

**MINUTES OF THE SEPTEMBER 19, 2012, MEETING
OF THE GOVERNING BOARD OF THE
ILLINOIS HEALTH INFORMATION EXCHANGE AUTHORITY**

The Board of Directors (the “Board”) of the Illinois Health Information Exchange Authority (“Authority”), pursuant to notice duly given, held a meeting at 12:10 p.m. on September 19, 2012, at the offices of the Office of Health Information Technology (“OHIT”), State of Illinois James R. Thompson Center, 100 W. Randolph, Suite 9-040, 100 W. Randolph Street, Chicago, IL 60601; with a telephone conference call and webinar participation capabilities.

<p><u>Appointed Members Present:</u></p> <ol style="list-style-type: none"> 1. Dr. Bechara Choucair 2. Mr. David Holland 3. Dr. William Kobler 4. Dr. Nancy Newby 5. Dr. Nicholas Panomitros 6. Mr. Raul Recarey 7. Mr. Bruce Wellman 8. Dr. Cheryl Whitaker 	<p><u>Ex-Officio Members Present:</u></p> <ol style="list-style-type: none"> 1. DOI – Ms. Colleen Burns 2. DPH – Mr. David Carvalho 3. OOG – Mr. Michael Gelder 4. DHS – Ms. Susan Locke
<p><u>Appointed Members Absent:</u></p> <ol style="list-style-type: none"> 1. Mr. Mark Neaman <p><u>Ex-Officio Members Absent:</u></p> <ol style="list-style-type: none"> 1. DHS – Director Julie Hamos <p><u>Invited Guest:</u></p> <p>Micky Tripathi, Massachusetts eHealth Collaborative</p>	<p><u>OHIT Staff Present:</u></p> <p>Laura Zaremba; Sonia Bhagwakar; Mark Chudzinski; Dia Cirillo; Alexander Danel; Diego Estrella; Ivan Handler; Krysta Heaney; Peggy Johnson; Danny Kopelson; John Lekich; Saro Loucks; Mary McGinnis; Ola Oni-Fatoki; Sanjay Patel; David Stumpf; Cory Verblen; Giannina Alonso (Legal Intern)</p>

Notice of Board Appointment / Roll Call

Mr. Chudzinski, Secretary to the Board, advised that on September 14, 2012, the Office of the Governor provided the Board with a copy of the Temporary Appointment of Raul A. Recarey as Executive Director of the Illinois Health Information Exchange Authority, effective immediately upon the filing of the Oath of Office with the Secretary of the State. Upon confirmation by the Senate, Mr. Recarey becomes Executive Director of the Authority, with a term expiring February 7, 2014. Dr. Cheryl Whitaker introduced Mr. Recarey as Executive Director to the Board members. Mr. Recarey discussed and answered questions regarding his professional background, education, and work experience; he then took the formal Oath of Office provided in the Illinois Constitution, administered by Dr. Cheryl Whitaker.

Dr. Cheryl Whitaker welcomed the appointed and ex-officio members of the Illinois Health Information Exchange Authority, as well as the members of the general public in attendance. Mr. Chudzinski, Secretary to the Board, confirmed the presence of the Members of the Authority Board noted above.

Approval of Agenda

There were no proposed revisions to the meeting Agenda, as posted in advance of the meeting in accordance with the Illinois Open Meetings Act.

Approval of June Meeting Minutes

On a motion duly made and seconded, the minutes of the Meeting of the Board on June 6, 2012, as well as the minutes of the Meeting of the Committee of the Whole on June 6, 2012, were unanimously approved by the voting members of the Board. The one amendment to the Minutes of the Board was to clarify the main goals of Mr. David Carvalho's discussion regarding the progress of the development and implementation of the Public Health Node within ILHIE.

Chair Report

Dr. Whitaker reported that a response was filed on behalf of the Authority on June 26, 2012, to the Federal Request for Information ("RFI") regarding "Nationwide Health Information Network: Conditions for Trusted Exchange". Also filing responses were two Illinois regional HIE initiatives: LincolnLand HIE and Illinois Health Exchange Partners. Dr. Farzad Mostashari, at the September 6, 2012 meeting of the Health Information Technology Policy Committee, announced that in response to the 140 formal replies received by the federal Office of the National Coordinator ("ONC") to the RFI, the ONC has decided not to further pursue a federal rulemaking at this time regarding the governance of the nationwide health information network.

Dr. Whitaker discussed the Meaningful Use stage 2 regulations as they are likely to affect the demand for HIE services, with strategic implications for the ILHIE.

Dr. Whitaker also reported that on behalf of the Authority, she executed an Inter-Agency agreement regarding the flow of funds to the Authority through the Illinois Department of Healthcare and Family Services. Dr. Whitaker also noted that CMS grants have been awarded to the University of Chicago and Vanguard to facilitate the adoption of electronic medical records systems to enhance the delivery of community human services programs.

Acting Executive Director Update

Acting Executive Director of ILHIE, Ms. Laura Zaremba, reported on the progress of the development and implementation of the state-level ILHIE.

For Phase 1 of the ILHIE implementation, Direct secure messaging, currently there are approximately 904 registered users; ILHIE is on target for reaching the increased Q3 registration goal. The ILHIE is continuing to focus its efforts on increasing usage. The new end-of-year goal is 2,000 registered users.

For Phase 2 of the ILHIE implementation, OHIT is currently engaged in test partner onboarding, with project meetings ongoing, with upwards of nine critical access rural hospitals and health groups in southern Illinois to be onboarded in the near future. Ms. Zaremba reported on the

progress of the Public Health Node (“Node”) within ILHIE. Specifically, Ms. Zaremba reported that technical work continues to connect ILHIE to the Node by the end of 2012, and that the Department of Public Health’s federal grant application to accelerate electronic hospital reporting to the Biosense system was successful.

Ms. Zaremba also reported that the Medicaid Master Patient Index data integration is complete and will be incorporated after it is loaded from the Illinois Department of Financial & Professional Regulation. Additionally, an application for federal grant to pilot integration of state electronic prescription monitoring program into electronic health records has been successful. To date, enhanced federal funding to support Medicaid claims and other data integration is being explored.

Lastly, Ms. Zaremba reported on the progress of the White Space Grant Program and its impact on the ILHIE. Ms. Zaremba noted that the White Space Grant Program will connect at least 200 additional providers in at least 20 additional health care entities by the end of 2013. Proposals for the program are due October 26, 2012, with notice of awards expected in mid-November.

Ms. Dia Cirillo, program director of OHIT’s Behavioral Health Integration Project (“BHIP”), reported that the four demonstration project funded by BHIP has had 23 inquires, 17 applications, and the participation of six grantees. The main goal of these demonstration projects is to explore the use of health information technology to enable the exchange of behavioral health patient data.

Budget & Finance Committee Report

OHIT’s CFO, Sanjay Patel presented the Budget & Finance Committee’s report to the Board. Mr. Patel’s report included the Committee’s recent financial activity, noting that personnel costs accounted for a majority of the expenses. Mr. Patel reported that a conservative/low-end business model has been presented, which details an expense outlay for a five fiscal year period, beginning on July 1, 2012, and ending on June 30, 2017. Additionally, Mr. Patel reported that productive discussions have taken place with ONC to fund the ILHIE via customer contracts.

Mr. Patel noted that while this business model has made room for robust financial growth, additional analysis is needed with regards to the refinement of revenue categories (i.e., classification of providers, hospitals, beds, etc.), and reviewing data errors, along with patient outcomes. An update on this budget is currently in process, and OHIT will reconvene in October to discuss refining the budget and formally present the updated model.

Data Security & Privacy Committee Report

Dr. Panomitros, chair of the Board’s Data Privacy & Security Committee (“DSPC”), described in detail the content of the written report of the Committee’s Preliminary Findings and Recommendations, which had been circulated in advance to the Board. Dr. Panomitros noted that these findings and recommendations were made after the DSPC had hosted five sets of public hearings that took place from February 8, 2012 through July 28, 2012, during which the DSPC had received oral and written testimony from over 30 stakeholder representatives, including

health care services providers and consumers, subject matter experts, RHIOs, and members of the general public. The DSPC's 65-page report contains 28 numbered findings and recommendations, which were grouped into 20 categories.

Dr. Panomitros discussed each of the DSPC's 28 findings and recommendations, including the following:

- The Committee recommends that the Authority adopt policies which encourage the exchange of patient health information and encourage the flow of patient health data into ILHIE for HIE purposes. Such HIE purposes, reflected in the enabling legislation of the Authority, include the exchange of patient data for purposes of enabling patient treatment, payment, healthcare operations, public health functions permitted by law and medical research approved by an Authority-appointed Institutional Review Board (IRB).
- The Committee recommends that the Authority adopt a multi-staged approach to the development and implementation of the ILHIE, and to the adoption, and periodic revision, of corresponding patient data privacy and security policies to govern the operations of the ILHIE which are enabled by then current HIE technology. As health information technology advancements enable greater patient health information privacy and security functionality, the Authority should adopt and implement privacy and security policies that provide Illinois residents the greatest available degree of protection. The Committee recommends that the Authority adopt as its policy the periodic review and acquisition of health information technology advancements to enable the continued improvement of ILHIE's patient health information privacy and security.
- To maximize the utility of the ILHIE to all residents of the State of Illinois, the Authority should seek to ensure the interoperability of the ILHIE with HIE systems being implemented across the United States, and in particular with those in Midwest States neighboring Illinois with which Illinois health care providers regularly exchange patient health information. To promote uniform national technical standards and legal policies which promote national HIE interoperability, the Authority should encourage federal government leadership in the adoption of national technical standards and legal policies, including patient data privacy and security policies.
- Illinois law regarding the disclosure of patient health information for the most part predates the adoption by health care providers in Illinois of electronic health information systems and the enactment of federal laws addressing patient health information privacy and security, principally embodied in regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). In those instances where Illinois law is more restrictive than federal law, and such a divergence impedes the development and implementation of electronic health information exchange within Illinois or across State boundaries, the Committee believes that Illinois laws should be amended to facilitate the development and implementation of the ILHIE, and other methods be explored to address any affected interests that the statutory divergence was originally intended to address. In those instances where Illinois law is in principle not more restrictive than federal law but reflects differences in concepts and terms, the Committee believes that Illinois laws should be harmonized with federal law to help resolve existing

uncertainty regarding the legal requirements applicable to health care providers in Illinois and their participation in the ILHIE. The Committee recommends that the Authority act to harmonize Illinois and federal health care privacy and security law, exercising its powers to enact regulations governing the operation of the ILHIE, and proposing the adoption by the Illinois General Assembly of relevant amendments to existing Illinois laws.

- The Committee recommends that the Authority in its implementation of the ILHIE enable the receipt by eligible Illinois health care providers of federal “Meaningful Use” incentive payments.
- The Committee recommends that when adopting policies regarding the operation of the ILHIE, the Authority should take into consideration the consequences of such policies on clinical treatment workflows and administrative costs at the point of patient care.
- The Committee recommends that the Authority in its implementation of the ILHIE support the facilitation of public health reporting and ancillary medical research permitted by law to promote population health.
- While current laws and policies may be adequate for the already functioning ILHIE Phase 1 Direct secure messaging, the Committee finds that an incrementally different set of laws and policies are appropriate for the proposed ILHIE Phase 2. Accordingly, the Committee recommends that the Authority offer Illinois residents additional patient data privacy protection by giving patients an “opt-out” choice to enable them to block the distribution by ILHIE of a patient’s data (other than as required by law).
- To optimize the utility of the ILHIE and enhance the attainment of its anticipated benefits, the Committee recommends to the Authority the utilization of an “opt-out” approach to patient choice rather than an “opt-in” approach.
- In order to enable the ILHIE to facilitate the transmission of patient health information to public health authorities, and to make patient health information potentially available in the event of a patient medical emergency (as defined by law), the Committee recommends that all patient health information be accessible to the ILHIE, but that its further disclosure by the ILHIE to authorized participants in the ILHIE be restricted by a patient’s decision to “opt-out”. The patient “opt-out” choice would therefore apply to restricting data distribution by the ILHIE, as opposed to restricting its collection by the ILHIE.
- As the law in Illinois is unclear regarding the permitted disclosure of patient health information in the event of medical emergency, the Committee recommends that the Authority act to clarify applicable Illinois law, whether through adoption of appropriate regulations or the enactment by the Illinois General Assembly of appropriate statutes.

- The Committee recommends that the Authority seek to minimize administrative burdens at the point of care and explore solutions which enable the exercise by patients of their “opt-out” rights at their convenience.
- The Committee recommends that Illinois laws restricting the disclosure of certain categories of patient health information be amended to clearly allow the transmission of all patient health information to the ILHIE for HIE purposes without the necessity of obtaining prior patient authorization, but subject to the patient’s ability to “opt-out” from further disclosure by the ILHIE of the patient’s health information.
- The Committee further recommends that patients with specially-protected patient health information be provided with meaningful disclosure regarding their “opt-out” right so as to promote their informed decision making. The Committee recommends that provision of meaningful disclosure not unduly impose significant administrative costs or subjective obligations upon health care providers.
- Since the segmentation of specific categories of electronic patient health information within a particular electronic patient medical record is currently not yet technologically reasonably feasible, the Committee supports the launch of the ILHIE with an “all-data-in or all-data-out” patient choice. As HIE technology matures, however, the Committee recommends that the Authority introduce more granular patient choices, to allow patients to determine what health information patients wish to share with whom.
- The Committee recommends that the Authority adopt measures to build provider and patient trust in the ILHIE, which include: (1) monitoring; (2) enforcement strategies; (3) breach mitigation; and (4) public education.
- The Committee recommends that the Authority refrain from taking any actions which may interfere in the exercise by a health care provider of either health care judgment or legal compliance judgment in respect of any patient’s health information. The Committee also recommends that the Authority refrain from taking any actions in respect of a patient record for which a health care provider’s knowledge of the clinical context of the record is necessary or desirable.
- The Committee recommends that the Authority seek to have the ILHIE achieve the highest possible degree of patient record matching in order to minimize potential patient harms arising from the ILHIE’s delivery to clinical personnel of erroneous information. In selecting and implementing the ILHIE’s patient record matching system, the Committee recommends that the Authority exercise care in the use of personally-identifiable information as part of a patient’s unique identifier.
- The Committee recommends that the Authority will need to adequately publicize the patient data privacy and security policies that it adopts with relation to the operation of the ILHIE and the resulting patient rights. Adequate resources should be allocated to addressing the significant information gap regarding the nature, purpose and benefits of

the ILHIE and its proposed patient consent policies that currently exists among health care providers in Illinois as well as the general public.

Following Board discussion of the DSPC's report, the Secretary read Resolution 2012-11, a copy of which had been circulated in advance to the Board, endorsing the findings and recommendations of the DSPC, and directing the Authority's Acting Executive Director to formulate and implement a plan for the promulgation by the Authority Board of corresponding policies and regulations and, to the extent necessary or desirable, the submission of corresponding statutory proposals for enactment by the Illinois General Assembly. On a motion duly made and seconded, Resolution 2012-11 was passed unanimously by the Board.

Regional HIE Update

Mr. Chuck Cox reported that Ms. Terry Jacobson has stepped down as Director of the Metro Chicago HIE, and that as of last week, he was formally named as the Director of Metro Chicago HIE. In addition, Dr. Julio Silva has joined the Metro Chicago HIE team as the Chief Medical Officer. Mr. Cox reported that the Metro Chicago HIE is currently in its operational implementation phase with its early adopter hospitals, with go-live dates set for early November. Additionally, Mr. Cox reported that Metro Chicago HIE's second cohort of adopters is set to operationalize in early January.

Ms. Joy Duling reported that the Central Illinois HIE has begun its live feed, and has successfully stored over 160,000 patient records in its system. Ms. Duling noted that approximately 45 patients have chosen to "opt-out", with a majority of the "opt-outs" representing families. Additionally, Ms. Duling reported that the Central Illinois HIE software has undergone a major software upgrade that has made it Direct compliant, and connectivity to the ILHIE is currently in progress.

Mr. Roger Holloway reported to the Board that the Northern Illinois HIE's not-for-profit status has recently been approved.

Advisory Committee Update

Mr. Bill Odman, co-chair of the ILHIE Advisory Committee, reported to the Board that an Advisory Committee meeting was held on September 11, 2012. During that meeting, Dr. Carla Evans, a professor at UIC's Department of Orthodontists, and Dr. David Miller, Chief of the Division of Oral Health for the Illinois Department of Public Health, gave a presentation on the importance of the exchange of health records in dentistry, along with the difficulties present within the oral health community with finding and implementing EHR solutions. Additionally, the Advisory Committee received an update from Ms. Dia Cirillo regarding the BHIP, and Mr. Mark Chudzinski presented the Data Security & Privacy Committee's preliminary recommendations and key findings. The Advisory Committee is continuing to focus on the presentation of a variety of use cases, with a short term objective of finding a process for vetting use cases for alignment with the goal set forth by ILHIE. The Advisory Committee's next meeting will be held on Tuesday, October 30, 2012.

Regional Extension Center Update

Mr. Roger Holloway, representing the Illinois Health Information Technology Regional Extension Center (ILHITREC), advised the Board that approximately 30% of all providers engaged in ILHITREC have reached “meaningful use”. Mr. Holloway reported that the target goal for December 2012 is to have 40-45% of providers achieve “meaningful use”. Additionally, Mr. Holloway anticipates that by December, 90% of the providers engaged in ILHITREC will be able to e-prescribe and share quality metrics data.

Public Comment

There were no comments offered from the general public in response to the Chair’s invitation.

Adjournment

The meeting was adjourned at 2:56 p.m.

Minutes submitted by:

Mark Chudzinski, Secretary