

By: Representative Holland

To: Public Health and Human
ServicesHOUSE BILL NO. 941
(As Sent to Governor)

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 MS-HIN BOARD; TO
7 PROVIDE FOR THE POWERS AND DUTIES OF THE MS-HIN BOARD; TO PROVIDE
8 CERTAIN IMMUNITY FOR MEMBERS OF THE MS-HIN BOARD; TO PROVIDE FOR
9 PRIVACY OF HEALTH INFORMATION IN THE NETWORK; TO REQUIRE ALL
10 AGENCIES OF THE STATE ENGAGED IN THE DELIVERY OR PROVISION OF
11 HEALTH INFORMATION TECHNOLOGY SERVICES TO COORDINATE BETWEEN THE
12 SEVERAL STATE AGENCIES, WITH PRIVATE NONPROFIT CORPORATIONS, AND
13 WITH FEDERALLY FUNDED AGENCIES TO PREVENT UNNECESSARY DUPLICATION,
14 WASTEFUL EXPENDITURES OF STATE FUNDS; TO ENCOURAGE THE DEVELOPMENT
15 OF AN INTEROPERATIVE STATEWIDE SYSTEM OF HEALTH INFORMATION
16 TECHNOLOGY; TO REQUIRE STATE AGENCIES, BEFORE ACQUIRING ANY HEALTH
17 INFORMATION TECHNOLOGY SYSTEM, TO CONDUCT A SURVEY OF ALL HEALTH
18 INFORMATION TECHNOLOGY SYSTEMS WITHIN THE GEOGRAPHIC AREA FOR
19 WHICH THE SERVICE IS INTENDED, AND ANALYZE THE BENEFITS OF USING
20 EXISTING PROVIDERS; TO REQUIRE THE MISSISSIPPI HEALTH INFORMATION
21 NETWORK TO REVIEW PROPOSALS AND PROVIDE GUIDANCE FOR HEALTH
22 INFORMATION TECHNOLOGY ACQUISITION; TO DIRECT THE PEER COMMITTEE
23 TO MAKE CERTAIN REPORTS REGARDING THE DEVELOPMENT OF ELECTRONIC
24 HEALTH INFORMATION IN MISSISSIPPI; AND FOR RELATED PURPOSES.

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

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

28 **SECTION 2.** The Mississippi Health Information Network is a
29 public-private partnership for the benefit of all of the citizens
30 of this state.

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

33 (2) The MS-HIN shall be governed by a board of directors
34 (MS-HIN board) consisting of eleven (11) members. The membership
35 of the MS-HIN board shall reasonably reflect the public-private
36 and diverse nature of the MS-HIN.



37 (3) The membership of the MS-HIN board of directors shall
38 consist of the following:

39 (a) The Governor shall appoint one (1) member of the
40 MS-HIN board of directors, who shall be a representative of a
41 health insurance carrier in Mississippi with knowledge of
42 information technology, to serve an initial term of three (3)
43 years;

44 (b) The State Board of Health shall appoint one (1)
45 member of the MS-HIN board of directors, who shall be a
46 representative of a Mississippi hospital with knowledge of
47 information technology, to serve an initial term of three (3)
48 years;

49 (c) The Mississippi State Medical Association shall
50 appoint a member of the MS-HIN board of directors, who shall be a
51 licensed physician, to serve an initial term of three (3) years;

52 (d) The Primary Health Care Association shall appoint a
53 member of the MS-HIN board of directors to serve an initial term
54 of one (1) year;

55 (e) The Delta Health Alliance shall appoint a member of
56 the MS-HIN board of directors to serve an initial term of four (4)
57 years;

58 (f) The Information and Quality Health Care-Mississippi
59 Coastal Health Information Exchange (MCHIE) shall appoint a member
60 of the MS-HIN board of directors to serve an initial term of one
61 (1) year;

62 (g) The State Board of Health shall appoint a member of
63 the MS-HIN board of directors who shall be an employee of the
64 State Department of Health to serve an initial term of one (1)
65 year;

66 (h) The Mississippi Board of Information Technology
67 Services shall appoint a member of the MS-HIN board of directors
68 to serve an initial term of two (2) years;



69 (i) The Mississippi Board of Mental Health shall
70 appoint a member of the MS-HIN board of directors who shall be an
71 employee of the Department of Mental Health to serve an initial
72 term of four (4) years;

73 (j) The University of Mississippi Medical Center shall
74 appoint a member of the MS-HIN board of directors to serve an
75 initial term of two (2) years; and

76 (k) The Division of Medicaid shall appoint a member of
77 the MS-HIN board of directors who shall be an employee of the
78 Division of Medicaid to serve an initial term of two (2) years.

79 Initial terms shall expire on June 30 of the appropriate
80 year, and subsequent appointments shall be made by the appointing
81 entity for terms of four (4) years. Members may be reappointed.

82 (4) No state officer or employee appointed to the MS-HIN
83 board or serving in any other capacity for the MS-HIN board will
84 be construed to have resigned from public office or employment by
85 reason of that appointment or service.

86 (5) The chairperson of the MS-HIN board shall be elected by
87 a majority of the members appointed to the MS-HIN board.

88 (6) The MS-HIN board is authorized to conduct its business
89 by a majority of a quorum. A quorum is six (6) members of the
90 MS-HIN board.

91 (7) The MS-HIN board may adopt bylaws for its operations,
92 including, but not limited to, the election of other officers, the
93 terms of officers, and the creation of standing and ad hoc
94 committees.

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

97 (a) Initiate a statewide health information network to:
98 (i) Facilitate communication of patient clinical
99 and financial information;

100 (ii) Promote more efficient and effective
101 communication among multiple health care providers and payers,



102 including, but not limited to, hospitals, physicians, nonphysician
103 providers, third-party payers, self-insured employers, pharmacies,
104 laboratories and other health care entities;

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

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

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

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

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

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

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

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

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

133 (c) To establish a process for hearing and determining
134 case decisions to resolve disputes under this act or the rules and



135 regulations promulgated under this act among participants,
136 subscribers or the public;

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

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

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

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

148 (b) To administer the policies of the MS-HIN board; and

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

151 (4) The MS-HIN shall have the power and authority to accept
152 appropriations, grants and donations from public or private
153 entities and to charge reasonable fees for its services. The
154 revenue derived from grants, donations, fees and other sources of
155 income shall be deposited into a special fund that is created in
156 the State Treasury and earmarked for use by the MS-HIN in carrying
157 out its duties under this act.

158 **SECTION 5.** (1) All members of the MS-HIN board shall not be
159 subject to and are immune from claim, suit, liability, damages or
160 any other recourse, civil or criminal, arising from any act or
161 proceeding, decision or determination undertaken, performed or
162 reached in good faith and without malice by any such member or
163 members acting individually or jointly in carrying out the
164 responsibilities, authority, duties, powers and privileges of the
165 offices conferred by law upon them under this act, or any other
166 state law, or duly adopted rules and regulations of the
167 aforementioned committees, good faith being presumed until proven



168 otherwise, with malice required to be shown by a complainant. All
169 employees and staff of the MS-HIN, whether temporary or permanent,
170 shall enjoy the same rights and privileges concerning immunity
171 from suit otherwise enjoyed by state employees under the
172 Mississippi Constitution of 1890 and Section 11-46-1 et seq.

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

184 **SECTION 6.** (1) All persons providing information and data
185 to the MS-HIN shall retain a property right in that information or
186 data, but grant to the other participants or subscribers a
187 nonexclusive license to retrieve and use that information or data
188 in accordance with the rules or regulations promulgated by the
189 MS-HIN board and in compliance with the provisions of the Health
190 Insurance Portability and Accountability Act of 1996, Public Law
191 104-191.

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

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



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

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

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

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

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

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

231 (a) "Electronic health records" or "EHR" means
232 electronically maintained clinical and demographic information,
233 used by a meaningful EHR user.



234 (b) "Health information technology" or "HIT" means the
235 equipment, software and networks to be used by a meaningful EHR
236 user.

237 (c) "Acquisition" of HIT systems or other computer or
238 telecommunications equipment or services means the purchase,
239 lease, rental or acquisition in any other manner of HIT systems or
240 any other computer or telecommunications equipment or services
241 used exclusively for HIT.

242 (d) "Meaningful EHR user" means an eligible
243 professional or eligible hospital that, during the specified
244 reporting period, demonstrates meaningful use of certified EHR
245 technology in a form and manner consistent with certain objectives
246 and measures presented in applicable federal regulations as
247 amended or adopted. These objectives and measures shall include
248 the use of certified EHR.

249 (e) "Entity" means and includes all the various state
250 agencies, officers, departments, boards, commissions, offices and
251 institutions of the state, but does not include any agency
252 financed entirely by federal funds.

253 **SECTION 9.** (1) Before the acquisition of any HIT system, an
254 entity shall provide MS-HIN, at a minimum, description, purpose
255 and intent of the proposed service or system, including a
256 description and specifications of the ability to connect to
257 MS-HIN.

258 (2) Where existing entities can be used to provide the
259 proposed HIT system, in whole or in part, the submission shall
260 include letters of commitment, memoranda of agreements, or other
261 supporting documentation.

262 (3) The MS-HIN shall review proposals for acquisition of HIT
263 systems for the purposes contained in Section 4 of this act, and
264 provide guidance to entities including collaborative opportunities
265 with MS-HIN members.



266 (4) Any acquisition of an HIT system that was approved by
267 the Mississippi Department of Technology Services before the
268 effective date of House Bill No. 941, 2010 Regular Session, is
269 exempt from the requirements of Sections 8 and 9 of this act.

270 **SECTION 10.** The Legislative Audit Committee (PEER) shall
271 develop and make a report to the Chairmen of the Senate and House
272 Public Health and Welfare/Medicaid Committees regarding the
273 following electronic health records (EHR) system items:

274 (a) Evaluate the Request for Proposals (RFP) for the
275 implementation and operations services for the Division of
276 Medicaid and the University Medical Center electronic health
277 records system and e-prescribing system for providers;

278 (b) Evaluate the proposed expenditures of the
279 Mississippi Division of Medicaid (DOM) and the University Medical
280 Center (UMC) regarding electronic health information; and

281 (c) Evaluate the use of American Recovery and
282 Reinvestment Act (ARRA) funds for electronic health records system
283 implementation in the State of Mississippi.

284 The PEER Committee shall make its report on or before
285 December 1, 2010, including any recommendations for legislation.

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

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

