

Senate Study Bill 3056 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC HEALTH BILL)

A BILL FOR

1 An Act relating to the Iowa health information network,
2 providing for fees, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.154, Code 2011, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 01. "*Advisory council*" means the electronic
4 health information advisory council created in section 135.156.

5 NEW SUBSECTION. 001. "*Authorized*" means having met the
6 requirements as a participant for access to and use of the Iowa
7 health information network.

8 NEW SUBSECTION. 2A. "*Exchange*" means the authorized
9 electronic sharing of health information between health care
10 professionals, payors, consumers, public health agencies, the
11 department, and other authorized participants utilizing the
12 Iowa health information network and Iowa health information
13 network services.

14 NEW SUBSECTION. 2B. "*Executive committee*" means the
15 executive committee of the electronic health information
16 advisory council created in section 135.156.

17 NEW SUBSECTION. 3A. "*Health information*" means any
18 information, in any form or medium, that is created,
19 transmitted, or received by a health care professional, payor,
20 consumer, public health agency, the department, or other
21 authorized participant, which relates to the past, present, or
22 future physical or mental health or condition of an individual;
23 the provision of health care to an individual; or the past,
24 present, or future payment for the provision of health care to
25 an individual.

26 NEW SUBSECTION. 4A. "*Health Insurance Portability and*
27 *Accountability Act*" means the federal Health Insurance
28 Portability and Accountability Act of 1996, Pub. L. No.
29 104-191, including amendments thereto and regulations
30 promulgated thereunder.

31 NEW SUBSECTION. 5A. "*Iowa health information network*" or
32 "*network*" means the statewide health information technology
33 network created in this division.

34 NEW SUBSECTION. 5B. "*Iowa Medicaid enterprise*" means the
35 Iowa Medicaid enterprise as defined in section 249J.3.

1 NEW SUBSECTION. 5C. "*Participant*" means an authorized
2 health care professional, payor, patient, health care
3 organization, public health agency, or the department that
4 has agreed to authorize, submit, access, or disclose health
5 information through the Iowa health information network in
6 accordance with this chapter and all applicable laws, rules,
7 agreements, policies, and standards.

8 NEW SUBSECTION. 5D. "*Patient*" means a person who has
9 received or is receiving health services from a health care
10 professional.

11 NEW SUBSECTION. 5E. "*Payor*" means a person who makes
12 payments for health services, including but not limited to an
13 insurance company, self-insured employer, government program,
14 individual, or other purchaser that makes such payments.

15 NEW SUBSECTION. 5F. "*Protected health information*" means
16 individually identifiable information, including demographic
17 information, related to the past, present, or future health
18 or condition of a person; the provision of health care to
19 a person; or the past, present, or future payment for such
20 health care; which is created, transmitted, or received by a
21 participant. "*Protected health information*" does not include
22 education or other records that are covered under the federal
23 Family Educational Rights and Privacy Act of 1974, as codified
24 at 20 U.S.C. § 1232g, as amended; or any employment records
25 maintained by a covered entity, as defined under the Health
26 Insurance Portability and Accountability Act, in its role as
27 an employer.

28 NEW SUBSECTION. 5G. "*Public health agency*" means an
29 entity that is governed by or contractually responsible to a
30 local board of health or the department to provide services
31 focused on the health status of population groups and their
32 environments.

33 NEW SUBSECTION. 5H. "*Purchaser*" means any individual,
34 employer, or organization that purchases health insurance or
35 services and includes intermediaries.

1 Sec. 2. Section 135.155, subsection 2, unnumbered paragraph
2 1, Code 2011, is amended to read as follows:

3 To be effective, the Iowa health information ~~technology~~
4 ~~system~~ network shall comply with all of the following
5 principles:

6 Sec. 3. Section 135.155, subsection 3, Code 2011, is amended
7 to read as follows:

8 3. Widespread adoption of health information technology is
9 critical to a successful Iowa health information ~~technology~~
10 ~~system~~ network and is best achieved when all of the following
11 occur:

12 a. The market provides a variety of certified products from
13 which to choose in order to best fit the needs of the user.

14 b. The ~~system~~ network provides incentives for health care
15 professionals to utilize the health information technology and
16 provides rewards for any improvement in quality and efficiency
17 resulting from such utilization.

18 c. The ~~system~~ network provides protocols to address critical
19 problems.

20 d. The ~~system~~ network is financed by all who benefit from
21 the improved quality, efficiency, savings, and other benefits
22 that result from use of health information technology.

23 Sec. 4. NEW SECTION. 135.155A Findings and intent — Iowa
24 health information network.

25 1. The general assembly finds all of the following:

26 a. Technology used to support health care-related functions
27 is known as health information technology. Health information
28 technology provides a mechanism to transform the delivery of
29 health and medical care in Iowa and across the nation.

30 b. A health information network involves the secure
31 electronic sharing of health information across the boundaries
32 of individual practice and institutional health settings and
33 with consumers. Broad use of health information technology and
34 a health information network should improve health care quality
35 and the overall health of the population, increase efficiencies

1 in administrative health care, reduce unnecessary health care
2 costs, and help prevent medical errors.

3 2. It is the intent of the general assembly that Iowa
4 establish a statewide health information technology network.
5 The Iowa health information network shall not constitute a
6 health benefit network or a health insurance network. Nothing
7 in this division shall be interpreted to impede or preclude the
8 formation and operation of regional, population-specific, or
9 local health information networks or their participation in the
10 Iowa health information network.

11 Sec. 5. Section 135.156, subsection 1, paragraphs a and b,
12 Code Supplement 2011, are amended to read as follows:

13 a. The department shall direct a public and private
14 collaborative effort to promote the adoption and use of health
15 information technology in this state in order to improve
16 health care quality, increase patient safety, reduce health
17 care costs, enhance public health, and empower individuals
18 and health care professionals with comprehensive, real-time
19 medical information to provide continuity of care and make
20 the best health care decisions. The department shall provide
21 coordination for the development and implementation of an
22 interoperable electronic health records system, telehealth
23 expansion efforts, the health information technology
24 infrastructure, the Iowa health information network, and other
25 health information technology initiatives in this state.
26 The department shall be guided by the principles and goals
27 specified in section 135.155 and the findings and intent
28 specified for an Iowa health information network in section
29 135.155A.

30 b. All health information technology efforts shall endeavor
31 to represent the interests and meet the needs of consumers and
32 the health care sector, protect the privacy of individuals
33 and the confidentiality of individuals' information, promote
34 physician best practices, and make information easily
35 accessible to the appropriate parties. The ~~system~~ network

1 developed shall be consumer-driven, flexible, and expandable.

2 Sec. 6. Section 135.156, subsection 2, paragraph a, Code
3 Supplement 2011, is amended to read as follows:

4 a. An electronic health information advisory council is
5 established which shall consist of the representatives of
6 entities involved in the electronic health records system task
7 force established pursuant to section 217.41A, Code 2007, a
8 pharmacist, a licensed practicing physician, a consumer who
9 is a member of the state board of health, a representative
10 of the state's Medicare quality improvement organization,
11 the executive director of the Iowa communications network, a
12 representative of the private telecommunications industry, a
13 representative of the Iowa collaborative safety net provider
14 network created in section 135.153, a nurse informaticist from
15 the university of Iowa, and any other members the department
16 or executive committee of the advisory council determines
17 necessary and appoints to assist the department or executive
18 committee at various stages of development of the ~~electronic~~
19 Iowa health information system network. Executive branch
20 agencies shall also be included as necessary to assist in the
21 duties of the department and the executive committee. Public
22 members of the advisory council shall receive reimbursement
23 for actual expenses incurred while serving in their official
24 capacity only if they are not eligible for reimbursement by
25 the organization that they represent. Any legislative members
26 shall be paid the per diem and expenses specified in section
27 2.10.

28 Sec. 7. Section 135.156, subsection 3, paragraph a,
29 subparagraphs (6) and (10), Code Supplement 2011, are amended
30 to read as follows:

31 (6) Policies relating to governance of the various facets of
32 the Iowa health information technology system network.

33 (10) Economic incentives and support to facilitate
34 participation in an interoperable system network by health care
35 professionals.

1 Sec. 8. Section 135.156, subsection 3, paragraph c,
2 unnumbered paragraph 1, Code Supplement 2011, is amended to
3 read as follows:

4 Coordinate public and private efforts to provide the
5 network backbone infrastructure for the Iowa health information
6 ~~technology system~~ network. In coordinating these efforts, the
7 executive committee shall do all of the following:

8 Sec. 9. Section 135.156, subsection 3, paragraphs h and i,
9 Code Supplement 2011, are amended to read as follows:

10 *h.* Seek and apply for any federal or private funding to
11 assist in the implementation and support of the Iowa health
12 information ~~technology system~~ network and make recommendations
13 for funding mechanisms for the ongoing development and
14 maintenance costs of the Iowa health information ~~technology~~
15 ~~system~~ network.

16 *i.* Identify state laws and rules that present barriers
17 to the development of the Iowa health information ~~technology~~
18 ~~system~~ network and recommend any changes to the governor and
19 the general assembly.

20 Sec. 10. NEW SECTION. **135.156A Iowa health information**
21 **network — business and financial sustainability plan and**
22 **participant fees.**

23 1. The board, with the support of the department and
24 the advice of the executive committee and advisory council,
25 shall establish and annually review and update a business and
26 financial sustainability plan for the Iowa health information
27 network. The plan shall include fees to be paid to the
28 department by participants who choose to access and use the
29 Iowa health information network. The participant fee schedule
30 shall be structured using fair share, value-based principles.

31 2. The department shall update and submit a financial model,
32 including fee schedule, revenue and expense projections, and a
33 budget, to the executive committee and the board for approval
34 on an annual basis.

35 Sec. 11. NEW SECTION. **135.156B Iowa health information**

1 **network — duties of the department.**

2 The department shall do all of the following:

3 1. Develop, implement, and enforce the following, as
4 approved by the board:

5 a. Strategic, operational, and business and financial
6 sustainability plans for the Iowa health information network.

7 b. Standards, requirements, policies, and procedures for
8 access to and use, secondary use, and privacy and security
9 of health information exchanged through the Iowa health
10 information network, consistent with applicable federal and
11 state standards and laws.

12 c. Rules, policies, and procedures for monitoring
13 participant usage of the Iowa health information network and
14 enforcing compliance with applicable standards, requirements,
15 policies, rules, and procedures.

16 d. Policies and procedures for administering the
17 infrastructure, technology, and associated professional
18 services required for operation of the Iowa health information
19 network and the provision of services through the Iowa health
20 information network.

21 e. An annual budget and fiscal report for the business and
22 technical operations of the Iowa health information network
23 and an annual report for the Iowa health information network
24 and the services provided through the Iowa health information
25 network.

26 2. Provide human resources, budgeting, project and activity
27 coordination, and related management functions to the Iowa
28 health information network and the services provided through
29 the Iowa health information network.

30 3. Enter into participation agreements with participants in
31 the Iowa health information network.

32 4. Collect participant fees, record receipts and approvals
33 of payments, and file required financial reports.

34 5. Apply for, acquire by gift or purchase, and hold,
35 dispense, or dispose of funds and real or personal property

1 from any person, governmental entity, or organization in
2 the exercise of its powers or performance of its duties in
3 accordance with this division.

4 6. Select and contract with vendors of goods and services in
5 compliance with all applicable state and federal procurement
6 laws and regulations.

7 7. Work to align interstate and intrastate interoperability
8 standards in accordance with national health information
9 exchange standards.

10 8. Execute all instruments necessary or incidental to the
11 performance of its duties and the execution of its powers under
12 this division.

13 Sec. 12. NEW SECTION. 135.156C Iowa health information
14 network fund.

15 1. The Iowa health information network fund is created as a
16 separate fund within the state treasury under the control of
17 the board. Revenues, donations, gifts, interest, participant
18 fees, and other moneys received or generated relative to the
19 operation and administration of the Iowa health information
20 network shall be deposited in the fund.

21 2. Moneys in the fund are appropriated to and shall be
22 expended by the department only for activities and operations
23 suitable to the performance of the department's duties,
24 subject to executive committee review and board approval.
25 Disbursements may be made from the fund for purposes related
26 to the administration, management, operations, functions,
27 activities, or sustainability of the Iowa health information
28 network.

29 3. Notwithstanding section 12C.7, subsection 2, earnings
30 or interest on moneys deposited in the fund shall be credited
31 to the fund. Moneys in the fund at the end of each fiscal year
32 shall not revert to another fund but shall remain in the fund
33 for expenditure in subsequent fiscal years.

34 4. The moneys in the fund shall be subject to financial and
35 compliance audits by the auditor of state.

1 Sec. 13. NEW SECTION. 135.156D **Technical infrastructure.**

2 1. The Iowa health information network shall provide a
3 mechanism to facilitate and support the secure electronic
4 exchange of health information between participants.

5 2. The Iowa health information network shall not function as
6 a central repository of all health information.

7 3. The Iowa health information network shall provide a
8 mechanism for participants without an electronic health records
9 system to access health information from the Iowa health
10 information network.

11 Sec. 14. NEW SECTION. 135.156E **Legal and policy.**

12 1. Upon approval from the board, the department shall
13 implement appropriate security standards, policies, and
14 procedures to protect the transmission and receipt of
15 protected health information exchanged through the Iowa health
16 information network, which shall, at a minimum, comply with the
17 Health Insurance Portability and Accountability Act security
18 rule pursuant to 45 C.F.R. pt. 164, subpt. C, and shall reflect
19 all of the following:

20 *a.* Include authorization controls, including the
21 responsibility to authorize, maintain, and terminate a
22 participant's use of the Iowa health information network.

23 *b.* Require authentication controls to verify the identify
24 and role of the participant using the Iowa health information
25 network.

26 *c.* Include role-based access controls to restrict
27 functionality and information available through the Iowa health
28 information network.

29 *d.* Include a secure and traceable electronic audit system
30 to document and monitor the sender and the recipient of health
31 information exchanged through the Iowa health information
32 network.

33 *e.* Require standard participation agreements which
34 define the minimum privacy and security obligations of all
35 participants using the Iowa health information network and

1 services available through the Iowa health information network.

2 *f.* Include controls over access to and the collection,
3 organization, and maintenance of records and data for
4 purposes of research or population health that protect the
5 confidentiality of consumers who are the subject of the health
6 information.

7 2. A patient shall have the opportunity to decline exchange
8 of the patient's health information through the Iowa health
9 information network. A patient shall not be denied care or
10 treatment for declining to exchange the patient's health
11 information, in whole or in part, through the Iowa health
12 information network. The board shall provide by rule the means
13 and process by which patients may decline participation. The
14 means and process utilized under the rules shall minimize the
15 burden on patients and health care professionals.

16 3. Unless otherwise authorized by law or rule, a patient's
17 decision to decline participation means that none of the
18 patient's health information shall be accessible through the
19 record locator service function of the Iowa health information
20 network. A patient's decision to decline having health
21 information shared through the record locator service function
22 shall not limit a health care professional with whom the
23 patient has or is considering a treatment relationship from
24 sharing health information concerning the patient through
25 the secure messaging function of the Iowa health information
26 network.

27 4. A patient who declines participation in the Iowa health
28 information network may later decide to have health information
29 shared through the Iowa health information network. A patient
30 who is participating in the Iowa health information network may
31 later decline participation in the network.

32 5. A participant shall not release or use protected health
33 information exchanged through the Iowa health information
34 network for purposes unrelated to prevention, treatment,
35 payment, or health care operations unless otherwise authorized

1 or required by law. Participants shall limit the use and
2 disclosure of protected health information to the minimum
3 amount required to accomplish the intended purpose of the use
4 or request, in compliance with the Health Insurance Portability
5 and Accountability Act and other applicable federal law. Use
6 or distribution of the information for a marketing purpose, as
7 defined by the Health Insurance Portability and Accountability
8 Act, is strictly prohibited.

9 6. The department and all persons using the Iowa health
10 information network are individually responsible for following
11 breach notification policies as provided by the Health
12 Insurance Portability and Accountability Act.

13 7. A participant shall not be compelled by subpoena, court
14 order, or other process of law to access health information
15 through the Iowa health information network in order to gather
16 records or information not created by the participant.

17 8. All participants exchanging health information and data
18 through the Iowa health information network shall grant to
19 other participants of the network a nonexclusive license to
20 retrieve and use that information in accordance with applicable
21 state and federal laws, and the policies, standards, and rules
22 established by the board.

23 9. The board shall establish by rule the procedures for a
24 patient who is the subject of health information to do all of
25 the following:

26 a. Receive notice of a violation of the confidentiality
27 provisions required under this division.

28 b. Upon request to the department, view an audit report
29 created under this division for the purpose of monitoring
30 access to the patient's health care information.

31 10. A health care professional who relies reasonably and
32 in good faith upon any health information provided through
33 the Iowa health information network in treatment of a patient
34 who is the subject of the health information shall be immune
35 from criminal or civil liability arising from any damages

1 caused by such reasonable, good-faith reliance. Such immunity
2 shall not apply to acts or omissions constituting negligence,
3 recklessness, or intentional misconduct.

4 11. A participant that has disclosed health information
5 through the Iowa health information network in compliance with
6 applicable law and the standards, requirements, policies,
7 procedures, and agreements of the network shall not be subject
8 to criminal or civil liability for the use or disclosure of the
9 health information by another participant.

10 12. Notwithstanding chapter 22, the following records shall
11 be kept confidential, unless otherwise ordered by a court or
12 consented to by the patient or by a person duly authorized to
13 release such information:

14 a. The protected health information contained in, stored in,
15 submitted to, transferred or exchanged by, or released from the
16 Iowa health information network.

17 b. Any protected health information in the possession of
18 the department due to its administration of the Iowa health
19 information network.

20 13. Unless otherwise provided in this division, when using
21 the Iowa health information network for the purpose of patient
22 treatment, a health care professional is exempt from any other
23 state law that is more restrictive than the Health Insurance
24 Portability and Accountability Act that would otherwise prevent
25 or hinder the exchange of patient information by the patient's
26 health care professionals.

27 Sec. 15. NEW SECTION. 135.156F **Governance review.**

28 1. The governance structure as provided in this division
29 consisting of the department acting on behalf of the board
30 subject to executive committee review and board approval shall
31 continue during the term of the state health information
32 exchange cooperative agreement between the department and the
33 office of the national coordinator for health information
34 technology to address the development of standards, policies,
35 and procedures; dissemination of interoperability standards;

1 the installation, testing, and operation of the Iowa health
2 information network infrastructure; and the evolution of Iowa
3 health information network services to improve patient care for
4 the population.

5 2. During the final year of the term of the cooperative
6 agreement, the executive committee and the department shall
7 review the governance structure, operations of the Iowa
8 health information network, and the business and financial
9 sustainability plan and make recommendations to the board
10 regarding the future governance of the Iowa health information
11 network.

12 Sec. 16. EFFECTIVE UPON ENACTMENT. This Act, being deemed
13 of immediate importance, takes effect upon enactment.

14 EXPLANATION

15 This bill provides for the creation of a statewide Iowa
16 health information network (network). The bill provides
17 definitions used in the bill. The bill provides findings and
18 intent for the network, describing the importance of health
19 information technology in transforming the delivery of health
20 and medical care in the state and across the nation and in
21 improving health care quality and the overall health of the
22 population, increasing efficiencies in administrative health
23 care, reducing unnecessary health care costs, and preventing
24 medical errors. The network is to provide for the secure
25 electronic sharing of health information. The bill provides
26 that it is the intent of the general assembly to establish
27 a statewide Iowa health information network, which is not
28 to constitute a health benefit network or health insurance
29 network; and is not to preclude the formation and operation
30 of regional, population-specific, or local health information
31 networks or their participation in the statewide network.

32 The bill provides that the state board of health (board),
33 with the support of the department of public health and the
34 advice of the existing electronic health information executive
35 committee and advisory council, is to establish and annually

1 review and update a business and financial sustainability
2 plan for the network. The plan shall include fees to be paid
3 by participants who access and use the network. The fee
4 schedule is to be structured using fair share and value-based
5 principles. The department is directed to update and submit
6 a financial model to the executive committee and the board
7 annually.

8 The bill specifies the duties of the department in the
9 day-to-day operations of the Iowa health information network.

10 The bill provides for the creation of a separate Iowa
11 health information network fund within the state treasury
12 under the control of the board. All revenues, donations,
13 gifts, interest, participant fees, and other moneys received or
14 generated relative to the network are to be deposited in the
15 fund. Moneys in the fund are appropriated to and are only to
16 be expended by the department on activities and operations of
17 the Iowa health information network, subject to board approval.
18 Moneys in the fund at the end of each fiscal year remain in the
19 fund. The fund is subject to financial and compliance audits
20 by the auditor of state.

21 The bill provides for the technical infrastructure of
22 the network. The network is to provide a mechanism to
23 facilitate and support the secure exchange of electronic health
24 information. The network is not to function as a central
25 repository of all health information, and is to provide a means
26 for participants without an electronic health record system to
27 access health information through the network.

28 The bill includes provisions relating to the legal and
29 policy aspects of the network. The bill authorizes the
30 department, with approval from the board, to develop security
31 standards, policies, and procedures to protect the transmission
32 and receipt of individually identifiable health information
33 shared through the network. These include: authorization
34 and authentication controls, role-based access, a secure and
35 traceable electronic audit system, use of participant and

1 data-sharing agreements, and controls over access, collection,
2 and maintenance of health information. These provisions
3 specify a patient's choice of participation in the Iowa
4 health information network, and the requirements for sharing
5 information in accordance with all other laws, including the
6 federal Health Insurance Portability and Accountability Act.

7 The bill provides that the governance structure as provided
8 in the bill consisting of the department acting on behalf
9 of the board, subject to executive committee review and
10 board approval, is to continue during the term of the state
11 health information exchange cooperative agreement between
12 the department and the office of the national coordinator
13 for health information technology to address the development
14 of standards, policies, and procedures; dissemination of
15 interoperability standards; the installation, testing, and
16 operation of the network infrastructure; and the evolution of
17 health information network services to improve patient care
18 for the population. During the final year of the term of the
19 cooperative agreement (March 2014), the executive committee and
20 the department are directed to review the governance structure,
21 operations of the network, and the business and financial
22 sustainability plan, and make recommendations to the board
23 regarding the future governance of the network.

24 The bill takes effect upon enactment.