

By: Representative Holland

To: Public Health and Human  
ServicesCOMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 941

1 AN ACT TO CREATE THE MISSISSIPPI HEALTH INFORMATION NETWORK  
2 ACT TO PROMOTE THE USE OF HEALTH INFORMATION TECHNOLOGY AND  
3 EXCHANGE OF THAT INFORMATION TO IMPROVE HEALTH CARE QUALITY AND  
4 EFFICIENCY; TO ESTABLISH THE MISSISSIPPI HEALTH INFORMATION  
5 NETWORK AND PROVIDE THAT IT WILL BE GOVERNED BY A BOARD OF  
6 DIRECTORS; TO PROVIDE FOR THE MEMBERSHIP OF THE BOARD; TO PROVIDE  
7 FOR THE POWERS AND DUTIES OF THE BOARD; TO PROVIDE CERTAIN  
8 IMMUNITY FOR MEMBERS OF THE BOARD; TO PROVIDE FOR PRIVACY OF  
9 HEALTH INFORMATION IN THE NETWORK; TO REQUIRE ALL AGENCIES OF THE  
10 STATE ENGAGED IN THE DELIVERY OR PROVISION OF HEALTH INFORMATION  
11 TECHNOLOGY SERVICES TO COORDINATE BETWEEN THE SEVERAL STATE  
12 AGENCIES, WITH PRIVATE NONPROFIT CORPORATIONS, AND WITH FEDERALLY  
13 FUNDED AGENCIES TO PREVENT UNNECESSARY DUPLICATION, WASTEFUL  
14 EXPENDITURES OF STATE FUNDS; TO ENCOURAGE THE DEVELOPMENT OF AN  
15 INTEROPERATIVE STATEWIDE SYSTEM OF HEALTH INFORMATION TECHNOLOGY;  
16 TO REQUIRE STATE AGENCIES, BEFORE ACQUIRING ANY HEALTH INFORMATION  
17 TECHNOLOGY SYSTEM, TO CONDUCT A SURVEY OF ALL HEALTH INFORMATION  
18 TECHNOLOGY SYSTEMS WITHIN THE GEOGRAPHIC AREA FOR WHICH THE  
19 SERVICE IS INTENDED, AND ANALYZE THE BENEFITS OF USING EXISTING  
20 PROVIDERS; TO REQUIRE THE DEPARTMENT OF INFORMATION TECHNOLOGY  
21 SERVICES TO REVIEW AND APPROVE THE ACQUISITION OF ALL HEALTH  
22 INFORMATION TECHNOLOGY SERVICES BEFORE THE RELEASE OF REQUESTS FOR  
23 PROPOSALS OR THE EXECUTION OF CONTRACTS FOR THAT ACQUISITION; TO  
24 PROVIDE THAT THE DEPARTMENT SHALL NOT GRANT APPROVAL FOR THE  
25 ACQUISITION OF HEALTH INFORMATION TECHNOLOGY SYSTEMS UNLESS ALL  
26 REASONABLE EFFORTS HAVE BEEN MADE BY THE AGENCY TO USE THE  
27 RESOURCES OF EXISTING SYSTEMS; AND FOR RELATED PURPOSES.

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

29 **SECTION 1.** This act shall be known and may be cited as the  
30 "Health Information Technology Act."

31 **SECTION 2.** (1) The State of Mississippi has great need to  
32 reduce chronic diseases such as hypertension, heart disease, and  
33 diabetes among its residents. Because medical resources of the  
34 state are limited, particularly within the more rural areas of the  
35 state, every opportunity must be used to maximize access to  
36 adequate health care. Compounding this problem, the number of  
37 physicians engaged in the practice of providing primary care in



the rural areas of the state will likely continue to decline for the foreseeable future. This continued inadequate access to primary health care will have a profound effect on the public health, education, and economy of the state unless meaningful interventions are implemented. Interoperable health information technology systems can improve individual patient care in numerous ways, including: complete, accurate and searchable health information that is available at the point of diagnosis and care, allowing for more informed decision making to enhance the quality and reliability of health care delivery; more efficient and convenient delivery of care, without having to wait for the exchange of records or paperwork and without requiring unnecessary or repetitive tests or procedures; earlier diagnosis and characterization of disease, with the potential to thereby improve outcomes and reduce costs; reductions in adverse events through an improved understanding of each patient's particular medical history, and reduced potential for drug-drug interactions. Moreover, Congress has mandated a fully interoperable electronic medical records system through a system of rewards for health care providers achieving meaningful use. The purpose of this act is to create the Mississippi Health Information Network to promote the use of health information technology and exchange of that information in the state to improve health care quality and efficiency.

(2) It is intended that the Mississippi Health Information Network be a public-private partnership for the benefit of all of the citizens of this state.

**SECTION 3.** (1) The Mississippi Health Information Network is established, and is referred to in this act as the "MS-HIN."

(2) The MS-HIN shall be governed by a board of directors consisting of twenty-one (21) members. The membership of the board shall reasonably reflect the public-private and diverse nature of the MS-HIN.



71           (2) The Governor, Lieutenant Governor and Speaker of the  
72 House of Representatives each shall appoint two (2) members of the  
73 board, each of whom shall serve at the will and pleasure of the  
74 appointing officer. The Mississippi Hospital Association, the  
75 Mississippi State Medical Association, the Mississippi Medical and  
76 Surgical Association, the Primary Health Care Association, the  
77 Mississippi Health Information Management Association and the  
78 Mississippi Nurses' Association each shall appoint one (1) member.  
79 The appointment of the Mississippi Nurses' Association shall be a  
80 registered nurse. The State Department of Health, the Division of  
81 Medicaid, the Department of Human Services, the University of  
82 Mississippi Medical Center, the State Board of Pharmacy, the  
83 Mississippi Development Authority, the Mississippi Department of  
84 Information Technology Services, the Department of Finance and  
85 Administration, and the Insurance Department, or their successor  
86 entities, each shall appoint one (1) member. The appointment of  
87 the Department of Finance and Administration shall be the Director  
88 of the Office of Insurance of the department.

89           (3) Members shall serve terms of two (2) years and may be  
90 reappointed on a rotating basis as determined by the board.  
91 Members shall continue to serve on the board until a replacement  
92 appointment is made. Any member who misses three (3) consecutive  
93 meetings of the board shall be automatically removed from the  
94 board, and shall be replaced by another appointment of the  
95 appointing officer or organization.

96           (4) No state officer or employee appointed to the board or  
97 serving in any other capacity for the board will be construed to  
98 have resigned from public office or employment by reason of that  
99 appointment or service.

100           (5) The chairperson of the board shall be elected by a  
101 majority of the members appointed to the board.

102           (6) The board is authorized to conduct its business by a  
103 majority of a quorum. A quorum is ten (10) members of the board.



(7) The board may adopt by-laws for its operations, including, but not limited to, the election of other officers, the terms of officers, and the creation of standing and ad hoc committees.

(8) Board members who are not state employees may be reimbursed for travel expenses incurred when attending board meetings, as provided in Section 25-3-41.

**SECTION 4.** (1) In furtherance of the purposes of this act, the M-HIN shall have the following duties:

(a) Initiate a statewide health information network to:

(i) Facilitate communication of patient clinical and financial information;

(ii) Promote more efficient and effective communication among multiple health care providers and payers, including, but not limited to, hospitals, physicians, nonphysician providers, third-party payers, self-insured employers, pharmacies, laboratories, and other health care entities;

(iii) Create efficiencies by eliminating redundancy in data capture and storage and reducing administrative, billing, and data collection costs;

(iv) Create the ability to monitor community health status;

(v) Provide reliable information to health care consumers and purchasers regarding the quality and cost-effectiveness of health care, health plans, and health care providers; and

(vi) Promote the use of certified electronic health records technology in a manner that improves quality, safety, and efficiency of health care delivery, reduces health care disparities, engages patients and families, improves care coordination, improves population and public health, and ensures adequate privacy and security protections for personal health information.



(b) Develop or design other initiatives in furtherance of its purpose; and

(c) Perform any and all other activities in furtherance of its purpose.

(2) The board is granted all incidental powers to carry out its purposes and duties, including the following:

(a) To appoint an executive director, who will serve at the will and pleasure of the board. The qualifications and employment terms for the executive director shall be determined by the board.

(b) To adopt, modify, repeal, promulgate, and enforce rules and regulations to carry out the purposes of the MS-HIN;

(c) To establish a process for hearing and determining case decisions to resolve disputes under this act or the rules and regulations promulgated under this act among participants, subscribers, or the public;

(d) To enter into, and to authorize the executive director to execute contracts or other agreements with any federal or state agency, any public or private institution, or any individual in carrying out the provisions of this act; and

(e) To discharge other duties, responsibilities, and powers as are necessary to implement the provision of this act.

(3) The executive director shall have the following powers and duties:

(a) To employ qualified professional personnel as required for the operation of the MS-HIN and as authorized by the board;

(b) To administer the policies of the board; and

(c) To supervise and direct all administrative and technical activities of the MS-HIN;

(4) The MS-HIN shall have the power and authority to accept appropriations, grants and donations from public or private entities and to charge reasonable fees for its services. The



revenue derived from grants, donations, fees, and other sources of income shall be deposited into a special fund that is created in the State Treasury and earmarked for use by the MS-HIN in carrying out its duties under this act.

**SECTION 5.** (1) All members of the board shall not be subject to and are immune from claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken, performed or reached in good faith and without malice by any such member or members acting individually or jointly in carrying out the responsibilities, authority, duties, powers and privileges of the offices conferred by law upon them under this act, or any other state law, or duly adopted rules and regulations of the aforementioned committees, good faith being presumed until proven otherwise, with malice required to be shown by a complainant. All employees and staff of the MS-HIN, whether temporary or permanent, shall enjoy the same rights and privileges concerning immunity from suit otherwise enjoyed by state employees under the Mississippi Constitution of 1890 and Section 11-46-1 et seq.

(2) The MS-HIN is not a health care provider and is not subject to claims under Sections 11-1-58 through 11-1-62. No person who participates in or subscribes to the services or information provided by the MS-HIN shall be liable in any action for damages or costs of any nature, in law or equity, that result solely from that person's use or failure to use MS-HIN information or data that were imputed or retrieved in accordance with the rules or regulations of the MS-HIN. In addition, no person will be subject to antitrust or unfair competition liability based on membership or participation in the MS-HIN, which provides an essential governmental function for the public health and safety.

**SECTION 6.** (1) All persons providing information and data to the MS-HIN shall retain a property right in that information or data, but grant to the other participants or subscribers a



nonexclusive license to retrieve and use that information or data in accordance with the rules or regulations promulgated by the board and in compliance with the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(2) Patients desiring to obtain a copy of their personal medical record or information are to request the copy from the health care provider who is the primary source of the information, and the MS-HIN shall not be required to provide this information directly to the patient.

(3) All processes or software developed, designed, or purchased by the MS-HIN shall remain its property subject to use by participants or subscribers in accordance with the rules and regulations promulgated by the board.

**SECTION 7.** (1) The board shall by rule or regulation ensure that patient specific health information be disclosed only in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, which governs the electronic transmission of that information.

(2) Patient specific health information and data of the MS-HIN shall not be subject to the Federal Freedom of Information Act, Mississippi Open Records Act (Section 25-61-1 et seq.) nor to subpoena by any court. That information may only be disclosed by consent of the patient or in accordance with the board's rules, regulations, or orders.

(3) Notwithstanding any conflicting statute, court rule, or other law, the data in the network shall be confidential and shall not be subject to discovery or introduction into evidence in any civil action. However, information and data otherwise discoverable or admissible from original sources are not to be construed as immune from discovery or use in any civil action merely because they were provided to the MS-HIN.



(4) Submission of information to and use of information by the State Department of Health shall be considered a permitted disclosure for uses and disclosures required by law and for public health activities under the Health Insurance Portability and Accountability Act and the privacy rules promulgated under that act.

(5) Any violation of the rules or regulations regarding access or misuse of the MS-HIN health information or data shall be reported to the Office of the Attorney General, and shall be subject to prosecution and penalties under state or federal law.

**SECTION 8.** For the purposes of Sections 8 through 10 of this act, the following terms shall be defined as provided in this section:

(a) "Telehealth" means the use of telecommunication equipment and computing technology to support long-distance clinical health care, patient and professional health-related education, public health concerns, and health care administration.

(b) "Telemedicine" means long-distance clinical health care, including practitioner-to-patient meetings, practitioner-to-practitioner discussions and exchange of clinical information via technology.

(c) "Electronic health records" or "EHR" means electronically maintained clinical and demographic information, used by a meaningful EHR user, about an individual patient's health history, including medications, lab tests and results, procedures, diagnoses, physician and hospital encounters, and all information related to a patient's medical record.

(d) "Health information technology" or "HIT" means the equipment and networks to be used by a meaningful EHR user and needed to provide telehealth, telemedicine and bioinformatics, including electronic health records and the technology that supports those records.





(e) "Acquisition" of HIT systems or other computer or telecommunications equipment or services means the purchase, lease, rental, or acquisition in any other manner of HIT systems or any other computer or telecommunications equipment or services.

(f) "Meaningful EHR user" means an eligible professional or eligible hospital that, during the specified reporting period, demonstrates meaningful use of certified EHR technology in a form and manner consistent with certain objectives and measures presented in applicable federal regulations. These objectives and measures shall include use of certified EHR

(g) "Geographic area" means the area to be served by the proposed HIT service. Due to the complexity and nature of HIT services, existing providers in areas adjacent to the geographic area, or providers engaged in similar HIT services on a statewide basis shall be included in the agency's required analysis as set forth in Section 9 of this act.

(h) "Department" means the Mississippi Department of Technology Services.

(i) "Agency" means and includes all the various state agencies, officers, departments, boards, commissions, offices and institutions of the state, but does not include any agency financed entirely by federal funds.

**SECTION 9.** (1) Before the acquisition of any HIT system, an agency shall conduct a survey of all HIT systems within the geographic area for which the service is intended. Failure to materially comply with the provisions of this section shall constitute grounds for the setting aside, by a court of competent jurisdiction, any contract issued by an agency.

(2) The survey shall include a written report to be prominently posted on the agency's Web site for a period of not less than thirty (30) days before the issuance of any request for proposals, the execution of contracts, or any other measure that



might be required by law or regulation for the acquisition of the HIT system.

(3) The survey shall, at a minimum, include the following:

(a) The description, purpose, and intent of the proposed service or system; and

(b) The name, location, and specific nature of all existing HIT providers within the geographic area to be served; and

(c) The extent to which existing entities can be used to provide the proposed service, in whole or in part, including letters of commitment, memoranda of agreement, or other supporting documentation; or

(d) The absence of support from existing providers, including the name and location of all those providers contacted, written response from the providers setting out the reasons for the inability to participate in the proposed service, or certification by the agency that no provider of HIT services exists within the geographic area to be served.

(4) The agency proposing to provide HIT services shall analyze the benefits of using existing providers and reduce the analysis to a final written report. The report shall be published on the agency's Web site, submitted as a part of its request for approval from the department, and provided via United States mail, 1st class postage paid, to all HIT providers within the geographic area proposed to be served.

**SECTION 10.** (1) In addition to the approval requirements set forth in Section 25-53-115, the department shall review and approve, in writing, the acquisition of all HIT systems before the release of requests for proposals, or the execution of contracts for that acquisition. The department shall review applications from requesting agencies using, at a minimum, the standards set forth in Section 9 of this act.



331           (2) The department shall not grant approval for the  
332 acquisition of HIT systems unless all reasonable efforts have been  
333 made by the agency to use the resources of existing systems. If  
334 proposed systems are not able to take advantage of existing  
335 systems, then the proposed systems must be capable of fully  
336 integrating with existing systems, unless the intent of the  
337 proposed system is to fully replace the existing system.

338           (3) Any acquisition of an HIT system that was approved by  
339 the department before the effective date of House Bill No. 941,  
340 2010 Regular Session, is exempt from the requirements of Sections  
341 8 through 10 of this act.

342           **SECTION 11.** This act shall stand repealed on July 1, 2014.

343           **SECTION 12.** This act shall take effect and be in force from  
344 and after its passage.

