Electronic Health Records (EHR) Taskforce Steering Committee Video Conference Meeting Summary

Ill. Hospital Assn. Naperville Office
Executive Conference Room
1151 East Warrenville Road
Naperville

Ill. Hospital Assn. Springfield Office
700 South Second Street
Springfield

September 19, 2006

Steering Committee Members
Craig Backs, M.D.
Alan Berkelhamer, R.Ph.
Ellen S. Brull, M.D.
Bradford A. Buxton
Jonathan Dopkeen, Ph.D.
William Kempiners
Patricia Merryweather
Mary Thompson

Staff Members
Fee Habtes
Jeff W. Johnson

Guests
Patrick Gallagher
Tim Philipp, R.N., Ph.D.

Dr. Jonathan Dopkeen convened the meeting at 3:15 p.m. Bradford Buxton started by making a few "overall comments" regarding the outline of draft legislation. He emphasized the need to push for the adoption of EHR. He also indicated that Blue Cross/Blue Shield feels that it has a role to help with infrastructure development.

The composition of the board of directors was discussed. General comments centered on the need to ensure that involved stakeholders are represented at the table. Members at the meeting agreed to a 30-member board of directors to be composed of the following:

- 4 Ex officio government positions – directors/designees of IDPH, IDHS, IDHFS and the U.S. DHHS, Centers for Medicare and Medicaid Services (CMS)
- 3 Hospital reps. - 1 of whom shall be small rural hospital
- 5 Physicians - 1 rural; 1 primary care; 1 specialist; 1 small group practice; and, 1 multi-specialty clinic
- 3 Consumers
- 5 Payer/employer reps. – 1 Blue Cross/Blue Shield; 1 commercial insurer; 1 local payer; 1 self-funded employer; and 1 employer recommended by Chamber of Commerce
- 3 Pharmacists – 1 large chain; 1 independent; and, 1 institutional
- 2 FQHC reps
- 2 Long-term care facility reps – 1 chain and 1 independent

1 Home health agency rep
1 Mental health rep
1 Diagnostic center rep

There was extensive discussion regarding the appointment authority for the board. Members expressed a desire to keep politics out of the appointment process. A suggestion was made that the stakeholder organizations be given the ability to appoint their own representatives. Another thought was that the Governor could appoint representatives nominated by stakeholder organizations. It was agreed to re-visit this issue later.

Dr. Dopkeen then directed the discussion to the responsibilities of the authority – starting with item 4 in the outline. He indicated that he talked to Rep. Julie Hamos this morning about her comments on the authority's responsibilities. According to Dr. Dopkeen, her comments reflected a concern that the authority was being given the role of creating a health information exchange to the exclusion of all other initiatives within the state. Her concerns were alleviated after he explained the proposal was intended to create a state-level patient index function – otherwise referred to as record locator service (RLS). The intent was not to limit the creation of local or regional health information exchanges by providers. This "state" exchange would serve to connect the local or regional exchanges to other exchanges or interoperable provider systems within and outside of Illinois. (To demonstrate this point, Dr. Dopkeen passed out the attached graphic, entitled IHIE model.)

After some brief discussion, the members agreed that the authority should be required to perform this function. There was also a feeling among the members that to save costs, the authority need not recreate something that already exists.

Members did express a desire to incorporate within the fostering adoption of EHR portion of the outline of draft legislation language similar to the following suggestion from Rep. Hamos.

> "(a) Coordinate with the private sector to plan for and implement one or more interoperable health information exchanges and standards for participation, taking into account the confidentiality of patients in accordance with federal and state laws and regulations;"

The next issue discussed was the authority's power to enforce compliance with its standards. It was noted, that the outline provides for the authority to set standards for entities connecting to the state health information exchange. The proposal does not now grant the authority the ability to set standards for other health information exchanges operating within the state. (Dr. John Lantos, who was unable to attend, did submit comments – attached - addressing this point.)

To ensure the integrity of the state health information exchange, the members agreed the authority needed remedies to address non-compliant entities. As discussed, the authority would have the ability to suspend or terminate a non-compliant entity's access to the state health information exchange; however, fines would be deleted from the legislative proposal.

The committee discussed Item 13 in the outline – the requirement that state agencies and contractors use interoperable HIT systems where possible. This is intended as state version of the August 22, 2006, Executive order issued by the President that imposed such a requirement on

federal agencies. Members liked the concept behind this proposal, noting that it would be an impetus for the state and state contractors to adopt interoperable EHR systems. They also like Rep. Hamos' suggestion of a timetable in which this should occur. She had suggested that the adoption occur by 2015. Dr. Craig Backs and Patrick Gallagher had discussed proposed language to flesh out the proposal. Mr. Gallagher was going to e-mail it to committee staff.

It was decided that a revised version of the outline of draft legislation would be sent out to Steering Committee members for comments and a meeting would then be scheduled.

The meeting adjourned at 5:56 p.m.

Appended to this summary is a copy of the "Outline of the Electronic Health Records Taskforce Draft Legislative Recommendations," the notes from Rep. Hamos, and Dr. Lantos' comments.

Outline of the Electronic Health Records Taskforce Draft Legislative Recommendations

Submitted to the EHR Taskforce Steering Committee on September 19, 2006

Outline of Draft Legislation	Comments/Purpose
September 19, 2006 Version	
Article I	
1. Short Title. This Act shall be known as the Illinois Electronic Health Records Act.	
2. Purpose of Act	This section will detail the purpose of the Act, which may be a synthesis of the goals adopted by the Taskforce committees.
3. The Illinois Electronic Health Records Authority is created.	This section establishes the Illinois Electronic Health Records Authority (IEHRA) and sets the composition of the governing board.
a) 17 Member Board of Directors – 14 appointed by Governor	
i) Director or designee of IDPH, DHS, DHFS	
ii) 3 hospital reps., 1 of whom shall be small rural hospital	
iii) 3 physicians	
iv) 3 consumers	
v) 2 payer/insurance reps.	
vi) 1 pharmacist	
vii) 1 FQHC rep.	
viii) 1 Long-term care facility rep.	
b) 3-year Terms of Office – first board staggered – 4 for 1 year; 5 for 2 years; and, 5 for 3 years.	
c) Directors entitled to reimbursement of expenses.	

d) The board of directors is empowered to hire executive director and staff.	
4. The authority shall establish a state electronic health information exchange (EHIE).	One of the key functions for the IEHRA will be the establishment of a "hub" or "highway" to facilitate the exchange of health information among health care providers within Illinois and other states. While there has been extensive discussion regarding the model to be used for this purpose, the consensus of the Steering Committee was that it should not be a central repository for all health records. However, the authority will ensure the means to capture population health data when it is developing the EHIE.
a) The authority shall adopt standards for participation in the state EHIE. Where applicable, these standards shall be consistent with federal standards.	These standards are analogous to the "Rules of the Road." The IEHRA will need to ensure that providers accessing the EHIE – the highway: have interoperable systems to exchange data; uses established data standards; and can be trusted to maintain the privacy of the information sent or received. One of the major concerns of the taskforce is that the standards adopted for Illinois are consistent with national standards.
b) The authority shall protect data held or processed by the state EHIE in accordance with federal and state laws and regulations. The authority shall monitor compliance with measures to protect data through the use of regular audits and other industry accepted procedures.	Not only will the authority need to ensure that users of the EHIE can protect their data, it must put safeguards in place to protect its own data.
5. The authority shall establish a program to foster the adoption of interoperable electronic health records	A critical function that has been mentioned by several taskforce committees is the need to encourage and help health care providers adopt

by Illinois health care providers.	electronic health record systems and regional health information organizations (RHIOs).
a) One component of the authority's program shall be the provision of technical assistance to providers considering the adoption of electronic health record systems. This technical assistance is not intended to replace the technical support services, whether free or at cost, available to customers of software vendors.	The Interconnecting Clinicians Committee identified technical assistance as a need that must be met. The Informing Clinicians Committee noted the importance of programs like DOQ-IT – a federally funded initiative to guide physicians through the process of adopting EHR. Whether provided by authority staff or through grants or contracts to outside entities, this technical assistance should be directed toward expanding EHR use, not as a measure for lowering a provider's vendor support cost for existing systems.
b) The authority shall provide education to: i) the public on the benefits of electronic health records and personal health records.	All taskforce committees have raised the issue of educating the public on the benefits of EHR and the safeguards that are available to prevent disclosure of personal health information. The Personalizing Health Committee also addressed the need for the public to be educated as to the benefits and use of Personal Health Records (PHR).
ii) health care providers on the benefits of electronic health records and the state EHIE.	A major focus of the Informing Clinicians Committee was the need to provide education to providers. The committee heard a presentation about the educational and technical assistance benefits of DOQ-IT.
c) Subject to the availability of funds, the authority shall provide financial assistance for the acquisition of electronic health record systems and interoperable health information technology.	Financial assistance to providers, local health information exchanges, RHIOs or SNOs, and low-income PHR users was a need identified by 3 taskforce committees. The Personalizing Health Committee is considering tax incentives or direct subsidies to help persons in medically underserved areas access PHR. Whether this assistance is through grants or

	loans, the role of bonding in providing the funding for these initiatives are open questions.
6. The authority shall develop initiatives to use the state EHIE to capture population health data to meet and improve the quality of health care in Illinois.	As noted in a draft of Improving Population Health Committee's goal, objectives and issues document, "one of the critically valuable deliverables of the exchange of Electronic Health Records is the ability to improve the health of individuals, communities, state, and nation by ongoing disease surveillance systems, accelerating the speed of clinical research, and improving quality of care." In developing the EHIE, the authority needs to incorporate procedures to enable other state agencies to capture data that will improve population health in Illinois.
a) The authority shall cooperate with the Department of Public Health, Department of Healthcare and Family Services and the Department of Human Services on measures to utilize state EHIE data to meet public health needs.	
b) The authority shall provide a mechanism for using the state EHIE for research purposes.	Although the research benefits to be derived from the EHIE will be some years down the road, this will become an inevitable and important function. However, access to this information must be carefully controlled to ensure protection of patient privacy and confidentiality.
i) The authority shall promulgate standards for research requests.	
ii) The authority shall establish an IRB function for research requests.	The Improving Population Committee is suggesting the creation of a "State of Illinois Privacy Board" to review research requests and provide oversight.
7. Compliance with authority standards.	The establishment of a trust relationship is widely acknowledged as the critical element in assuring public acceptance of EHR. The authority can only permit entities to participate in the EHIE if they meet standards of trust. Conversely, the authority must be able to act and act swiftly to address entities that breach that trust. The authority will need a range of options to sanction entities in non-compliance with its rules.
a) The authority may terminate or suspend state EHIE or research privileges for non-compliance with standards.	
b) The authority may establish a system of fines for non-compliance with standards.	
8. The authority may accept federal,	This grants the authority the ability to receive

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state and private funding. The authority shall have the power to establish a fee schedule for products and services.	funding. A goal would be for the Authority to achieve financial sustainability by the sunset provision of 2014. The development of an operational and self-sustaining business model is recognized as infeasible during the developmental and implementation process, given the need to develop common infrastructure and provider-based adoption.
9. The Electronic Health Records Fund is created for use by the authority. All monies received by the authority shall be deposited into the fund.	A new fund is needed in which to deposit monies received by the authority.
10. The provisions of "The Illinois Administrative Procedure Act", as now or hereafter amended, are hereby expressly adopted and incorporated herein as though a part of this Act, and shall apply to all administrative rules and procedures of the authority under this Act.	Standard legislative provision addressing appeals process.
11. Rules. The authority shall promulgate administrative rules necessary to implement, interpret, and make specific the provisions of this Act.	Standard provision empowering the authority to promulgate rules.
12. Transfer of relevant state assets to the authority???	Current developmental efforts in Health Information Exchange may exist as assets controlled by parties engaged in EHR development, including IDPH. This provision would allow for the transfer of those assets, as may appropriate, whether singly or jointly held, to the Authority (e.g., the IHN).
Article II	

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13. Require state agencies and contractors to use interoperable HIT systems	This is intended as a state version of the Executive Order issued by the President on August 22, 2006, that ordered federal agencies to: "1) Utilize, where available, HIT systems and products that meet recognized interoperability standards when such systems and products are used for the direct exchange of health information between agencies and with non-Federal entities … 2) Require in contracts or agreements with health care providers, health plans, or health insurance issuers that it will also use, where available, HIT systems and products that meet recognized interoperability standards."
14. The Electronic Health Records Taskforce Act is amended by changing Section 10 as follows: (Extend EHR Taskforce's role to include advisory function to authority.)	Taskforce members felt that their work is not finished upon the completion of the report and plan on December 31, 2006. They feel the taskforce should continue to provide guidance to the new authority.
15. The State Finance Act is amended by adding Section 5.6XX as follows: (30 ILCS 105/5.6XX new) Sec. 5.6XX. The Electronic Health Records Fund.	Housekeeping provision related to the new fund.
Article III	
16. Article I of this Act is repealed on December 31, 2014.	This is slight variation of the sunset provision suggested by the Steering Committee. Originally suggested to be a 5-year sunset, there was some concern while preparing this document that the authority would be just getting to the critical phases of development when the fear of the sunset would harm the authority's ability to attract staff. It was suggested that 2 additional years were needed to enable the authority to hit its full potential.

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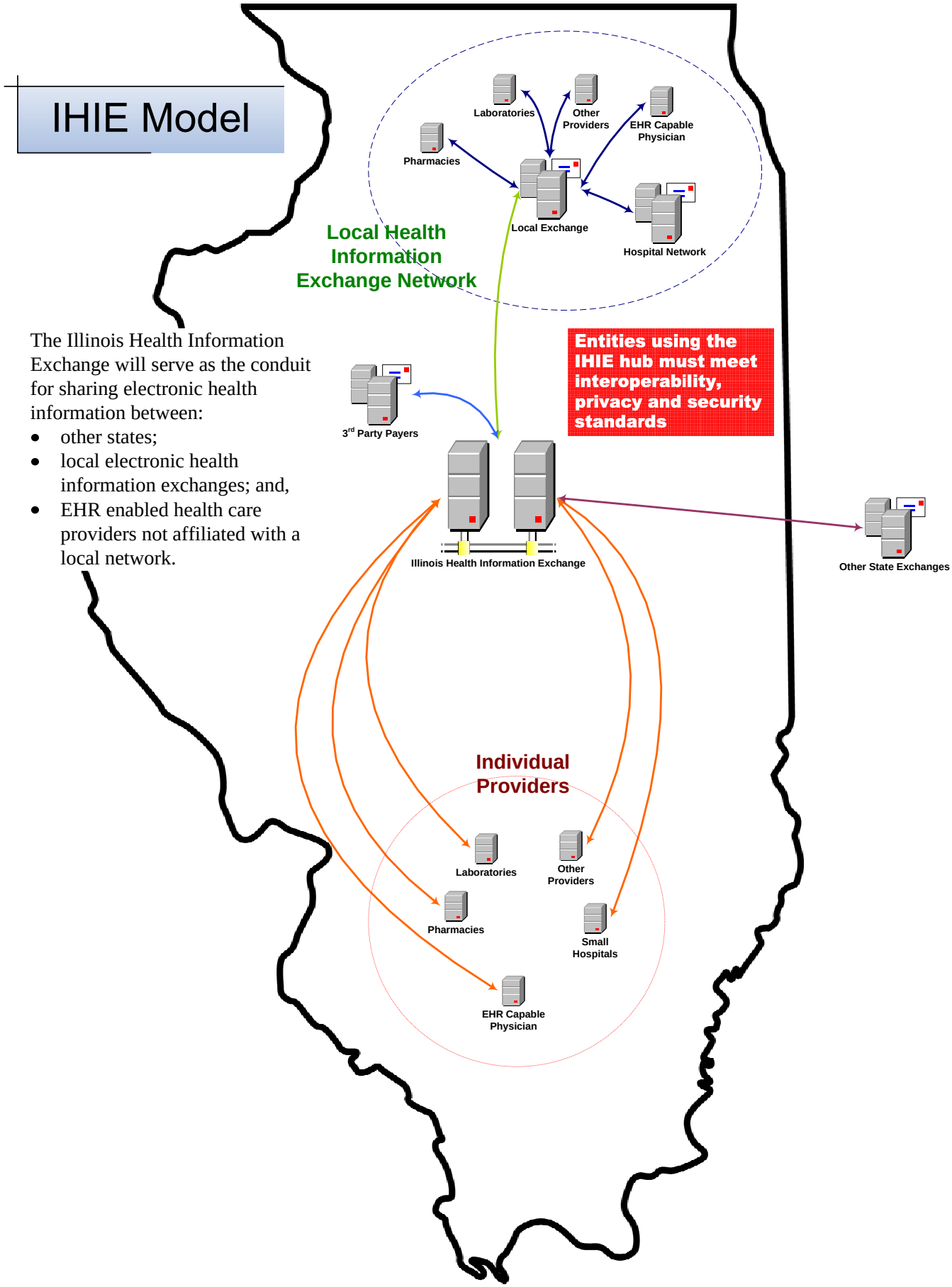
17. Effective date. This Act takes effect upon becoming law.	

IHIE Model



The Illinois Health Information Exchange will serve as the conduit for sharing electronic health information between:

- other states;
- local electronic health information exchanges; and,
- EHR enabled health care providers not affiliated with a local network.

JULIE HAMOS
State Representative – 18th District

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September 15, 2006

TO: EHR Task Force Steering Committee

FROM: Rep. Julie Hamos

RE: Notes on draft legislation

I have reviewed the legislation that was emailed yesterday, and have the following observations (very rough, please excuse). I'm sorry I can't join you on Tuesday for the review session. I'm very encouraged that we are moving in the direction of drafting legislation!

1. Need a sexier name for the Authority – we're going to live with this for some time. Maybe Illinois E-Health Authority?

3. Need to state how the chairman is selected – or can say by appointment of the Governor, but not a state agency representative?

4. Too specific and directive. A section on "Responsibilities of the Authority" should lead in with "(a) The responsibilities of the Authority may include, but not be limited to the following:" (notice "may" instead of "shall"). This provision should read something like:

> (a) Coordinate with the private sector to plan for and implement one or more interoperable health information exchanges and standards for participation, taking into account the confidentiality of patients in accordance with federal and state laws and regulations;

5. Shouldn't say "a program" – again too specific and directive; but could be under "Responsibilities of the Authority" (above)

(b) Foster the adoption of interoperable EHRs by Illinois health care providers through education on the benefits of EHRs; technical assistance to providers where not otherwise available; and, subject to the availability of funds, provision of financial assistance for the acquisition of EHR systems and interoperable health information technology;

(c) Foster the public acceptance and use of EHR and personal health records through public education;

6. Yes – again under "responsibilities" – just a general phrase

7. Don't agree that we need this section.

8. Yes

9. Yes

10. Yes – but don't know if we need

11. Yes

12. Consider adding under "Responsibilities" section, something like: "Incorporate any assets of existing or planned EHR developments, where voluntarily transferred to the Authority by the State or private parties;"

13. This is interesting, but needs a timetable – by 2015 perhaps. Or consider adding under "Responsibilities" as a goal, something like:

"Work with state agencies and contractors of the State to require use of interoperable EHR systems by 2015;"

14. I would propose using the Task Force for transition only – perhaps until the Board is appointed. Otherwise, there's too much overlap between Board and advisory committee. This is already a private/public partnership.

16. OK on extra 2 years.

Comments Submitted by E-mail from John Lantos, M.D. on 9/19/06

Dear Committee,

I regret that I will not be able to make the meeting this afternoon. I have reviewed the excellent draft and Rep. Hamos' comments. I'd like to suggest some slight amendments in the way the proposed legislation addresses privacy and confidentiality issues. I don't understand the difference, in Section 6, B.i. and B.ii. between "promulgating standards for research requests" and "establishing an IRB function." I'm also a little worried that this limits concerns about privacy and confidentiality to formal research - rather than other uses. I would suggest something like the following:

"The Authority shall promulgate standards for privacy, confidentiality, anonymity and de-identification of data in electronic health records. It will establish mechanisms to breaches of these standards. It will also create procedures to review requests for access to the data for research."

Nice work!

John