

House Study Bill 100 - Introduced

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

A BILL FOR

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

1 DIVISION I

2 IOWA HEALTH INFORMATION NETWORK — FUTURE ADMINISTRATION BY
3 DESIGNATED ENTITY

4 Section 1. NEW SECTION. 135D.1 Short title.

5 This chapter shall be known and may be cited as the "*Iowa*
6 *Health Information Network Act*".

7 Sec. 2. NEW SECTION. 135D.2 Definitions.

8 As used in this chapter, unless the context otherwise
9 requires:

10 1. "*Board of directors*" or "*board*" means the entity that
11 governs and administers the Iowa health information network.

12 2. "*Care coordination*" means the management of all aspects
13 of a patient's care to improve health care quality.

14 3. "*Department*" means the department of public health.

15 4. "*Designated entity*" means the nonprofit corporation
16 designated by the department through a competitive process as
17 the entity responsible for administering and governing the Iowa
18 health information network.

19 5. "*Exchange*" means the authorized electronic sharing of
20 health information between health care professionals, payors,
21 consumers, public health agencies, the designated entity, the
22 department, and other authorized participants utilizing the
23 Iowa health information network and Iowa health information
24 network services.

25 6. "*Health care professional*" means a person who is
26 licensed, certified, or otherwise authorized or permitted by
27 the law of this state to administer health care in the ordinary
28 course of business or in the practice of a profession.

29 7. "*Health information*" means health information as defined
30 in 45 C.F.R. §160.103 that is created or received by an
31 authorized participant.

32 8. "*Health information technology*" means the application
33 of information processing, involving both computer hardware
34 and software, that deals with the storage, retrieval, sharing,
35 and use of health care information, data, and knowledge for

1 communication, decision making, quality, safety, and efficiency
2 of clinical practice, and may include but is not limited to:

3 *a.* An electronic health record that electronically compiles
4 and maintains health information that may be derived from
5 multiple sources about the health status of an individual and
6 may include a core subset of each care delivery organization's
7 electronic medical record such as a continuity of care record
8 or a continuity of care document, computerized physician order
9 entry, electronic prescribing, or clinical decision support.

10 *b.* A personal health record through which an individual and
11 any other person authorized by the individual can maintain and
12 manage the individual's health information.

13 *c.* An electronic medical record that is used by health care
14 professionals to electronically document, monitor, and manage
15 health care delivery within a care delivery organization, is
16 the legal record of the patient's encounter with the care
17 delivery organization, and is owned by the care delivery
18 organization.

19 *d.* A computerized provider order entry function that permits
20 the electronic ordering of diagnostic and treatment services,
21 including prescription drugs.

22 *e.* A decision support function to assist physicians and
23 other health care providers in making clinical decisions by
24 providing electronic alerts and reminders to improve compliance
25 with best practices, promote regular screenings and other
26 preventive practices, and facilitate diagnosis and treatments.

27 *f.* Tools to allow for the collection, analysis, and
28 reporting of information or data on adverse events, the quality
29 and efficiency of care, patient satisfaction, and other health
30 care-related performance measures.

31 9. "*Health Insurance Portability and Accountability Act*"
32 or "*HIPAA*" means the federal Health Insurance Portability and
33 Accountability Act of 1996, Pub. L. No. 104-191, including
34 amendments thereto and regulations promulgated thereunder.

35 10. "*Hospital*" means a licensed hospital as defined in

1 section 135B.1.

2 11. "*Interoperability*" means the ability of two or more
3 systems or components to exchange information or data in an
4 accurate, effective, secure, and consistent manner and to use
5 the information or data that has been exchanged and includes
6 but is not limited to:

7 a. The capacity to connect to a network for the purpose of
8 exchanging information or data with other users.

9 b. The ability of a connected, authenticated user to
10 demonstrate appropriate permissions to participate in the
11 instant transaction over the network.

12 c. The capacity of a connected, authenticated user to
13 access, transmit, receive, and exchange usable information with
14 other users.

15 12. "*Iowa health information network*" or "*network*" means the
16 statewide health information technology network that is the
17 sole statewide network for Iowa pursuant to this chapter.

18 13. "*Iowa Medicaid enterprise*" means the centralized
19 medical assistance program infrastructure, based on a business
20 enterprise model, and designed to foster collaboration among
21 all program stakeholders by focusing on quality, integrity, and
22 consistency.

23 14. "*Participant*" means an authorized health care
24 professional, payor, patient, health care organization, public
25 health agency, or the department that has agreed to authorize,
26 submit, access, or disclose health information through the Iowa
27 health information network in accordance with this chapter
28 and all applicable laws, rules, agreements, policies, and
29 standards.

30 15. "*Patient*" means a person who has received or is
31 receiving health services from a health care professional.

32 16. "*Payor*" means a person who makes payments for health
33 services, including but not limited to an insurance company,
34 self-insured employer, government program, individual, or other
35 purchaser that makes such payments.

1 17. "*Protected health information*" means protected health
2 information as defined in 45 C.F.R. §160.103 that is created or
3 received by an authorized participant.

4 18. "*Public health activities*" means actions taken by a
5 participant in its capacity as a public health authority under
6 the Health Insurance Portability and Accountability Act or as
7 required or permitted by other federal or state law.

8 19. "*Public health agency*" means an entity that is governed
9 by or contractually responsible to a local board of health or
10 the department to provide services focused on the health status
11 of population groups and their environments.

12 20. "*Record locator service*" means the functionality of the
13 Iowa health information network that queries data sources to
14 locate and identify potential patient records.

15 Sec. 3. NEW SECTION. 135D.3 Iowa health information network
16 — findings and intent.

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

18 a. Technology used to support health care-related functions
19 is known as health information technology. Health information
20 technology provides a mechanism to transform the delivery of
21 health and medical care in Iowa and across the nation.

22 b. Health information technology is rapidly evolving to
23 contribute to the goals of improving the experience of care,
24 improving the health of populations, and reducing per capita
25 costs of health care.

26 c. A health information network involves the secure
27 electronic sharing of health information across the boundaries
28 of individual practice and institutional health settings and
29 with consumers. The broad use of health information technology
30 and a health information network should improve health care
31 quality and the overall health of the population, increase
32 efficiencies in administrative health care, reduce unnecessary
33 health care costs, and help prevent medical errors.

34 d. All health information technology efforts shall endeavor
35 to represent the interests and meet the needs of consumers and

1 the health care sector, protect the privacy of individuals
2 and the confidentiality of individuals' information, promote
3 best practices, and make information easily accessible to
4 the members of the patient-centered care coordination team,
5 including but not limited to patients, providers, and payors.

6 2. It is the intent of the general assembly that the Iowa
7 health information network shall not constitute a health
8 benefit network or a health insurance network.

9 Sec. 4. NEW SECTION. 135D.4 Iowa health information network
10 — principles — technical infrastructure requirements.

11 1. The Iowa health information network shall be
12 administered and governed by a designated entity using, at a
13 minimum, the following principles:

14 a. Be patient-centered and market-driven.

15 b. Comply with established national standards.

16 c. Protect the privacy of consumers and the security and
17 confidentiality of all health information.

18 d. Promote interoperability.

19 e. Increase the accuracy, completeness, and uniformity of
20 data.

21 f. Preserve the choice of the patient to have the patient's
22 health information available through the record locator
23 service.

24 g. Provide education to the general public and provider
25 communities on the value and benefits of health information
26 technology.

27 2. Widespread adoption of health information technology is
28 critical to a successful Iowa health information network and is
29 best achieved when all of the following occur:

30 a. The network, through the designated entity complying
31 with chapter 504 and reporting as required under this chapter,
32 operates in an entrepreneurial and businesslike manner in which
33 it is accountable to all participants utilizing the network's
34 products and services.

35 b. The network provides a variety of services from which to

1 choose in order to best fit the needs of the user.

2 *c.* The network is financed by all who benefit from the
3 improved quality, efficiency, savings, and other benefits that
4 result from use of health information technology.

5 *d.* The network is operated with integrity and freedom from
6 political influence.

7 3. The Iowa health information network technical
8 infrastructure shall provide a mechanism for all of the
9 following:

10 *a.* The facilitation and support of the secure electronic
11 exchange of health information between participants.

12 *b.* Participants without an electronic health records system
13 to access health information from the Iowa health information
14 network.

15 4. Nothing in this chapter shall be interpreted to
16 impede or preclude the formation and operation of regional,
17 population-specific, or local health information networks
18 or the participation of such networks in the Iowa health
19 information network.

20 Sec. 5. NEW SECTION. 135D.5 **Designated entity —**
21 **administration and governance.**

22 1. The Iowa health information network shall be
23 administered and governed by a designated entity selected by
24 the department through a competitive process. The designated
25 entity shall be established as a nonprofit corporation
26 organized under chapter 504. Unless otherwise provided in
27 this chapter, the corporation is subject to the provisions of
28 chapter 504. The designated entity shall be established for
29 the purpose of administering and governing the statewide Iowa
30 health information network.

31 2. The designated entity shall collaborate with the
32 department, but the designated entity shall not be considered,
33 in whole or in part, an agency, department, or administrative
34 unit of the state.

35 *a.* The designated entity shall not be required to comply

1 with any requirements that apply to a state agency, department,
2 or administrative unit and shall not exercise any sovereign
3 power of the state.

4 *b.* The designated entity does not have authority to pledge
5 the credit of the state. The assets and liabilities of
6 the designated entity shall be separate from the assets and
7 liabilities of the state and the state shall not be liable
8 for the debts or obligations of the designated entity. All
9 debts and obligations of the designated entity shall be payable
10 solely from the designated entity's funds. The state shall
11 not guarantee any obligation of or have any obligation to the
12 designated entity.

13 3. The articles of incorporation of the designated entity
14 shall provide for its governance and its efficient management.
15 In providing for its governance, the articles of the designated
16 entity shall address the following:

17 *a.* A board of directors to govern the designated entity.

18 *b.* The appointment of a chief executive officer by the board
19 to manage the designated entity's daily operations.

20 *c.* The delegation of such powers and responsibilities to the
21 chief executive officer as may be necessary for the designated
22 entity's efficient operation.

23 *d.* The employment of personnel necessary for the efficient
24 performance of the duties assigned to the designated entity.

25 All such personnel shall be considered employees of a private,
26 nonprofit corporation and shall be exempt from the personnel
27 requirements imposed on state agencies, departments, and
28 administrative units.

29 *e.* The financial operations of the designated entity
30 including the authority to receive and expend funds from public
31 and private sources and to use its property, money, or other
32 resources for the purpose of the designated entity.

33 Sec. 6. NEW SECTION. 135D.6 Board of directors —
34 composition — duties.

35 1. The designated entity shall be administered by a board

1 of directors.

2 2. A single industry shall not be disproportionately
3 represented as voting members of the board. The board shall
4 include at least one member who is a consumer of health
5 services and a majority of the voting members of the board
6 shall be representative of participants in the Iowa health
7 information network. The director of public health or the
8 director's designee and the director of the Iowa Medicaid
9 enterprise or the director's designee shall act as voting
10 members of the board. The commissioner of insurance shall act
11 as an ex officio, nonvoting member of the board. Individuals
12 serving in an ex officio, nonvoting capacity shall not be
13 included in the total number of individuals authorized as
14 members of the board.

15 3. The board of directors shall do all of the following:

16 *a.* Ensure that the designated entity enters into contracts
17 with each state agency necessary for state reporting
18 requirements.

19 *b.* Develop, implement, and enforce the following:

20 (1) A single patient identifier or alternative mechanism to
21 share secure patient information that is utilized by all health
22 care professionals.

23 (2) Standards, requirements, policies, and procedures for
24 access to, use, secondary use, privacy, and security of health
25 information exchanged through the Iowa health information
26 network, consistent with applicable federal and state standards
27 and laws.

28 *c.* Direct a public and private collaborative effort to
29 promote the adoption and use of health information technology
30 in the state to improve health care quality, increase patient
31 safety, reduce health care costs, enhance public health,
32 and empower individuals and health care professionals with
33 comprehensive, real-time medical information to provide
34 continuity of care and make the best health care decisions.

35 *d.* Educate the public and the health care sector about

1 the value of health information technology in improving
2 patient care, and methods to promote increased support and
3 collaboration of state and local public health agencies,
4 health care professionals, and consumers in health information
5 technology initiatives.

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

9 f. Provide an annual budget and fiscal report for the Iowa
10 health information network to the governor, the department
11 of public health, the department of management, the chairs
12 and ranking members of the legislative government oversight
13 standing committees, and the legislative services agency.
14 The report shall also include information about the services
15 provided through the network and information on the participant
16 usage of the network.

17 Sec. 7. NEW SECTION. 135D.7 Legal and policy — liability
18 — confidentiality.

19 1. The board shall implement industry-accepted security
20 standards, policies, and procedures to protect the transmission
21 and receipt of protected health information exchanged through
22 the Iowa health information network, which shall, at a minimum,
23 comply with HIPAA and shall include all of the following:

24 a. A secure and traceable electronic audit system to
25 document and monitor the sender and recipient of health
26 information exchanged through the Iowa health information
27 network.

28 b. A required standard participation agreement which
29 defines the minimum privacy and security obligations of all
30 participants using the Iowa health information network and
31 services available through the Iowa health information network.

32 c. The opportunity for a patient to decline exchange of the
33 patient's health information through the record locator service
34 of the Iowa health information network.

35 (1) A patient shall not be denied care or treatment for

1 declining to exchange the patient's health information, in
2 whole or in part, through the network.

3 (2) The board shall provide the means and process by which
4 a patient may decline participation. The means and process
5 utilized shall minimize the burden on patients and health care
6 professionals.

7 (3) Unless otherwise authorized by law or rule, a patient's
8 decision to decline participation means that none of the
9 patient's health information shall be accessible through the
10 record locator service function of the Iowa health information
11 network. A patient's decision to decline having health
12 information shared through the record locator service function
13 shall not limit a health care professional with whom the
14 patient has or is considering a treatment relationship from
15 sharing health information concerning the patient through
16 the secure messaging function of the Iowa health information
17 network.

18 (4) A patient who declines participation in the Iowa health
19 information network may later decide to have health information
20 shared through the network. A patient who is participating in
21 the network may later decline participation in the network.

22 2. A participant shall not be compelled by subpoena, court
23 order, or other process of law to access health information
24 through the Iowa health information network in order to gather
25 records or information not created by the participant.

26 3. A participant exchanging health information and data
27 through the Iowa health information network shall grant to
28 other participants of the network a nonexclusive license to
29 retrieve and use that information in accordance with applicable
30 state and federal laws, and the policies and standards
31 established by the board.

32 4. A health care professional who relies reasonably and
33 in good faith upon any health information provided through
34 the Iowa health information network in treatment of a patient
35 who is the subject of the health information shall be immune

1 from criminal or civil liability arising from the damages
2 caused by such reasonable, good-faith reliance. Such immunity
3 shall not apply to acts or omissions constituting negligence,
4 recklessness, or intentional misconduct.

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

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

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

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

20 7. Unless otherwise provided in this chapter, when sharing
21 health information through the Iowa health information network
22 or a private health information network maintained in this
23 state that complies with the privacy and security requirements
24 of this chapter for the purposes of patient treatment, payment
25 or health care operations, as such terms are defined in
26 HIPAA, or for the purposes of public health activities or
27 care coordination, a participant authorized by the designated
28 entity to use the record locator service is exempt from any
29 other state law that is more restrictive than HIPAA that would
30 otherwise prevent or hinder the exchange of patient information
31 by the participant.

32 8. A patient aggrieved or adversely affected by the
33 designated entity's failure to comply with subsection 1,
34 paragraph "c", may bring a civil action for equitable relief as
35 the court deems appropriate.

1 Sec. 8. REPEAL. Sections 135.154, 135.155, 135.155A,
2 135.156, 135.156A, 135.156B, 135.156C, 135.156D, 135.156E,
3 and 135.156F, are repealed upon the assumption of the
4 administration and governance, including but not limited to the
5 assumption of the assets and liabilities, of the Iowa health
6 information network by the designated entity. The department
7 of public health shall notify the Code editor of the date of
8 such assumption by the designated entity.

9 Sec. 9. EFFECTIVE DATES. This division of this Act
10 takes effect upon the assumption of the administration and
11 governance, including but not limited to the assumption of the
12 assets and liabilities, of the Iowa health information network
13 by the designated entity. The department of public health
14 shall notify the Code editor of the date of such assumption by
15 the designated entity.

16 DIVISION II

17 SELECTION OF DESIGNATED ENTITY

18 AND TRANSITION PROVISIONS

19 Sec. 10. Section 135.154, Code 2015, is amended by adding
20 the following new subsections:

21 NEW SUBSECTION. 3A. "*Care coordination*" means the
22 management of all aspects of a patient's care to improve health
23 care quality.

24 NEW SUBSECTION. 19A. "*Public health activities*" means
25 actions taken by a participant in its capacity as a public
26 health authority under the Health Insurance Portability and
27 Accountability Act or as required or permitted by other federal
28 or state law.

29 NEW SUBSECTION. 23. "*Record locator service*" means the
30 functionality of the Iowa health information network that
31 queries data sources to locate and identify potential patient
32 records.

33 Sec. 11. Section 135.155, subsection 2, Code 2015, is
34 amended by adding the following new paragraph:

35 NEW PARAGRAPH. f. Preserve the choice of the patient to

1 have the patient's health information available through the
2 record locator service.

3 Sec. 12. Section 135.156E, subsections 2 and 13, Code 2015,
4 are amended to read as follows:

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

15 13. Unless otherwise provided in this division, when
16 ~~using~~ sharing health information through the Iowa health
17 information network or a private health information network
18 maintained in this state that complies with the privacy and
19 security requirements of this chapter for the purposes of
20 patient treatment, payment, or health care operations, as
21 such terms are defined in the Health Insurance Portability
22 and Accountability Act, or for the purposes of public health
23 activities or care coordination, a health care professional
24 ~~or a hospital~~ participant authorized to use the record
25 locator service is exempt from any other state law that is
26 more restrictive than the Health Insurance Portability and
27 Accountability Act that would otherwise prevent or hinder the
28 exchange of patient information by ~~the patient's health care~~
29 ~~professional or hospital~~ such participant.

30 Sec. 13. SELECTION OF A DESIGNATED ENTITY. The department
31 of public health shall utilize a competitive process to select
32 a designated entity to administer and govern the Iowa health
33 information network.

34 Sec. 14. CONTINUATION OF PARTICIPATION AGREEMENTS. If
35 the department of public health selects a designated entity

1 pursuant to this division of this Act, the designated entity
2 shall continue any agreement between an authorized participant
3 and the Iowa health information network existing upon the
4 transition of the assumption of the administration and
5 governance, including but not limited to the assumption of
6 the assets and liabilities of the Iowa health information
7 network by the designated entity, under the same terms through
8 completion of the original agreement period.

9 Sec. 15. IOWA HEALTH INFORMATION NETWORK FUND. If the
10 department of public health selects a designated entity
11 pursuant to this division of this Act, any moneys remaining
12 in the Iowa health information network fund established
13 pursuant to section 135.156C, Code 2015, that are obligated or
14 encumbered for expenses related to the Iowa health information
15 network prior to the assumption of the administration and
16 governance, including but not limited to the assumption of the
17 assets and liabilities, of the Iowa health information network
18 by the designated entity, shall be retained by the department.
19 The remainder of the moneys in the fund shall be transferred to
20 the designated entity upon the assumption of the administration
21 and governance of the Iowa health information network.

22 Sec. 16. TRANSFER OF ASSETS AND LIABILITIES AND
23 ADMINISTRATIVE RESPONSIBILITIES TO THE DESIGNATED ENTITY. If
24 the department of public health selects a designated entity
25 pursuant to this division of this Act, the department shall
26 continue to provide administrative support to the Iowa health
27 information network as provided in section 135.156, Code
28 2015, until such time as the designated entity assumes such
29 responsibilities. Upon selection of the designated entity, the
30 assets and liabilities of the Iowa health information network
31 shall be transferred to the designated entity.

32 Sec. 17. EFFECTIVE UPON ENACTMENT. This division of this
33 Act, being deemed of immediate importance, takes effect upon
34 enactment.

35

EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill provides for the administration and governance of
4 an Iowa health information network by a nonprofit designated
5 entity. The bill creates a new Code chapter, 135D, the Iowa
6 health information network. The new Code chapter includes
7 many of the same provisions existing under Code chapter
8 135, division XXI, which provides for the administration and
9 governance of the Iowa health information network by the
10 department of public health, an electronic health information
11 advisory council, and an executive committee. The bill instead
12 places these functions under a designated entity, which is a
13 nonprofit corporation designated by the department through a
14 competitive process as the entity responsible for administering
15 and governing the network. The bill includes definitions,
16 findings and intent, principles and technical infrastructure
17 requirements, requirements for administration and governance
18 by the designated entity, requirements for the composition and
19 duties of the board of directors of the designated entity, and
20 legal and policy requirements. These provisions take effect
21 only upon the assumption of the administration and governance
22 of the network by the designated entity.

23 The bill makes changes to current Code relating to the
24 definitions of "care coordination", "public health activities",
25 and "record locator service"; the sharing of patient health
26 information available through the record locator service;
27 and the privacy and security requirements applicable to the
28 sharing of patient information by participants authorized
29 to use the record locator service for treatments, payment,
30 health care operations, public health activities, and care
31 coordination. The provisions are effective upon enactment and
32 would continue in effect through the transition period. The
33 bill also provides for the transition of the administration
34 and governance of the Iowa health information network to the
35 designated entity and provides for the repeal of the current

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1 provisions related to the Iowa health information network upon
2 the assumption of the designated entity of the administration
3 and governance of the network.