services.

1 (3) Document the number and profiles of family or
2 informal caregivers who provide care for minority elders.

3 (4) Compare data over multiple years to identify
4 trends in the delivery of LTSS for each racial or ethnic
5 category including: Alaskan Native or American Indian,
6 Asian or Pacific Islander, black or African American,
7 Hispanic, or white.

8 (5) Identify any racial disparities in the provision
9 of care in various LTSS settings and determine factors
10 that might influence the disparities found.

11 (6) Identify any disparities uniquely experienced in
12 metropolitan or rural areas and make recommendations to
13 address these areas.

14 (7) Assess whether the LTSS industry, including
15 managed care plans and independent providers, is equipped
16 to offer culturally sensitive, competent, and
17 linguistically appropriate care to meet the needs of a
18 diverse aging population and their informal and formal
19 caregivers.

20 (8) Consider whether to recommend that the State
21 require all home and community based services as a
22 condition of licensure to report data similar to that
23 gathered under the Minimum Data Set and required when a
24 new resident is admitted to a nursing home.

25 (9) Identify and prioritize recommendations for
26 actions to be taken by the State to address disparity

1 issues identified in the course of these studies.

2 (10) Monitor the progress of the State in eliminating
3 racial disparities in the delivery of LTSS.

4 (h) The Workgroup may ~~Task Force shall~~ conduct public
5 hearings, inquiries, studies, and other forms of information
6 gathering to identify how the actions of State government
7 contribute to or reduce racial disparities in long-term care
8 settings.

9 (i) The Workgroup ~~Task Force~~ shall report its findings and
10 recommendations to the Governor and the General Assembly with
11 annual ~~no later than one year after the effective date of this~~
12 ~~amendatory Act of the 98th General Assembly. Annual~~ reports
13 ~~shall be issued every year thereafter~~ and shall include
14 documentation of progress made to eliminate disparities in
15 long-term care service settings.

16 (Source: P.A. 98-825, eff. 8-1-14; 99-78, eff. 7-20-15.)

17 Section 20. The Medical Patient Rights Act is amended by
18 changing Section 3 as follows:

19 (410 ILCS 50/3) (from Ch. 111 1/2, par. 5403)

20 Sec. 3. The following rights are hereby established:

21 (a) The right of each patient to care consistent with
22 sound nursing and medical practices, to be informed of the
23 name of the physician responsible for coordinating his or
24 her care, to receive information concerning his or her

1 condition and proposed treatment, to refuse any treatment
2 to the extent permitted by law, and to privacy and
3 confidentiality of records except as otherwise provided by
4 law.

5 (b) The right of each patient, regardless of source of
6 payment, to examine and receive a reasonable explanation
7 of his total bill for services rendered by his physician
8 or health care provider, including the itemized charges
9 for specific services received. Each physician or health
10 care provider shall be responsible only for a reasonable
11 explanation of those specific services provided by such
12 physician or health care provider.

13 (c) In the event an insurance company or health
14 services corporation cancels or refuses to renew an
15 individual policy or plan, the insured patient shall be
16 entitled to timely, prior notice of the termination of
17 such policy or plan.

18 An insurance company or health services corporation
19 that requires any insured patient or applicant for new or
20 continued insurance or coverage to be tested for infection
21 with human immunodeficiency virus (HIV) or any other
22 identified causative agent of acquired immunodeficiency
23 syndrome (AIDS) shall (1) give the patient or applicant
24 prior written notice of such requirement, (2) proceed with
25 such testing only upon the written authorization of the
26 applicant or patient, and (3) keep the results of such

1 testing confidential. Notice of an adverse underwriting or
2 coverage decision may be given to any appropriately
3 interested party, but the insurer may only disclose the
4 test result itself to a physician designated by the
5 applicant or patient, and any such disclosure shall be in
6 a manner that assures confidentiality.

7 The Department of Insurance shall enforce the
8 provisions of this subsection.

9 (d) The right of each patient to privacy and
10 confidentiality in health care. Each physician, health
11 care provider, health services corporation and insurance
12 company shall refrain from disclosing the nature or
13 details of services provided to patients, except that such
14 information may be disclosed: (1) to the patient, (2) to
15 the party making treatment decisions if the patient is
16 incapable of making decisions regarding the health
17 services provided, (3) for treatment in accordance with 45
18 CFR 164.501 and 164.506, (4) for payment in accordance
19 with 45 CFR 164.501 and 164.506, (5) to those parties
20 responsible for peer review, utilization review, and
21 quality assurance, (6) for health care operations in
22 accordance with 45 CFR 164.501 and 164.506, (7) to those
23 parties required to be notified under the Abused and
24 Neglected Child Reporting Act or the Illinois Sexually
25 Transmissible Disease Control Act, or (8) as otherwise
26 permitted, authorized, or required by State or federal

1 law. This right may be waived in writing by the patient or
2 the patient's guardian or legal representative, but a
3 physician or other health care provider may not condition
4 the provision of services on the patient's, guardian's, or
5 legal representative's agreement to sign such a waiver. In
6 the interest of public health, safety, and welfare,
7 patient information, including, but not limited to, health
8 information, demographic information, and information
9 about the services provided to patients, may be
10 transmitted to or through a health information exchange,
11 as that term is defined in Section 2 of the Mental Health
12 and Developmental Disabilities Confidentiality Act, in
13 accordance with the disclosures permitted pursuant to this
14 Section. Patients shall be provided the opportunity to opt
15 out of their health information being transmitted to or
16 through a health information exchange ~~in accordance with~~
17 ~~the regulations, standards, or contractual obligations~~
18 ~~adopted by the Illinois Health Information Exchange Office~~
19 in accordance with Section 9.6 of the Mental Health and
20 Developmental Disabilities Confidentiality Act, Section
21 9.6 of the AIDS Confidentiality Act, or Section 31.8 of
22 the Genetic Information Privacy Act, as applicable. In the
23 case of a patient choosing to opt out of having his or her
24 information available on an HIE, nothing in this Act shall
25 cause the physician or health care provider to be liable
26 for the release of a patient's health information by other

1 entities that may possess such information, including, but
2 not limited to, other health professionals, providers,
3 laboratories, pharmacies, hospitals, ambulatory surgical
4 centers, and nursing homes.

5 (Source: P.A. 101-649, eff. 7-7-20.)

6 Section 25. The AIDS Confidentiality Act is amended by
7 changing Section 3 as follows:

8 (410 ILCS 305/3) (from Ch. 111 1/2, par. 7303)

9 Sec. 3. Definitions. When used in this Act:

10 (a) "AIDS" means acquired immunodeficiency syndrome.

11 (b) "Authority" means the Illinois Health Information
12 Exchange Authority established pursuant to the Illinois Health
13 Information Exchange and Technology Act.

14 (c) "Business associate" has the meaning ascribed to it
15 under HIPAA, as specified in 45 CFR 160.103.

16 (d) "Covered entity" has the meaning ascribed to it under
17 HIPAA, as specified in 45 CFR 160.103.

18 (e) "De-identified information" means health information
19 that is not individually identifiable as described under
20 HIPAA, as specified in 45 CFR 164.514(b).

21 (f) "Department" means the Illinois Department of Public
22 Health or its designated agents.

23 (g) "Disclosure" has the meaning ascribed to it under
24 HIPAA, as specified in 45 CFR 160.103.

1 (h) "Health care operations" has the meaning ascribed to
2 it under HIPAA, as specified in 45 CFR 164.501.

3 (i) "Health care professional" means (i) a licensed
4 physician, (ii) a licensed physician assistant, (iii) a
5 licensed advanced practice registered nurse, (iv) an advanced
6 practice registered nurse or physician assistant who practices
7 in a hospital or ambulatory surgical treatment center and
8 possesses appropriate clinical privileges, (v) a licensed
9 dentist, (vi) a licensed podiatric physician, or (vii) an
10 individual certified to provide HIV testing and counseling by
11 a state or local public health department.

12 (j) "Health care provider" has the meaning ascribed to it
13 under HIPAA, as specified in 45 CFR 160.103.

14 (k) "Health facility" means a hospital, nursing home,
15 blood bank, blood center, sperm bank, or other health care
16 institution, including any "health facility" as that term is
17 defined in the Illinois Finance Authority Act.

18 (l) "Health information exchange" or "HIE" means a health
19 information exchange or health information organization that
20 oversees and governs the electronic exchange of health
21 information ~~that (i) is established pursuant to the Illinois~~
22 ~~Health Information Exchange and Technology Act, or any~~
23 ~~subsequent amendments thereto, and any administrative rules~~
24 ~~adopted thereunder; (ii) has established a data sharing~~
25 ~~arrangement with the Authority; or (iii) as of August 16,~~
26 ~~2013, was designated by the Authority Board as a member of, or~~

1 ~~was represented on, the Authority Board's Regional Health~~
2 ~~Information Exchange Workgroup; provided that such designation~~
3 ~~shall not require the establishment of a data sharing~~
4 ~~arrangement or other participation with the Illinois Health~~
5 ~~Information Exchange or the payment of any fee.~~ In certain
6 circumstances, in accordance with HIPAA, an HIE will be a
7 business associate.

8 (m) "Health oversight agency" has the meaning ascribed to
9 it under HIPAA, as specified in 45 CFR 164.501.

10 (n) "HIPAA" means the Health Insurance Portability and
11 Accountability Act of 1996, Public Law 104-191, as amended by
12 the Health Information Technology for Economic and Clinical
13 Health Act of 2009, Public Law 111-05, and any subsequent
14 amendments thereto and any regulations promulgated thereunder.

15 (o) "HIV" means the human immunodeficiency virus.

16 (p) "HIV-related information" means the identity of a
17 person upon whom an HIV test is performed, the results of an
18 HIV test, as well as diagnosis, treatment, and prescription
19 information that reveals a patient is HIV-positive, including
20 such information contained in a limited data set. "HIV-related
21 information" does not include information that has been
22 de-identified in accordance with HIPAA.

23 (q) "Informed consent" means:

24 (1) where a health care provider, health care
25 professional, or health facility has implemented opt-in
26 testing, a process by which an individual or their legal

1 representative receives pre-test information, has an
2 opportunity to ask questions, and consents verbally or in
3 writing to the test without undue inducement or any
4 element of force, fraud, deceit, duress, or other form of
5 constraint or coercion; or

6 (2) where a health care provider, health care
7 professional, or health facility has implemented opt-out
8 testing, the individual or their legal representative has
9 been notified verbally or in writing that the test is
10 planned, has received pre-test information, has been given
11 the opportunity to ask questions and the opportunity to
12 decline testing, and has not declined testing; where such
13 notice is provided, consent for opt-out HIV testing may be
14 incorporated into the patient's general consent for
15 medical care on the same basis as are other screening or
16 diagnostic tests; a separate consent for opt-out HIV
17 testing is not required.

18 In addition, where the person providing informed consent
19 is a participant in an HIE, informed consent requires a fair
20 explanation that the results of the patient's HIV test will be
21 accessible through an HIE and meaningful disclosure of the
22 patient's opt-out right under Section 9.6 of this Act.

23 A health care provider, health care professional, or
24 health facility undertaking an informed consent process for
25 HIV testing under this subsection may combine a form used to
26 obtain informed consent for HIV testing with forms used to

1 obtain written consent for general medical care or any other
2 medical test or procedure, provided that the forms make it
3 clear that the subject may consent to general medical care,
4 tests, or procedures without being required to consent to HIV
5 testing, and clearly explain how the subject may decline HIV
6 testing. Health facility clerical staff or other staff
7 responsible for the consent form for general medical care may
8 obtain consent for HIV testing through a general consent form.

9 (r) "Limited data set" has the meaning ascribed to it
10 under HIPAA, as described in 45 CFR 164.514(e)(2).

11 (s) "Minimum necessary" means the HIPAA standard for
12 using, disclosing, and requesting protected health information
13 found in 45 CFR 164.502(b) and 164.514(d).

14 (s-1) "Opt-in testing" means an approach where an HIV test
15 is presented by offering the test and the patient accepts or
16 declines testing.

17 (s-3) "Opt-out testing" means an approach where an HIV
18 test is presented such that a patient is notified that HIV
19 testing may occur unless the patient declines.

20 (t) "Organized health care arrangement" has the meaning
21 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

22 (u) "Patient safety activities" has the meaning ascribed
23 to it under 42 CFR 3.20.

24 (v) "Payment" has the meaning ascribed to it under HIPAA,
25 as specified in 45 CFR 164.501.

26 (w) "Person" includes any natural person, partnership,

1 association, joint venture, trust, governmental entity, public
2 or private corporation, health facility, or other legal
3 entity.

4 (w-5) "Pre-test information" means:

5 (1) a reasonable explanation of the test, including
6 its purpose, potential uses, limitations, and the meaning
7 of its results; and

8 (2) a reasonable explanation of the procedures to be
9 followed, including the voluntary nature of the test, the
10 availability of a qualified person to answer questions,
11 the right to withdraw consent to the testing process at
12 any time, the right to anonymity to the extent provided by
13 law with respect to participation in the test and
14 disclosure of test results, and the right to confidential
15 treatment of information identifying the subject of the
16 test and the results of the test, to the extent provided by
17 law.

18 Pre-test information may be provided in writing, verbally,
19 or by video, electronic, or other means and may be provided as
20 designated by the supervising health care professional or the
21 health facility.

22 For the purposes of this definition, a qualified person to
23 answer questions is a health care professional or, when acting
24 under the supervision of a health care professional, a
25 registered nurse, medical assistant, or other person
26 determined to be sufficiently knowledgeable about HIV testing,

1 its purpose, potential uses, limitations, the meaning of the
2 test results, and the testing procedures in the professional
3 judgment of a supervising health care professional or as
4 designated by a health care facility.

5 (x) "Protected health information" has the meaning
6 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

7 (y) "Research" has the meaning ascribed to it under HIPAA,
8 as specified in 45 CFR 164.501.

9 (z) "State agency" means an instrumentality of the State
10 of Illinois and any instrumentality of another state that,
11 pursuant to applicable law or a written undertaking with an
12 instrumentality of the State of Illinois, is bound to protect
13 the privacy of HIV-related information of Illinois persons.

14 (aa) "Test" or "HIV test" means a test to determine the
15 presence of the antibody or antigen to HIV, or of HIV
16 infection.

17 (bb) "Treatment" has the meaning ascribed to it under
18 HIPAA, as specified in 45 CFR 164.501.

19 (cc) "Use" has the meaning ascribed to it under HIPAA, as
20 specified in 45 CFR 160.103, where context dictates.

21 (Source: P.A. 99-54, eff. 1-1-16; 99-173, eff. 7-29-15;
22 99-642, eff. 7-28-16; 100-513, eff. 1-1-18.)

23 Section 30. The Genetic Information Privacy Act is amended
24 by changing Section 10 as follows:

1 (410 ILCS 513/10)

2 Sec. 10. Definitions. As used in this Act:

3 ~~"Office" means the Illinois Health Information Exchange~~
4 ~~Office established pursuant to the Illinois Health Information~~
5 ~~Exchange and Technology Act.~~

6 "Business associate" has the meaning ascribed to it under
7 HIPAA, as specified in 45 CFR 160.103.

8 "Covered entity" has the meaning ascribed to it under
9 HIPAA, as specified in 45 CFR 160.103.

10 "De-identified information" means health information that
11 is not individually identifiable as described under HIPAA, as
12 specified in 45 CFR 164.514(b).

13 "Disclosure" has the meaning ascribed to it under HIPAA,
14 as specified in 45 CFR 160.103.

15 "Employer" means the State of Illinois, any unit of local
16 government, and any board, commission, department,
17 institution, or school district, any party to a public
18 contract, any joint apprenticeship or training committee
19 within the State, and every other person employing employees
20 within the State.

21 "Employment agency" means both public and private
22 employment agencies and any person, labor organization, or
23 labor union having a hiring hall or hiring office regularly
24 undertaking, with or without compensation, to procure
25 opportunities to work, or to procure, recruit, refer, or place
26 employees.

1 "Family member" means, with respect to an individual, (i)
2 the spouse of the individual; (ii) a dependent child of the
3 individual, including a child who is born to or placed for
4 adoption with the individual; (iii) any other person
5 qualifying as a covered dependent under a managed care plan;
6 and (iv) all other individuals related by blood or law to the
7 individual or the spouse or child described in subsections (i)
8 through (iii) of this definition.

9 "Genetic information" has the meaning ascribed to it under
10 HIPAA, as specified in 45 CFR 160.103.

11 "Genetic monitoring" means the periodic examination of
12 employees to evaluate acquired modifications to their genetic
13 material, such as chromosomal damage or evidence of increased
14 occurrence of mutations that may have developed in the course
15 of employment due to exposure to toxic substances in the
16 workplace in order to identify, evaluate, and respond to
17 effects of or control adverse environmental exposures in the
18 workplace.

19 "Genetic services" has the meaning ascribed to it under
20 HIPAA, as specified in 45 CFR 160.103.

21 "Genetic testing" and "genetic test" have the meaning
22 ascribed to "genetic test" under HIPAA, as specified in 45 CFR
23 160.103. "Genetic testing" includes direct-to-consumer
24 commercial genetic testing.

25 "Health care operations" has the meaning ascribed to it
26 under HIPAA, as specified in 45 CFR 164.501.

1 "Health care professional" means (i) a licensed physician,
2 (ii) a licensed physician assistant, (iii) a licensed advanced
3 practice registered nurse, (iv) a licensed dentist, (v) a
4 licensed podiatrist, (vi) a licensed genetic counselor, or
5 (vii) an individual certified to provide genetic testing by a
6 state or local public health department.

7 "Health care provider" has the meaning ascribed to it
8 under HIPAA, as specified in 45 CFR 160.103.

9 "Health facility" means a hospital, blood bank, blood
10 center, sperm bank, or other health care institution,
11 including any "health facility" as that term is defined in the
12 Illinois Finance Authority Act.

13 "Health information exchange" or "HIE" means a health
14 information exchange or health information organization that
15 exchanges health information electronically ~~that (i) is~~
16 ~~established pursuant to the Illinois Health Information~~
17 ~~Exchange and Technology Act, or any subsequent amendments~~
18 ~~thereto, and any administrative rules promulgated thereunder;~~
19 ~~(ii) has established a data sharing arrangement with the~~
20 ~~Office; or (iii) as of August 16, 2013, was designated by the~~
21 ~~Illinois Health Information Exchange Authority (now Office)~~
22 ~~Board as a member of, or was represented on, the Authority~~
23 ~~Board's Regional Health Information Exchange Workgroup;~~
24 ~~provided that such designation shall not require the~~
25 ~~establishment of a data sharing arrangement or other~~
26 ~~participation with the Illinois Health Information Exchange or~~

1 ~~the payment of any fee.~~ In certain circumstances, in
2 accordance with HIPAA, an HIE will be a business associate.

3 "Health oversight agency" has the meaning ascribed to it
4 under HIPAA, as specified in 45 CFR 164.501.

5 "HIPAA" means the Health Insurance Portability and
6 Accountability Act of 1996, Public Law 104-191, as amended by
7 the Health Information Technology for Economic and Clinical
8 Health Act of 2009, Public Law 111-05, and any subsequent
9 amendments thereto and any regulations promulgated thereunder.

10 "Insurer" means (i) an entity that is subject to the
11 jurisdiction of the Director of Insurance and (ii) a managed
12 care plan.

13 "Labor organization" includes any organization, labor
14 union, craft union, or any voluntary unincorporated
15 association designed to further the cause of the rights of
16 union labor that is constituted for the purpose, in whole or in
17 part, of collective bargaining or of dealing with employers
18 concerning grievances, terms or conditions of employment, or
19 apprenticeships or applications for apprenticeships, or of
20 other mutual aid or protection in connection with employment,
21 including apprenticeships or applications for apprenticeships.

22 "Licensing agency" means a board, commission, committee,
23 council, department, or officers, except a judicial officer,
24 in this State or any political subdivision authorized to
25 grant, deny, renew, revoke, suspend, annul, withdraw, or amend
26 a license or certificate of registration.

1 "Limited data set" has the meaning ascribed to it under
2 HIPAA, as described in 45 CFR 164.514(e)(2).

3 "Managed care plan" means a plan that establishes,
4 operates, or maintains a network of health care providers that
5 have entered into agreements with the plan to provide health
6 care services to enrollees where the plan has the ultimate and
7 direct contractual obligation to the enrollee to arrange for
8 the provision of or pay for services through:

9 (1) organizational arrangements for ongoing quality
10 assurance, utilization review programs, or dispute
11 resolution; or

12 (2) financial incentives for persons enrolled in the
13 plan to use the participating providers and procedures
14 covered by the plan.

15 A managed care plan may be established or operated by any
16 entity including a licensed insurance company, hospital or
17 medical service plan, health maintenance organization, limited
18 health service organization, preferred provider organization,
19 third party administrator, or an employer or employee
20 organization.

21 "Minimum necessary" means HIPAA's standard for using,
22 disclosing, and requesting protected health information found
23 in 45 CFR 164.502(b) and 164.514(d).

24 "Nontherapeutic purpose" means a purpose that is not
25 intended to improve or preserve the life or health of the
26 individual whom the information concerns.

1 "Organized health care arrangement" has the meaning
2 ascribed to it under HIPAA, as specified in 45 CFR 160.103.

3 "Patient safety activities" has the meaning ascribed to it
4 under 42 CFR 3.20.

5 "Payment" has the meaning ascribed to it under HIPAA, as
6 specified in 45 CFR 164.501.

7 "Person" includes any natural person, partnership,
8 association, joint venture, trust, governmental entity, public
9 or private corporation, health facility, or other legal
10 entity.

11 "Protected health information" has the meaning ascribed to
12 it under HIPAA, as specified in 45 CFR 164.103.

13 "Research" has the meaning ascribed to it under HIPAA, as
14 specified in 45 CFR 164.501.

15 "State agency" means an instrumentality of the State of
16 Illinois and any instrumentality of another state which
17 pursuant to applicable law or a written undertaking with an
18 instrumentality of the State of Illinois is bound to protect
19 the privacy of genetic information of Illinois persons.

20 "Treatment" has the meaning ascribed to it under HIPAA, as
21 specified in 45 CFR 164.501.

22 "Use" has the meaning ascribed to it under HIPAA, as
23 specified in 45 CFR 160.103, where context dictates.

24 (Source: P.A. 100-513, eff. 1-1-18; 101-132, eff. 1-1-20;
25 101-649, eff. 7-7-20.)

1 Section 35. The Mental Health and Developmental
2 Disabilities Confidentiality Act is amended by changing
3 Sections 2, 9.5, 9.6, 9.8, 9.9, and 9.11 as follows:

4 (740 ILCS 110/2) (from Ch. 91 1/2, par. 802)

5 Sec. 2. The terms used in this Act, unless the context
6 requires otherwise, have the meanings ascribed to them in this
7 Section.

8 "Agent" means a person who has been legally appointed as
9 an individual's agent under a power of attorney for health
10 care or for property.

11 "Business associate" has the meaning ascribed to it under
12 HIPAA, as specified in 45 CFR 160.103.

13 "Confidential communication" or "communication" means any
14 communication made by a recipient or other person to a
15 therapist or to or in the presence of other persons during or
16 in connection with providing mental health or developmental
17 disability services to a recipient. Communication includes
18 information which indicates that a person is a recipient.
19 "Communication" does not include information that has been
20 de-identified in accordance with HIPAA, as specified in 45 CFR
21 164.514.

22 "Covered entity" has the meaning ascribed to it under
23 HIPAA, as specified in 45 CFR 160.103.

24 "Guardian" means a legally appointed guardian or
25 conservator of the person.

1 "Health information exchange" or "HIE" means a health
2 information exchange or health information organization that
3 oversees and governs the electronic exchange of health
4 information ~~that (i) is established pursuant to the Illinois~~
5 ~~Health Information Exchange and Technology Act, or any~~
6 ~~subsequent amendments thereto, and any administrative rules~~
7 ~~promulgated thereunder; or (ii) has established a data sharing~~
8 ~~arrangement with the Illinois Health Information Exchange; or~~
9 ~~(iii) as of the effective date of this amendatory Act of the~~
10 ~~98th General Assembly, was designated by the Illinois Health~~
11 ~~Information Exchange Office Board as a member of, or was~~
12 ~~represented on, the Office Board's Regional Health Information~~
13 ~~Exchange Workgroup; provided that such designation shall not~~
14 ~~require the establishment of a data sharing arrangement or~~
15 ~~other participation with the Illinois Health Information~~
16 ~~Exchange or the payment of any fee.~~

17 "HIE purposes" means those uses and disclosures (as those
18 terms are defined under HIPAA, as specified in 45 CFR 160.103)
19 for activities of an HIE: ~~(i) set forth in the Illinois Health~~
20 ~~Information Exchange and Technology Act or any subsequent~~
21 ~~amendments thereto and any administrative rules promulgated~~
22 ~~thereunder; or (ii) which are permitted under federal law.~~

23 "HIPAA" means the Health Insurance Portability and
24 Accountability Act of 1996, Public Law 104-191, and any
25 subsequent amendments thereto and any regulations promulgated
26 thereunder, including the Security Rule, as specified in 45

1 CFR 164.302-18, and the Privacy Rule, as specified in 45 CFR
2 164.500-34.

3 "Integrated health system" means an organization with a
4 system of care which incorporates physical and behavioral
5 healthcare and includes care delivered in an inpatient and
6 outpatient setting.

7 "Interdisciplinary team" means a group of persons
8 representing different clinical disciplines, such as medicine,
9 nursing, social work, and psychology, providing and
10 coordinating the care and treatment for a recipient of mental
11 health or developmental disability services. The group may be
12 composed of individuals employed by one provider or multiple
13 providers.

14 "Mental health or developmental disabilities services" or
15 "services" includes but is not limited to examination,
16 diagnosis, evaluation, treatment, training, pharmaceuticals,
17 aftercare, habilitation or rehabilitation.

18 "Personal notes" means:

19 (i) information disclosed to the therapist in
20 confidence by other persons on condition that such
21 information would never be disclosed to the recipient or
22 other persons;

23 (ii) information disclosed to the therapist by the
24 recipient which would be injurious to the recipient's
25 relationships to other persons, and

26 (iii) the therapist's speculations, impressions,

1 hunches, and reminders.

2 "Parent" means a parent or, in the absence of a parent or
3 guardian, a person in loco parentis.

4 "Recipient" means a person who is receiving or has
5 received mental health or developmental disabilities services.

6 "Record" means any record kept by a therapist or by an
7 agency in the course of providing mental health or
8 developmental disabilities service to a recipient concerning
9 the recipient and the services provided. "Records" includes
10 all records maintained by a court that have been created in
11 connection with, in preparation for, or as a result of the
12 filing of any petition or certificate under Chapter II,
13 Chapter III, or Chapter IV of the Mental Health and
14 Developmental Disabilities Code and includes the petitions,
15 certificates, dispositional reports, treatment plans, and
16 reports of diagnostic evaluations and of hearings under
17 Article VIII of Chapter III or under Article V of Chapter IV of
18 that Code. Record does not include the therapist's personal
19 notes, if such notes are kept in the therapist's sole
20 possession for his own personal use and are not disclosed to
21 any other person, except the therapist's supervisor,
22 consulting therapist or attorney. If at any time such notes
23 are disclosed, they shall be considered part of the
24 recipient's record for purposes of this Act. "Record" does not
25 include information that has been de-identified in accordance
26 with HIPAA, as specified in 45 CFR 164.514. "Record" does not

1 include a reference to the receipt of mental health or
2 developmental disabilities services noted during a patient
3 history and physical or other summary of care.

4 "Record custodian" means a person responsible for
5 maintaining a recipient's record.

6 "Therapist" means a psychiatrist, physician, psychologist,
7 social worker, or nurse providing mental health or
8 developmental disabilities services or any other person not
9 prohibited by law from providing such services or from holding
10 himself out as a therapist if the recipient reasonably
11 believes that such person is permitted to do so. Therapist
12 includes any successor of the therapist.

13 "Therapeutic relationship" means the receipt by a
14 recipient of mental health or developmental disabilities
15 services from a therapist. "Therapeutic relationship" does not
16 include independent evaluations for a purpose other than the
17 provision of mental health or developmental disabilities
18 services.

19 (Source: P.A. 101-649, eff. 7-7-20.)

20 (740 ILCS 110/9.5)

21 Sec. 9.5. Use and disclosure of information to an HIE.

22 (a) An HIE, person, therapist, facility, agency,
23 interdisciplinary team, integrated health system, business
24 associate, or covered entity may, without a recipient's
25 consent, use or disclose information from a recipient's record

1 in connection with an HIE, ~~including disclosure to the~~
2 ~~Illinois Health Information Exchange Office,~~ an HIE, or the
3 business associate of either. An HIE and its business
4 associate may, without a recipient's consent, use or disclose
5 and re-disclose such information for HIE purposes or for such
6 other purposes as are specifically allowed under this Act.

7 (b) As used in this Section:

8 (1) "facility" means a developmental disability
9 facility as defined in Section 1-107 of the Mental Health
10 and Developmental Disabilities Code or a mental health
11 facility as defined in Section 1-114 of the Mental Health
12 and Developmental Disabilities Code; and

13 (2) the terms "disclosure" and "use" have the meanings
14 ascribed to them under HIPAA, as specified in 45 CFR
15 160.103.

16 (Source: P.A. 101-649, eff. 7-7-20.)

17 (740 ILCS 110/9.6)

18 Sec. 9.6. ~~HIE opt out. Participants of The Illinois Health~~
19 ~~Information Exchange Office shall, through appropriate rules,~~
20 ~~standards, or contractual obligations, which shall be binding~~
21 ~~upon~~ any HIE, as defined under Section 2, shall allow ~~require~~
22 ~~that participants of such HIE provide~~ each recipient whose
23 record is accessible through the health information exchange
24 the reasonable opportunity to expressly decline the further
25 disclosure of the record by the health information exchange to

1 third parties, except to the extent permitted by law such as
2 for purposes of public health reporting. The HIE participants
3 ~~These rules, standards, or contractual obligations~~ shall
4 permit a recipient to revoke a prior decision to opt-out or a
5 decision not to opt-out. These rules, standards, or
6 contractual obligations shall provide for written notice of a
7 recipient's right to opt-out which directs the recipient to a
8 health information exchange website containing (i) an
9 explanation of the purposes of the health information
10 exchange; and (ii) audio, visual, and written instructions on
11 how to opt-out of participation in whole or in part to the
12 extent possible. The process for effectuating an opt-out ~~These~~
13 ~~rules, standards, or contractual obligations~~ shall be reviewed
14 by the HIE participants annually and updated as the technical
15 options develop. The recipient shall be provided meaningful
16 disclosure regarding the health information exchange, and the
17 recipient's decision whether to opt-out should be obtained
18 without undue inducement or any element of force, fraud,
19 deceit, duress, or other form of constraint or coercion. To
20 the extent that HIPAA, as specified in 45 CFR 164.508(b)(4),
21 prohibits a covered entity from conditioning the provision of
22 its services upon an individual's provision of an
23 authorization, an HIE participant shall not condition the
24 provision of its services upon a recipient's decision to
25 opt-out of further disclosure of the record by an HIE to third
26 parties. ~~The Illinois Health Information Exchange Office~~

1 ~~shall, through appropriate rules, standards, or contractual~~
2 ~~obligations, which shall be binding upon any HIE, as defined~~
3 ~~under Section 2, give consideration to the format and content~~
4 ~~of the meaningful disclosure and the availability to~~
5 ~~recipients of information regarding an HIE and the rights of~~
6 ~~recipients under this Section to expressly decline the further~~
7 ~~disclosure of the record by an HIE to third parties. The HIE~~
8 ~~participants Illinois Health Information Exchange Office~~ shall
9 also give annual consideration to enable a recipient to
10 expressly decline the further disclosure by an HIE to third
11 parties of selected portions of the recipient's record while
12 permitting disclosure of the recipient's remaining patient
13 health information. In giving ~~establishing rules, standards,~~
14 ~~or contractual obligations binding upon HIEs under this~~
15 ~~Section to give~~ effect to recipient disclosure preferences,
16 the HIE participants ~~Illinois Health Information Exchange~~
17 ~~Office in its discretion~~ may consider the extent to which
18 relevant health information technologies reasonably available
19 to therapists and HIEs in this State reasonably enable the
20 effective segmentation of specific information within a
21 recipient's electronic medical record and reasonably enable
22 the effective exclusion of specific information from
23 disclosure by an HIE to third parties, as well as the
24 availability of sufficient authoritative clinical guidance to
25 enable the practical application of such technologies to
26 effect recipient disclosure preferences. The provisions of

1 this Section 9.6 shall not apply to the secure electronic
2 transmission of data which is point-to-point communication
3 directed by the data custodian. ~~Any rules or standards~~
4 ~~promulgated under this Section which apply to HIEs shall be~~
5 ~~limited to that subject matter required by this Section and~~
6 ~~shall not include any requirement that an HIE enter a data~~
7 ~~sharing arrangement or otherwise participate with the Illinois~~
8 ~~Health Information Exchange. In connection with its annual~~
9 ~~consideration regarding the issue of segmentation of~~
10 ~~information within a medical record and prior to the adoption~~
11 ~~of any rules or standards regarding that issue, the Office~~
12 ~~Board shall consider information provided by affected persons~~
13 ~~or organizations regarding the feasibility, availability,~~
14 ~~cost, reliability, and interoperability of any technology or~~
15 ~~process under consideration by the Board. Nothing in this Act~~
16 ~~shall be construed to limit the authority of the Illinois~~
17 ~~Health Information Exchange Office to impose limits or~~
18 ~~conditions on consent for disclosures to or through any HIE,~~
19 ~~as defined under Section 2, which are more restrictive than~~
20 ~~the requirements under this Act or under HIPAA.~~

21 (Source: P.A. 101-649, eff. 7-7-20.)

22 (740 ILCS 110/9.8)

23 Sec. 9.8. Business associates. An HIE, person, therapist,
24 facility, agency, interdisciplinary team, integrated health
25 system, business associate, covered entity, ~~the Illinois~~

1 ~~Health Information Exchange Office,~~ or entity facilitating the
2 establishment or operation of an HIE may, without a
3 recipient's consent, utilize the services of and disclose
4 information from a recipient's record to a business associate,
5 as defined by and in accordance with the requirements set
6 forth under HIPAA. As used in this Section, the term
7 "disclosure" has the meaning ascribed to it by HIPAA, as
8 specified in 45 CFR 160.103.

9 (Source: P.A. 101-649, eff. 7-7-20.)

10 (740 ILCS 110/9.9)

11 Sec. 9.9. Record locator service.

12 (a) An HIE, person, therapist, facility, agency,
13 interdisciplinary team, integrated health system, business
14 associate, covered entity, ~~the Illinois Health Information~~
15 ~~Exchange Office,~~ or entity facilitating the establishment or
16 operation of an HIE may, without a recipient's consent,
17 disclose the existence of a recipient's record to a record
18 locator service, master patient index, or other directory or
19 services necessary to support and enable the establishment and
20 operation of an HIE.

21 (b) As used in this Section:

22 (1) the term "disclosure" has the meaning ascribed to
23 it under HIPAA, as specified in 45 CFR 160.103; and

24 (2) "facility" means a developmental disability
25 facility as defined in Section 1-107 of the Mental Health

1 and Developmental Disabilities Code or a mental health
2 facility as defined in Section 1-114 of the Mental Health
3 and Developmental Disabilities Code.

4 (Source: P.A. 101-649, eff. 7-7-20.)

5 (740 ILCS 110/9.11)

6 Sec. 9.11. Establishment and disclosure of limited data
7 sets and de-identified information.

8 (a) An HIE, person, therapist, facility, agency,
9 interdisciplinary team, integrated health system, business
10 associate, covered entity, ~~the Illinois Health Information~~
11 ~~Exchange Office,~~ or entity facilitating the establishment or
12 operation of an HIE may, without a recipient's consent, use
13 information from a recipient's record to establish, or
14 disclose such information to a business associate to
15 establish, and further disclose information from a recipient's
16 record as part of a limited data set as defined by and in
17 accordance with the requirements set forth under HIPAA, as
18 specified in 45 CFR 164.514(e). An HIE, person, therapist,
19 facility, agency, interdisciplinary team, integrated health
20 system, business associate, covered entity, ~~the Illinois~~
21 ~~Health Information Exchange Office,~~ or entity facilitating the
22 establishment or operation of an HIE may, without a
23 recipient's consent, use information from a recipient's record
24 or disclose information from a recipient's record to a
25 business associate to de-identity the information in

1 accordance with HIPAA, as specified in 45 CFR 164.514.

2 (b) As used in this Section:

3 (1) the terms "disclosure" and "use" shall have the
4 meanings ascribed to them by HIPAA, as specified in 45 CFR
5 160.103; and

6 (2) "facility" means a developmental disability
7 facility as defined in Section 1-107 of the Mental Health
8 and Developmental Disabilities Code or a mental health
9 facility as defined in Section 1-114 of the Mental Health
10 and Developmental Disabilities Code.

11 (Source: P.A. 101-649, eff. 7-7-20.)

12 Section 40. The Workers' Compensation Act is amended by
13 changing Section 8.2a as follows:

14 (820 ILCS 305/8.2a)

15 Sec. 8.2a. Electronic claims.

16 (a) The Director of Insurance shall adopt rules to do all
17 of the following:

18 (1) Ensure that all health care providers and
19 facilities submit medical bills for payment on
20 standardized forms.

21 (2) Require acceptance by employers and insurers of
22 electronic claims for payment of medical services.

23 (3) Ensure confidentiality of medical information
24 submitted on electronic claims for payment of medical

1 services.

2 (4) Ensure that health care providers have an
3 opportunity to comply with requests for records by
4 employers and insurers for the authorization of the
5 payment of workers' compensation claims.

6 (5) Ensure that health care providers are responsible
7 for supplying only those medical records pertaining to the
8 provider's own claims that are minimally necessary under
9 the federal Health Insurance Portability and
10 Accountability Act of 1996.

11 (6) Provide that any electronically submitted bill
12 determined to be complete but not paid or objected to
13 within 30 days shall be subject to interest pursuant to
14 item (3) of subsection (d) of Section 8.2.

15 (7) Provide that the Department of Insurance shall
16 impose an administrative fine if it determines that an
17 employer or insurer has failed to comply with the
18 electronic claims acceptance and response process. The
19 amount of the administrative fine shall be no greater than
20 \$1,000 per each violation, but shall not exceed \$10,000
21 for identical violations during a calendar year.

22 (b) To the extent feasible, standards adopted pursuant to
23 subdivision (a) shall be consistent with existing standards
24 under the federal Health Insurance Portability and
25 Accountability Act of 1996 ~~and standards adopted under the~~
26 ~~Illinois Health Information Exchange and Technology Act.~~

1 (c) The rules requiring employers and insurers to accept
2 electronic claims for payment of medical services shall be
3 proposed on or before January 1, 2012, and shall require all
4 employers and insurers to accept electronic claims for payment
5 of medical services on or before June 30, 2012. The Director of
6 Insurance shall adopt rules by January 1, 2019 to implement
7 the changes to this Section made by this amendatory Act of the
8 100th General Assembly. The Commission, with assistance from
9 the Department and the Medical Fee Advisory Board, shall
10 publish on its Internet website a companion guide to assist
11 with compliance with electronic claims rules. The Medical Fee
12 Advisory Board shall periodically review the companion guide.

13 (d) The Director of Insurance shall by rule establish
14 criteria for granting exceptions to employers, insurance
15 carriers, and health care providers who are unable to submit
16 or accept medical bills electronically.

17 (Source: P.A. 100-1117, eff. 11-27-18.)

18 Section 99. Effective date. This Act takes effect July 1,
19 2023.

1 INDEX

2 Statutes amended in order of appearance

3 5 ILCS 140/7.5

4 20 ILCS 2205/2205-40 new

5 20 ILCS 3860/997

6 305 ILCS 5/12-4.48

7 410 ILCS 50/3 from Ch. 111 1/2, par. 5403

8 410 ILCS 305/3 from Ch. 111 1/2, par. 7303

9 410 ILCS 513/10

10 740 ILCS 110/2 from Ch. 91 1/2, par. 802

11 740 ILCS 110/9.5

12 740 ILCS 110/9.6

13 740 ILCS 110/9.8

14 740 ILCS 110/9.9

15 740 ILCS 110/9.11

16 820 ILCS 305/8.2a