



NATIONAL CONFERENCE  
of STATE LEGISLATURES

*The Forum for America's Ideas*



# Health Information Technology 2007 and 2008 State Legislation



# HEALTH INFORMATION TECHNOLOGY 2007 AND 2008 STATE LEGISLATION

By  
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NATIONAL CONFERENCE  
*of* STATE LEGISLATURES  
*The Forum for America's Ideas*

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# INTRODUCTION

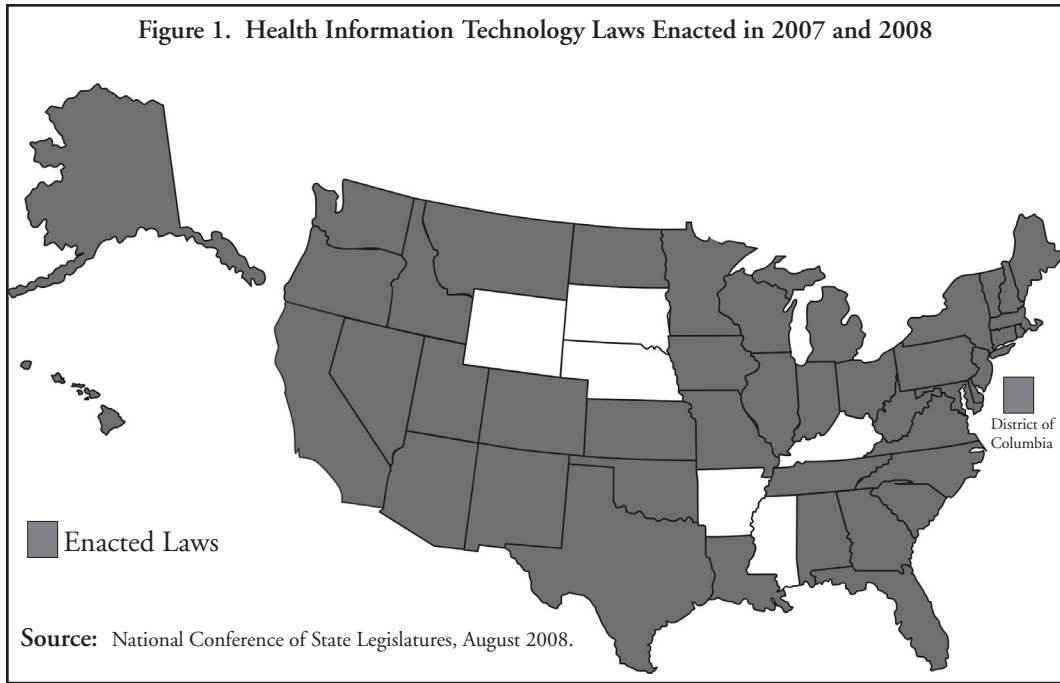
Health information technology (IT), a key component of state efforts to improve health care, also is an integral part of many state health reform initiatives. It potentially could facilitate quality improvement and cost control. Appropriate, well-coordinated health IT strategies bring together vital pieces of patient data scattered across providers. Having this information in one location is essential for high-quality care and helps reduce duplicative tests and procedures.

States have taken significant steps during the past two years to address policy issues associated with health IT. From January 2007 through August 2008, more than 370 bills with provisions relating to health IT were introduced in state legislatures. The National Conference of State Legislatures found that 132 bills with health IT content were enacted in 44 states and the District of Columbia (see Figure 1). This represents a more than threefold increase compared to 2005 and 2006, during which 36 bills were enacted, according to the eHealth Initiative.

This report identifies and analyzes five major policy trends across the enacted legislation:

- Planning
- Targeted Financing Initiatives
- Updating Privacy Laws to Facilitate Health Information Exchange
- Promoting Health Information Exchange
- Advancing Adoption and Use

Appendix A contains a side-by-side comparison of health information exchange legislation from Indiana, Texas and Vermont. Appendix B contains a summary of the health IT provisions of each enacted bill, divided into eight categories based on content.



# PLANNING

Planning has been essential to success in many state efforts to increase electronic health records adoption and to create health information exchange among providers. Many states have taken a strong role in these planning efforts by creating study commissions that bring together various public and private health care stakeholders. Convening stakeholders in a neutral venue to build an action plan helps create buy-in for the plan and builds trust among participants who are used to competing. Building such trust-based relationships is essential for organizations to reach the agreements necessary to exchange patient data with one another.

Legislation to convene study commissions typically defines membership and sets tasks that include inventorying existing projects, detailing future needs and resources; recommending necessary state policy changes to facilitate health IT; and developing a statewide roadmap to create an interoperable, statewide health IT systems that includes a sustainable business model and addresses privacy and security.

Colorado Senate Bill 196, for example, demonstrates common components of such legislation. Iowa and New Jersey are among other states with noteworthy planning legislation.

## Colorado SB 196

### *Establishes membership of commission*

*“25-1-1401. Health information technology advisory committee - members - duties - cash fund. (1) The Committee shall consist of at least eighteen members who have expertise in the area of health information technology, appointed by the Governor within thirty days after the effective date of this section, who shall include representative of interested groups, including:*

- (a) The academic community;*
- (b) The insurance industry;*
- (c) The pharmaceutical industry;*
- (d) Employer groups;*
- (e) The Attorney General’s Office;*
- (f) The Governor’s office;*
- (g) Medical practitioners, which may include representative of the medical industry, doctors, nursing homes and nurses;*
- (h) Medicare and Medicaid;*
- (i) The health information technology industry;*
- (j) Information technology associations;*

- (k) Home health providers;*
- (l) Mental health providers;*
- (m) Consumers;*
- (n) At least two members of the Colorado regional health information organization;*
- (o) At least one representative from each House of the Colorado General Assembly; and*
- (p) An association representing all types of hospitals throughout Colorado, including private and government-operated, metropolitan and rural, investor-owned and not-for-profit”*

*Define commission charge*

*“(3) (a) On or before January 1, 2009 the committee shall develop a long-range plan for health care information technology, including the use of electronic medical records, computerized clinical support systems, computerized physician order entry, regional data sharing interchanges for health care information, data privacy and security measures, interoperable health information technology, and other methods incorporating information technology in pursuit of greater cost-effectiveness, improve efficiency reduced redundancy, and better patient outcomes in health care and a decrease in price disparities in insurance coverage for residents of this state. In developing the long-range plan, the committee shall study the effect of health information technology on price disparities in delivery of health care services for residents of this state. As part of the process of making recommendations for interoperability, health information exchange, and health information technology, the committee shall consider uniform national standards, as they are developed or recognized by the United States Department of Health and Human Services, the American National Standards institute, the Health Information Technology Standards Panel, and other national standard-setting organizations”*

# TARGETED FINANCING INITIATIVES

States view health IT spending as a necessary investment to promote quality and improve efficiency. Many see a state role in helping to finance targeted health IT initiatives. Such initiatives can encourage more rapid adoption of electronic health records by certain providers and help establish and operate the necessary infrastructure for health information exchange.

When states survey the health sector, they identify certain providers that are slow to adopt these important tools. Thus, they are directing government funds to groups—such as community health centers, small practices and rural providers—that have been reluctant or unable to adopt health IT. States want to ensure they do not replace private sector funds that hospitals and large practices would use for adoption.

State strategies to achieve a critical mass of health IT adoption must address the current misalignment of incentives in the health care sector. The bulk of the benefits from electronic health records often accrue to payers, while providers are responsible for purchasing and maintaining the systems. States see a role in allocating the costs of health IT systems among various health care stakeholders to ensure widespread adoption of these tools.

Creating a dedicated funding stream is one state option for funding health IT initiatives, but few states have adopted them. Among the revenue sources states have considered to fund health IT activities are dues, bonds, insurer assessments and user fees. Some state public programs—such as state employee health plans and Medicaid—provide funding streams by paying to participate in health information exchange organizations and by increasing or supplementing reimbursement rates for providers who use electronic health records. Trends identified in the enacted legislation include the following.

## Appropriations

Most health IT funding provisions are one-time appropriations for a specific project included in general appropriations laws or departmental funding measures. These projects include purchase of health IT tools such as electronic record systems and development and operation of health information exchange infrastructure.

Michigan SB 404 “*Sec. 103. (3) Medical Services Administration  
Health information technology initiatives..... \$ 7,250,000*”

## Health IT Funds

States create health IT funds to pool public and private sector financial resources to advance adoption and utilization of health IT. Money from the fund usually is tied to requirements for its use, such as the purchase of interoperable systems. Money in the fund generally must be appropriated by the legislature.

Vermont offers a unique example of this trend. To fill fund coffers the legislature created a dedicated revenue source with a quarterly 0.199 percent fee on all health care claims of health insurers in the state. Under the bill, “health insurer” includes third-party administrators for self-insured employers. The state expects the fee to raise \$32 million over the next seven years. The money will be used to increase independent small practitioners’ adoption of electronic health records; support physician practices as they implement health IT tools; and support Vermont Information Technology Leaders’ construction and operation of a statewide health information exchange network.

*Vermont HB 891 “§ 962 (a) The Vermont health IT-fund is established in the department of the treasury as a special fund to be a source of funding for medical health care information technology programs and initiatives such as those outlined in the Vermont health information technology plan administered by the Vermont Information Technology Leaders (VITL). One hundred percent of the fund shall be disbursed for the advancement of health information technology adoption and utilization in Vermont as appropriated by the general assembly, less any disbursements relating to the administration of the fund.”*

## Grants and Loans

States provide targeted funding through grants and loans to groups—such as community health centers, small practices and rural providers—that otherwise might not be able to afford health IT systems. Some states set requirements—such as purchase of interoperable systems or matching funds from the recipient—for a grantee to receive funding.

### *Revolving Loan Funds*

Minnesota HB 1078 mandates that all providers in the state have an interoperable electronic health records system by 2015. The bill establishes a revolving loan fund to help eligible borrowers install or support an interoperable health record system. Eligible borrowers include community clinics, rural hospitals and physician clinics.

### *Grants*

The District of Columbia offers grants to help community health centers develop electronic health record systems.

*D.C. B 2 “(B) Of the remainder of the grant, \$2.2 million in fiscal year 2007 and \$2.8 in fiscal year 2009, shall be used to develop an electronic health record system for community health centers to promote higher quality of care, improved coordination of services among*

*providers, and more accurate reporting of health statistics to the Department of Health; provided, that of the \$2.2 million allocated for fiscal year 2007, \$200,000 shall be used to support information technology needs for District of Columbia public and charter school nurse suites.”*

## **Other**

States are experimenting with various financing strategies to spur adoption of health IT tools and creation of health information exchange infrastructure.

### *Participate in Creating or Operating a Health Information Exchange*

Minnesota HB 3222 authorizes the commissioner of human services to join the organization in charge of developing and operating a statewide health information exchange. The commissioner may pay the state's share of development-related expenses of the health information exchange.

### *Tax Credits*

Wisconsin SB 40 creates a tax credit for providers who purchase an electronic medical records system. Providers can claim up to 50 percent of the cost of the system; with a maximum of \$10 million annually.

### *Supplemental Payments*

New York SB 6808 allows providers who meet certain standards set by the Department of Health to receive supplemental payments for increased costs to use electronic health records. To receive payment, the provider must have an operational electronic health record systems and a set percentage of patients who are on Medicaid or uninsured.

# UPDATING PRIVACY LAWS TO FACILITATE HEALTH INFORMATION EXCHANGE

Consumer and provider concerns about privacy and security are inhibiting adoption of health IT. Consumers are concerned about the consequences of disclosure of sensitive health information related to dire or stigmatized diseases, such as the loss of health coverage or employment. Providers, concerned about varying interpretations of state and federal privacy laws and the liability for violations, often are reluctant to exchange data. State updates to health privacy laws can help alleviate these and other concerns. Trends identified in enacted legislation include the following.

## **Comprehensive Reform**

Key policy decisions for states that want to update privacy laws to allow for health information exchange include structuring patient consent, addressing provider concerns and establishing accountability mechanisms.

### *Structuring Patient Consent*

States face key questions on the issue of patient consent. Under what circumstances should patient consent be required? How should consent be structured (opt-in, opt-out)? Will patients have to choose between including all their information for exchange or none? Or will patients be able to choose specific information to share? As states set policy on consent, a number of competing issues must be balanced, including: patients' desire to control data, providers' concern about having access to all relevant information for treatment, and implementation costs for providers and health information exchanges.

### *Provider Concerns*

Providers, understandably, want access to all relevant patient information at time of treatment. They are concerned about liability if they treat a patient based on incorrect or missing data obtained from a health information exchange. Providers also are concerned about the cost of implementing privacy rules and their effect on practice workflows.

### *Accountability*

States need to structure regulations and penalties so that patient, provider and health information exchange needs are balanced.

Minnesota and Rhode Island passed health privacy updates as part of comprehensive health IT measures. A comparison of the privacy portion of the bills illustrates the differing paths states take as they attempt to capture the benefits of mobile health data and temper the associated risks (Table 1).

| <b>Table 1. Comparison of Privacy Provisions from Minnesota and Rhode Island</b> |   |   |
|--|---|---|
|  | <b>Minnesota</b><br><i>Minnesota Health Records Act</i>   | <b>Rhode Island</b><br><i>Rhode Island Health Information Exchange Act of 2008</i>  |
| <b>Bill</b>  | <b>2007 HB 1078</b>   | <b>2008 HB 7409</b>   |
| <b>Status</b>  | Enacted 5/25/07   | Enacted 7/10/2008   |
| <b>Summary</b>   | Allows creation of record locator services (RLS). An RLS is an electronic index of patient identifying information that directs providers to the location of patient health records held by providers and group purchasers.   | Establishes a statewide health information exchange (HIE) under state authority. Designates the Rhode Island Quality Institute as the governance body or regional health information organization (RHIO) for the HIE.   |
| <b>Putting Patient Data into the System</b>                                      | An RLS can be created without patient consent. Patients have the right to opt-out of the RLS in total or can exclude specific provider contacts from the system.  | Patients must opt in for their data to be included in the HIE.  |
| <b>Consent for Access</b>  | <p>Consent is required to search an RLS for the location of a patient's records except in an emergency.</p> <p>To facilitate the real-time exchange of data, one provider can electronically represent patient consent to another. To do so, a provider must have a signed and dated patient consent form authorizing the release. In addition, the provider releasing the record shall document:</p> <ol style="list-style-type: none"> <li>1) the provider requesting the health records;</li> <li>2) the identity of the patient;</li> <li>3) the health records requested; and</li> <li>4) the date the health records were requested.</li> </ol> | <p>Patients who opt in can choose which providers have access to their data.</p> <p>If a patient opts in their authorization is not required for release to:</p> <ul style="list-style-type: none"> <li>• public health authorities for specified functions;</li> <li>• health care providers for diagnosis or treatment in an emergency; and</li> <li>• the RHIO for operation and administrative oversight of the HIE.</li> </ul> |

| <b>Table 1. Comparison of Privacy Provisions from Minnesota and Rhode Island</b><br>(continued) |  |   |
|---|--|---|
|   | <b>Minnesota</b><br><i>Minnesota Health Records Act</i>  | <b>Rhode Island</b><br><i>Rhode Island Health Information Exchange Act of 2008</i>  |
| <b>Audit Log</b>  | RLS must maintain an audit log of providers who access a patient’s information. The log must contain at least the following:<br>1) the identity of the provider accessing the information;<br>2) the identity of the patient whose information was accessed by the provider; and<br>3) the date the information was accessed.  | Patients have the following rights:<br>(a) to obtain a copy of their health care information from the HIE;<br>(b) to obtain a copy of the disclosure report pertaining to their health care information;<br>(c) to be notified of a breach of the HIE security system;<br>(d) to terminate participation in the HIE; and<br>(e) to request to amend their information through the provider participant. |
| <b>Provider Liability</b>   | (b) When requesting health records using consent, or a representation of holding a consent, a provider warrants that the request:<br>1) contains no information known to the provider to be false;<br>2) accurately states the patient’s desire to have health records disclosed or that there is specific authorization in law; and<br>3) does not exceed any limits imposed by the patient in the consent. | Provides immunity to health care providers who rely in good faith upon information provided through the HIE in the treatment of a patient.  |
| <b>Penalties</b>  | An RLS is liable for inappropriate disclosures of information.<br><br>Anyone who inappropriately discloses a patient’s data is liable for compensatory damages caused by an unauthorized release, plus costs and reasonable attorneys’ fees.<br><br>Providers who violate the statute can face disciplinary action by the appropriate licensing board or agency.   | The bill establishes civil and criminal penalties for violations of the statute. Attorneys’ fees may be awarded by the court to the successful party in any action under this chapter.  |
| <b>Source:</b> National Conference of State Legislatures, 2008.                                 |  |   |

## Other Strategies

### *Make HIPAA the Rule*

Nevada specifies that the Health Insurance Portability and Accountability Act (HIPAA) shall preempt any more stringent state laws related to the electronic exchange of health information by covered entities. The bill allows patients to not participate in electronic transmission of individually identifiable health information, with an exception for Medicaid and SCHIP patients and when required by HIPAA or state law.

Nevada SB 536 Section 1 1. *“If a covered entity transmits electronically individually identifiable health information in compliance with the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, which govern the electronic transmission of such information, the covered entity is, for purposes of the electronic transmission, exempt from any state law that contains more stringent requirements or provisions concerning the privacy or confidentiality of individually identifiable health information.”*

### *Address Varying Interpretations of State and Federal Privacy Laws*

To address differing interpretations and application of federal and state privacy laws, the Oklahoma Legislature ordered the State Board of Health to create a standard authorization form for exchange of health information. Providers who use the form and follow the board's instructions are immunized from liability under state privacy laws that may arise from the exchange of health information. Use of the form is not required. (Oklahoma SB 1420)

### *Data Breach Notification*

California AB 1298 expands the state's data breach notification law to include unencrypted medical information and health insurance information. The bill also expands the definition of provider of health care under the state's Confidentiality of Medical Information Act to cover third-party vendors of personal health records such as Google and Microsoft. HIPAA and most state health privacy laws do not cover personal health records maintained by third-party vendors.

## **E-prescribing**

A few states prohibit e-prescribing systems from influencing provider prescribing practices. New Hampshire passed the most comprehensive of these bills, which included the following language to prohibit use of prescription information by certain parties:

New Hampshire HB 134 *“(e) No person who has access to electronic prescription information solely by transmitting or facilitating the transmission of prescriptions between the licensed prescriber generating the prescription and the pharmacy receiving the prescription, or any intermediary, shall retain the prescription or any information it contains for longer than is mandated by federal or state law, after which time the prescription information shall be destroyed. No such person shall sell, use, or otherwise make available the prescription information for any purpose other than transmission of prescriptions, prescription refills, and clinical information displayed to the prescriber or pharmacist.”*

# PROMOTING HEALTH INFORMATION EXCHANGE

States are working to advance health information exchange by promoting interoperable health IT tools and by establishing and sustaining health information exchange organizations and infrastructure. Interoperability, combined with state initiatives to create health information exchange organizations is essential to states efforts to achieve quality improvements and reduce duplicative tests. Trends identified in the enacted legislation include the following.

## **Interoperability**

Interoperability allows different systems to share information in an understandable format. Uniform data standards are essential to achieving this capability among health IT systems. At the national level, the Healthcare Information Technology Standards Panel is establishing standards, and the Certification Commission for Healthcare Information Technology certifying products. State approaches to encourage interoperability vary. Some states adopted these standards by reference, while others designated a state agency or outside group to establish standards. To encourage use of the standards, states can require agencies to purchase only standards-based systems. States also can require specific functions for health IT systems sold within their borders.

### *Require Purchase of Certified Systems*

Minnesota mandated interoperable electronic health records by 2015 for all hospital and health care providers. To meet the interoperability standards set by statute, providers must use an electronic health records system certified by the Certification Commission for Healthcare Information Technology or its successor. An exception is included in the legislation for specialists whose practice setting the Certification Commission for Healthcare Information Technology doesn't certify electronic health records for. (Minnesota SB 3780)

### *Use State Agency Purchasing Requirements*

Virginia HB 2198 requires that electronic health records systems or other tools that interact with electronic patient information purchased by state agencies meet interoperability standards or be certified by a recognized certification body. The bill also requires state agencies that provide grants available to other entities for such systems ensure that the systems meet interoperability standards or be certified by a recognized certification body.

### *Create Standards and Require Use to Exchange Data*

Utah HB 47 authorizes the Department of Health to adopt standards for electronic health information exchange. Payers and providers must use the standards adopted by the department to electronically exchange health information between health care systems. Payers and providers are not required to use the standards if they electronically exchange health information within a health care system.

### *Require Certain Functions*

Texas SB 204 requires that electronic medical record systems sold to Texas health care providers who administer immunizations be able to interface with the state immunization registry.

## **Create or Designate a State-level Health Information Exchange**

Many early health information exchange efforts began in the private sector, and state governments were asked to join. The current wave of health information exchanges, by contrast, is as likely to originate at the state level. Texas and Indiana created bodies to run the state-level health information exchange; and Connecticut, Vermont and Rhode Island designated existing independent nonprofit entities. Whether they create new entities or bless existing activities, statutes that define a state-level health information exchange confer formal status and authority, charge the health information exchange to promote health IT in both private and public sectors, define governance to include state agencies, and determine that they may receive and disburse funds on behalf of statewide health IT initiatives. Beyond these broad elements, various models have been adopted, reflecting existing activity in the state. Statutes that create these entities typically are comprehensive measures that, among other things, include: start-up support for a designated group, a state governance role, ongoing funding, and unique state-level responsibilities.

Appendix A compares legislation from Indiana, Texas and Vermont that creates or designates a state-level health information exchange.

## ADVANCING ADOPTION AND USE

States are drawing on a wide range of policy levers to expand the use of health IT. These include mandates, incentives and leveraging state purchasing power. Trends identified in the enacted legislation include the following.

### **Mandates**

Minnesota and Massachusetts have enacted mandates for the use of health IT tools. A few other states considered such mandates but did not enact them.

#### *Mandate Purchase*

Minnesota enacted two mandates for the purchase of health IT systems. The first requires hospitals and health care providers to have interoperable electronic health records systems by 2015. (Minnesota HB 1078) The second requires that, by 2011, all providers, group purchasers, prescribers and dispensers establish and maintain e-prescribing systems. (Minnesota SB 3780)

#### *Tie Facility Licensure to Health IT System Implementation*

Massachusetts tied implementation of computerized physician order entry and electronic health records to facility licensure standards for hospitals and community health centers. The Department of Public Health is charged with adopting regulations to require implementation of computerized physician order entry by Oct. 1, 2012, and of electronic health records by Oct. 1, 2015. The systems are to be certified by the Certification Commission for Healthcare Information Technology or its successor. (Massachusetts SB 2863)

#### *Require health IT competency for physician licensure.*

(Massachusetts SB 2863) *“The board shall require, as a standard of eligibility for licensure, that applicants show a predetermined level of competency in the use of computerized physician order entry, e-prescribing, electronic health records and other forms of health information technology, as determined by the board.”*

## Incentives

### *Link Medical School Loan Repayment to Health IT Competency*

Massachusetts created a workforce loan repayment assistance program for graduates of medical or nursing schools who specialize in areas where practitioners are in short supply. Among other eligibility requirements for the program is demonstration of competency with certain health IT tools. (Massachusetts SB 2863)

### *Offer Tax Credits*

Wisconsin SB 40 creates a tax credit for providers who purchase electronic medical records. Providers can claim up to 50 percent of the cost of the system, to a maximum of \$10 million per year.

## Leverage State Purchasing Power

States are leveraging their role as a purchaser and provider of care to drive adoption and use of health IT.

### *Offer Incentive Payments for Electronic Health Records Use*

New York SB 6808 allows providers who meet certain standards set by the Department of Health to receive supplemental payments for the increased cost of using electronic health records. To receive the payments, a provider must have an operating electronic health records system, and a set percentage of patients must be on Medicaid or uninsured.

### *Provide Targeted Reimbursement*

Colorado SB 196 provides medical assistance program reimbursement for home and community services delivered via telemedicine.

### *Leverage State Employee Health Plan*

Minnesota HB 548 creates a pilot program to provide a consumer-owned portable personal health record to members of the state employee health plan.

| <b>Appendix A. Comparison of Health Information Exchange Legislation in Three States</b> |  |   |  |
|--|--|---|--|
|  | <b>Indiana</b><br><i>Indiana Health Informatics Corporation</i>  | <b>Texas</b><br><i>Texas Health Services Authority Corporation</i>  | <b>Vermont</b><br><i>Vermont Information Technology Leaders</i>  |
| Bill   | <b>2007 IN S 551</b>   | <b>2007 TX H 1066</b>   | <b>2007 VT H 229</b>   |
| Status   | Enacted 5/2/07   | Enacted 6/15/07   | Enacted 6/5/07   |
| <b>Project's Role within State Health IT Activities</b>                                  |  |   |  |
|  | Chapter 5. General Powers<br>Sec. 1. The corporation shall encourage and facilitate the development of health informatics functions in Indiana.<br>Sec. 2. The corporation is granted all powers necessary or appropriate to carry out the corporation's public and corporate purposes under this article.<br>Chapter 7. Expiration<br>Corporation will expire on June 30, 2015. | Section 182.051 (a) Created to promote the establishment of a voluntary statewide network for the communication of electronic health information and to foster a coordinated public-private initiative for the development and operation of the health information infrastructure in the state. | Amends the scope of work of the Vermont Information Technology Leaders (VITL, a non-profit organization incorporated in 2005). Section 903 (c) VITL shall develop the states health information technology plan. Designates VITL to operate the statewide health information exchange network. |
| <b>Organizational Structure</b>  |  |   |  |
|  | Chapter 3. Indiana Health Informatics Corporation<br>Sec. 2. (a) The corporation is a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions.   | Sec.A182.051. Texas Health Services Authority; Purpose.<br>... (b) The corporation is a public nonprofit corporation and, except as otherwise provided in this chapter, has all the powers and duties incident to a nonprofit corporation under the Business Organizations Code.                | VITL is a nonprofit corporation.   |

| <b>Appendix A. Comparison of Health Information Exchange<br/>Legislation in Three States (continued)</b> |  |   |   |
|--|--|---|---|
|  | <b>Indiana</b><br><i>Indiana Health Informatics Corporation</i>  | <b>Texas</b><br><i>Texas Health Services Authority Corporation</i>  | <b>Vermont</b><br><i>Vermont Information Technology Leaders</i>   |
| Bill   | <b>2007 IN S 551</b>   | <b>2007 TX H 1066</b>   | <b>2007 VT H 229</b>  |
| Status   | Enacted 5/2/07   | Enacted 6/15/07   | Enacted 6/5/07  |
| <b>Board Membership</b>  |  |   |   |
|  | <p>Chapter 4. Corporation Board</p> <p>Sec. 1. The corporation shall be governed by a board.</p> <p>Sec. 2. (a) The board is composed of the following nine (9) members, none of whom may be a member of the general assembly:</p> <p>(1) The secretary of family and social services, or the secretary's designee.</p> <p>(2) The state health commissioner, or the state health commissioner's designee.</p> <p>(3) Seven (7) individuals appointed by the governor, of which at least:</p> <p>(A) one (1) individual must be a licensed physician who is actively engaged in the practice of medicine; and</p> <p>(B) one (1) individual must be engaged in the administration of a hospital licensed under IC 16-21.</p> | <p>Sec.A182.053.AA</p> <p>Composition Of Board Of Directors.</p> <p>(a) The corporation is governed by a board of 11 directors appointed by the governor, with the advice and consent of the senate.</p> <p>(b) The governor shall also appoint at least two ex officio, nonvoting members representing the Department of State Health Services.</p> <p>(c) The governor shall appoint as voting board members individuals who represent consumers, clinical laboratories, health benefit plans, hospitals, regional health information exchange initiatives, pharmacies, physicians, or rural health providers, or who possess expertise in any other area the governor finds necessary for the successful operation of the corporation.</p> | <p>Sec. 903. Health Information Technology</p> <p>(d) The following persons shall be members of VITL:</p> <p>(1) the commissioner, who shall advise the group on technology best practices and the state's information technology policies and procedures, including the need for a functionality assessment and feasibility study related to establishing an electronic health information infrastructure under this section;</p> <p>(2) the director of the office of Vermont health access or his or her designee;</p> <p>(3) the commissioner of health or his or her designee; and</p> <p>(4) the commissioner of banking, insurance, securities, and health care administration or his or her designee.</p> |

| <b>Appendix A. Comparison of Health Information Exchange<br/>Legislation in Three States (continued)</b> |  |  |   |
|--|--|--|---|
|  | <b>Indiana</b><br><i>Indiana Health Informatics Corporation</i>  | <b>Texas</b><br><i>Texas Health Services Authority Corporation</i>   | <b>Vermont</b><br><i>Vermont Information Technology Leaders</i>   |
| Bill   | <b>2007 IN S 551</b>   | <b>2007 TX H 1066</b>  | <b>2007 VT H 229</b>  |
| Status   | Enacted 5/2/07   | Enacted 6/15/07  | Enacted 6/5/07  |
| Financing  |  |  |   |
|  | <p>Chapter 5. General Powers</p> <p>Section 11 The corporation may request appropriations from the general assembly to: 1) carry out the corporation's duties under this article; and 2) fund the effort to develop and operate a statewide health information network.</p> <p>Section 12. (a) The Indiana health informatics fund is established. ...the corporation shall deposit the following in the fund:</p> <p>(1) All appropriations made by the general assembly to the corporation</p> <p>(2) All funding received from nonprofit entities under IC 5-31-6-2(4).</p> <p>(3) All other contributions received by the corporation from a nonprofit entity, as long as the nonprofit entity does not otherwise have an interest in the decisions of the corporation or board.</p> | <p>Sec. 182.107 (a) The corporation may be funded through the General Appropriations Act and may request, accept, and use gifts and grants as necessary to implement its functions.</p> <p>(b) The corporation may assess transaction, convenience, or subscription fees to cover costs associated with implementing its functions. All fees must be voluntary but receipt of services provided by the corporation may be conditioned on payment of fees.</p> <p>(c) The corporation may participate in other revenue-generating activities that are consistent with the corporation's purposes.</p> | <p>Sec. 903 (a)(8)(g) By July 1, 2007, shall prepare a plan for achieving self-sustainable funding, including an analysis of the costs, benefits, and effectiveness of any pilot projects.</p> <p>(i) VITL is authorized to seek matching funds...In addition, it may accept any and all donations, gifts and grants of money, equipment, supplies, materials, and services from the federal or any local government, or any agency thereof, and from any person, firm or corporation for any of its purposes and functions under this section and may receive and use the same, subject to the terms, conditions, and regulations governing such donations, gifts, and grants.</p> |

| <b>Appendix A. Comparison of Health Information Exchange<br/>Legislation in Three States</b> (continued) |  |   |   |
|--|--|---|---|
|  | <b>Indiana</b><br><i>Indiana Health Informatics Corporation</i>  | <b>Texas</b><br><i>Texas Health Services Authority Corporation</i>  | <b>Vermont</b><br><i>Vermont Information Technology Leaders</i>   |
| Bill   | <b>2007 IN S 551</b>   | <b>2007 TX H 1066</b>   | <b>2007 VT H 229</b>  |
| Status   | Enacted 5/2/07   | Enacted 6/15/07   | Enacted 6/5/07  |
| Privacy and Security   |  |   |   |
|  | <p>Chapter 6. Duties</p> <p>Sec. 3. The corporation's plan to create the statewide health information exchange system must provide for procedures and security policies to ensure the following:</p> <p>(1) Compliance with the federal Health Insurance Portability and Accountability Act (HIPAA) (P.L. 104-191).</p> <p>(2) Protection of information privacy.</p> <p>(3) Use of information in the statewide health information exchange system only in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA) (P.L.104-191) and as required by public health agencies.</p> | <p>Sec. 182.104.AA Security Compliance.</p> <p>The corporation shall:</p> <p>(1) establish appropriate security standards to protect both the transmission and the receipt of individually identifiable health information or health care data;</p> <p>(2) establish appropriate security standards to protect access to any individually identifiable health information or health care data collected, assembled, or maintained by the corporation;</p> <p>(3) establish the highest levels of security and protection for access to and control of individually identifiable health information, including mental health care data and data relating to specific disease status, that is governed by more stringent state or federal privacy laws; and</p> | <p>Sec. 903. Health Information Technology</p> <p>(f) The standards and protocols developed by VITL shall be no less stringent than the "Standards for Privacy of Individually Identifiable Health Information" established under the Health Insurance Portability and Accountability Act of 1996 and contained in 45 C.F.R., Parts 160 and 164, and any subsequent amendments. In addition, the standards and protocols shall ensure that there are clear prohibitions against the out-of-state release of individually identifiable health information for purposes unrelated to treatment, payment, and health care operations, and that such information shall under no circumstances be used for marketing purposes. The standards and protocols shall require that access to individually identifiable health information is secure and traceable by an electronic audit trail.</p> |

| <b>Appendix A. Comparison of Health Information Exchange Legislation in Three States (continued)</b> |   |   |  |
|--|---|---|--|
|  | <b>Indiana</b><br><i>Indiana Health Informatics Corporation</i>   | <b>Texas</b><br><i>Texas Health Services Authority Corporation</i>  | <b>Vermont</b><br><i>Vermont Information Technology Leaders</i>  |
| Bill   | <b>2007 IN S 551</b>  | <b>2007 TX H 1066</b>   | <b>2007 VT H 229</b>   |
| Status   | Enacted 5/2/07  | Enacted 6/15/07   | Enacted 6/5/07   |
| <b>Data Standards</b>  |   |   |  |
|  | <p>Chapter 6. Duties</p> <p>Sec. 1. The corporation shall do the following:...</p> <p>(6) Promote the use of the statewide health information exchange system by doing the following:</p> <p>(A) Encouraging and facilitating users of the statewide health information exchange system and other interested parties in developing and adopting standards for the statewide health information exchange system.</p> <p>(B) Recommending policies and legislation that advance the development and efficient operation of the statewide health information exchange system....</p> <p>(10) Encourage and endorse interoperability standards.</p> | <p>Sec.A182.103. Privacy of Information.</p> <p>(c) The corporation shall develop privacy, security, operational, and technical standards to assist health information networks in the state to ensure effective statewide privacy, data security, efficiency, and interoperability across networks. The network 's standards shall be guided by reference to the standards of the Certification Commission for Healthcare Information Technology or the Health Information Technology Standards Panel, or other federally approved certification standards, that exist on May 1, 2007, as to the process of implementation, acquisition, upgrade, or installation of electronic health information technology.</p> | <p>Sec. 903. Health Information Technology</p> <p>b) The health information technology plan shall:</p> <p>(3) promote the use of national standards for the development of an interoperable system, which shall include provisions relating to security, privacy, data content, structures and format, vocabulary, and transmission protocols;...</p> <p>(6) incorporate the existing health care information technology initiatives in order to avoid incompatible systems and duplicative efforts;</p> <p>(7) integrate the information technology components of the blueprint for health established in chapter 13 of Title 18, the global clinical record, and all other Medicaid management information systems being developed by the office of Vermont health access, information technology components of the quality assurance system, the program to capitalize with loans and grants electronic medical record systems in primary care practices, and any other information technology initiatives coordinated by the secretary of administration pursuant to section 2222a of Title 3;</p> |

## Appendix B. 2007 and 2008 Enacted Legislation

As of August 2008

In 2007 and 2008, 132 bills were enacted. This appendix includes a summary of the health IT content of each enacted bill and breaks them into eight categories based on content. The electronic version of this report includes links to the full text of each bill.

| Main Topic                  | Number of Laws Enacted | States* |
|-----------------------------|------------------------|---------|
| Comprehensive               | 7                      | 6       |
| E-prescribing               | 14                     | 12      |
| Electronic Records          | 10                     | 8       |
| Financing                   | 46                     | 25      |
| Health Information Exchange | 11                     | 10      |
| Miscellaneous               | 9                      | 7       |
| Planning/Study Commissions  | 18                     | 14      |
| Privacy and Security        | 5                      | 5       |
| Resolutions                 | 12                     | 9       |
| Total                       | 132                    | 45      |

\*Includes the District of Columbia

Source: National Conference of State Legislatures, August 2008.

### Comprehensive

#### *Indiana SB 511, 2007 (Enacted 5/2/2007)*

Establishes the Indiana Health Informatics Corporation to ensure and improve the health of the citizens of Indiana by encouraging, facilitating and assisting in the development and operation of a statewide system for the electronic exchange of health care information. The bill defines the corporation's membership and establishes the Indiana health informatics fund. The corporation shall, among other things, define a vision for a statewide health information exchange system to electronically exchange health care information between entities in a health care system; prepare a plan to create a statewide health information system; encourage and facilitate the development and operation of a statewide health information exchange system; review efforts in other states concerning health information exchange; and encourage and endorse interoperability standards. Calls for compliance with HIPAA.

#### *Massachusetts SB 2863, 2008 (Enacted 08/10/2008)*

Promotes cost containment, transparency and efficiency in the delivery of quality health care. The following are among its health IT provisions.

- Establishes the health care quality and cost council. The council shall, among other things, establish goals for adopting certified health IT.

- Establishes the Massachusetts e-Health Institute and the e-Health Institute Fund. The institute shall advance the dissemination of health IT, including deployment of electronic health records systems in all health care provider settings participating in a statewide health information exchange. The institute shall prepare and annually update a statewide electronic health records plan. The E-Health Institute Fund shall be used to advance health IT. There shall be credited to the fund, any money allocated by the state, any federal grants or loans, and any private gifts, grants or donations.
- Any plan approved by the board and every organization that receives money from the institute shall: 1) allow patients to opt-in to the health information network and to opt-out at any time, 2) maintain the security of identifiable health information, 3) allow individuals, upon request, to obtain a list of who has accessed their identifiable health information.
- If unauthorized access to or disclosure of individual identifiable patient health information occurs by or through the grantee under this act or the statewide health information network, the organization must report on how this occurred and notify any individuals whose data may have been compromised.
- By Oct. 1, 2012, hospital and community health centers must implement computerized physician order entry systems as a standard of eligibility for original licensure and renewal of licensure. By Oct. 1, 2015, all hospital and community health centers must implement interoperable electronic health record systems as a standard of eligibility for original licensure and renewal of licensure. These products must be certified by the Certification Commission for Healthcare Information Technology.
- The Board of Registration in Medicine must require, as a standard of eligibility for licensure, that applicants show a predetermined level of competency in certain types of health IT.
- Calls for establishment of a medical home demonstration project in Medicaid. Use of health IT is included as a requirement to participate.

*Minnesota HB 1078, 2007 (Enacted 5/25/2007)*

Requires all hospital and health care providers to have interoperable electronic health records systems by Jan. 1, 2015. Updates the state's health privacy laws to allow for record locator services and for providers to electronically represent patient consent. Patients can choose not to participate in the record locator system in total or can have specific provider contacts excluded from the system. Requires a health information exchange that operates a record locator system to establish an audit log of providers who access information in the system. Establishes penalties for providers and health information exchanges that release a patient's record without proper authorization. Creates a revolving account and loan program for the purchase of interoperable electronic health record systems. Requires all group purchasers and health care providers to electronically exchange, in a standard form, the following: eligibility, claims, payment and remittance advice.

*Rhode Island HB 7409, 2008 (Enacted 7/10/2008)*

- Establishes a statewide health information exchange under state authority. The executive office of health and human services shall enforce the provisions of the chapter and have regulatory authority over the exchange. The Rhode Island health information organization shall run the health information exchange and create and enforce policies for the exchange of confidential health data as required by the bill.
- Requires a patient to choose for his or her health information to be accessed, released or transferred from the health information exchange. A participating patient's authorization is not required for release to public health authorities for specified function, to health care providers for diagnosis or treatment in an emergency, or to the regional health information organization for operation and administrative oversight of the health information exchange. Data cannot be accessed by, given, sold, transferred, or in any way relayed from the exchange to any other person or entity not specified in the patient authorization form without first obtaining additional patient authorization.
- Establishes minimum security procedures, including the authentication of the recipient of any confidential health care information disclosed by the health information exchange. Personally identifiable information will be available only to those who have a "need to know;" others may have access to de-identified information.
- Patients shall have the following rights: (a) To obtain a copy of his or her confidential health care information from the health information exchange, (b) To obtain a copy of the disclosure report pertaining to his or her confidential health care information, (c) To be notified as required by chapter 49.2 of title 11, the Rhode Island identity theft protection act, of a breach of the security system of the health information exchange, (d) To terminate his or her participation in the exchange in accordance with rules and regulations promulgated by the agency or its designee, and (e) To request to amend his or her information through the provider participant.
- Provides immunity to health care providers who rely in good faith upon information provided through the health information exchange in the treatment of a patient.
- Establishes penalties for violations, including civil penalties (actual and exemplary damages) and criminal penalties (up to \$10,000 or imprisonment for not more than one year or both for knowingly violating the bill). Attorneys' fees may be awarded to the successful party.

*Rhode Island SB 2679, 2008 (Enacted 7/2/2008)*

With the exception of a few minor differences, the text of SB 2679 is the same as Rhode Island HB 7409.

*Texas HB 1066, 2007 (Enacted 6/15/2007)*

Establishes the Texas Health Services Authority as a public-private collaborative to promote development of a seamless electronic health information infrastructure. The corporation shall promote, implement and facilitate the voluntary and secure electronic exchange of health information and create incentives. Unless continued, the corporation will be abolished on Sept. 1, 2011. The corporation will be governed by a board of 11 directors appointed by

the governor. The corporation may: establish a statewide health information exchange; seek funding; support regional health information organizations initiatives; and identify standards. Also lists acts in which the corporation may NOT engage, including comparing or rating physicians and providing protected de-identified data for research.

*Vermont HB 229, 2007 (Enacted 6/5/2007)*

The commissioner shall facilitate the development of a statewide health information technology plan that includes implementation of an integrated electronic health information infrastructure for sharing electronic health information. The health information technology plan shall support the effective, efficient, statewide use of electronic health information; educate the general public and health professionals; promote use of national standards for developing an interoperable system; propose strategic investments; recommend funding mechanisms; incorporate existing health information technology initiatives; address issues related to data ownership; and contract with the Vermont Information Technology Leaders to establish the health information technology plan. Directs the Vermont Information Technology Leaders to establish pilot programs, including an electronic health records pilot project.

## **E-prescribing**

*Delaware SB 84, 2007 (Enacted 7/24/2007)*

Replaces and updates the current pharmacy chapter of Title 24, including provisions relating to objectives, licensure, examination, reciprocity, complaints, grounds for discipline, hearings and sanctions. The bill allows electronic prescribing.

*Florida HB 1155, 2007 (Enacted 6/15/2007)*

Among other things, this bill requires the Agency for Health Care Administration to create an e-prescribing clearing house and to monitor and report on implementation of electronic prescribing.

*Maine HB 1009, 2007 (Enacted 6/20/2007)*

Prohibits computer software that helps a health care practitioner prescribe drugs from influencing the prescribing decision of the health care practitioner through any means, including, but not limited to, advertising, instant messaging and pop-up advertisements.

*Massachusetts HB 4141, 2007 (Enacted 7/12/2007)*

Appropriates funds for fiscal year 2008. No later than Dec. 1, 2007, the office of Medicaid shall submit a Medicaid Transformation Grant to the Centers for Medicare & Medicaid Services to fund a MassHealth pilot project to introduce e-prescribing to Medicaid providers for developing, piloting, evaluating and implementing a real-time decision support solution that can be integrated into providers' workflow.

Creates an electronic health records systems task force that shall: 1) develop an electronic health records system that links multiple settings—including, but not limited to, the MassHealth and SCHIP programs, programs administered by the commonwealth connector, and programs serving children in foster care—that utilize health records, and that is consistent with requirements for community health records and electronic prescribing; 2) evaluate the economic model and the anticipated benefits of electronic health records; and 3) provide

quarterly updates to the governor and the chairs of the House and Senate committees on ways and means and the chairs of the Joint Committee on Health Care Financing regarding progress in the development of national standards and the work of the task force.

*Minnesota SB 3780, 2008 (Enacted 5/29/2008)*

Establishes an e-prescribing program. By Jan. 1, 2011 all providers, group purchasers, prescribers and dispensers must establish and maintain an e-prescribing program. States that this section does not require use of electronic transmitting. If it is used, however, it must follow the standards described in this section.

Requires hospitals and health care providers, when implementing an interoperable health records system within their hospital or clinical practice, to use an electronic health record that is certified by the Certification Commission for Healthcare Information Technology (CCHIT) or its successor. This provision applies only to hospitals and health care providers whose practices settings are covered by the commission.

*Minnesota SB 26, 2007 (Enacted 5/24/2007)*

Relates to health occupations and includes the following.

- When a pharmacist receives a prescription sent by electronic transmission on which the prescriber has expressly indicated—consistent with the standards for electronic prescribing under Code of Federal Regulations, title 42, section 423—that the prescription is to be dispensed as transmitted and which bears the prescriber's electronic signature, the pharmacist shall dispense the brand name legend drug as prescribed.
- When a pharmacist receives a prescription sent by electronic transmission on which the prescriber has not expressly indicated—consistent with the standards for electronic prescribing under Code of Federal Regulations, title 42, section 423—that the prescription is to be dispensed as transmitted and which bears the prescriber's electronic signature, and there is available in the pharmacist's stock a less expensive generically equivalent drug that, in the pharmacist's professional judgment, is safely interchangeable with the prescribed drug, then the pharmacist shall, after disclosing the substitution to the purchaser, dispense the generic drug, unless the purchaser objects.

*New Hampshire HB 1396, 2008 (Enacted 6/16/2008)*

Requires that a prescription be ordered pursuant to a practitioner-patient relationship or under certain other limited circumstances.

*New Hampshire HB 134, 2007 (Enacted 7/16/2007)*

Sets certain requirements for e-prescribing:

- Allows a patient to receive a paper instead of an oral or electronic prescription;
- Requires electronic prescriptions to include a minimum set of data;
- Must not interfere with a patient's freedom to choose a pharmacy; and
- Prohibits electronic prescribing software from attempting to influence a prescriber's decision at the point of care.

Prohibits use of prescription information for any purpose other than transmission of prescriptions, prescription refills and clinical information displayed to the prescriber or

pharmacist by entities that have access to the data solely for the purpose of transmitting or facilitating the transmission of prescriptions between the prescriber and the pharmacy.

*North Carolina HB 1369, 2007 (Enacted 7/20/2007)*

Allows an electronic copy of a prescription order or refill to constitute the original prescription order. Medical consent and authorization forms may be kept in the same electronic format as other medical records.

*Oklahoma HB 2460, 2008 (Enacted 6/9/2008)*

Allows electronic prescribing with electronic signatures under specified conditions.

*South Carolina SB 610, 2007 (Enacted 6/13/2007)*

Authorizes and establishes procedures for e-prescribing, including contents of the prescription, acceptable methods of electronic prescription transmission, criteria and safeguards for the electronic equipment utilized to electronically transmit prescriptions, patient's confidentiality, and sanctions for violations.

*Texas SB 994, 2007 (Enacted 6/16/2007)*

Allows oral and telephonically or electronically communicated prescriptions for dispensing certain controlled substances. Clarifies provisions relating to applicability of state and federal laws to certain prescriptions and refills of an original prescription.

*Vermont HB 750, 2008 (Enacted 3/5/2008)*

Among other things, modifies the provisions of existing law relating to the confidentiality of prescription information. Clarifies when prescriber-identifiable information can be used with the prescriber's consent. Regulated records cover only prescriptions dispensed and written in Vermont.

*Vermont SB 115, 2007 (Enacted 6/9/2007)*

Relates to increasing transparency of prescription drug pricing and information. Limits access to prescriber data for marketing purposes unless prescriber gives permission through an "opt-in" program run through the licensing boards. If the prescriber chooses to have his or her information provided for marketing or promotion of prescription drugs, the marketers using the information must provide evidence-based information.

## **Electronic Records**

*Louisiana SB 1, 2007 (Enacted 7/6/2007)*

Directs the Department of Health and Hospitals to develop and implement a medical home system of care—Louisiana Health First—for Medicaid recipients and low-income uninsured citizens. To fully participate in Louisiana Health First, providers must adopt health information technology as defined in the bill. The department is required to use any public and private funding available to implement health information technology. The provisions of this chapter shall be budget neutral or subject to an annual appropriation of the Legislature.

*Minnesota SB 3263, 2008 (Enacted 4/24/2008)*

Among other things, permits hospital records to be transferred to electronic image or other state-of-the-art electronic preservation technology.

*Minnesota HB 548, 2007 (Enacted 5/25/2007)*

Allows the Minnesota State Colleges and Universities Board of Trustees (MnSCU), in collaboration with the commissioner of employee relations to establish an enterprise-wide pilot project to provide consumer-owned electronic personal health records to MnSCU employees and all participants in the state employee group insurance program.

*New York SB 6807, 2008 (Enacted 4/23/2008)*

Enacts major components of legislation necessary to implement the state fiscal plan for the 2008-2009 state fiscal year. The commissioner, in consultation with the New York Chapter of the American College of Physicians and Primary Care Physicians, is to establish two medical home demonstration programs, one in Nassau County and the other in Onondaga County, to evaluate the effectiveness of the medical home concept. Use of health information technology to support management and coordination of care provided to patients is one characteristic to be considered in establishing the program.

*New York SB 6808, 2008 (Enacted 4/23/2008)*

Enacts major components of legislation necessary to implement the health and mental hygiene budget for the 2008-2009 fiscal year. Allows providers who meet certain standards set by the Department of Health to receive supplemental payments for the increased cost of using electronic health records. To receive the payments a provider must have an operational electronic health record system and a set percentage of his or her patients must be on Medicaid or uninsured.

*Ohio HB 562, 2008 (Enacted 6/24/2008)*

Among other things, requires the director of job and family services to provide a quarterly report on programs being established and implemented to increase efficiency, control cost increases, and promote better health outcomes in Medicaid. Among the items that shall be included in the report are: a) Expansion of the Medicaid data warehouse and decision support system; b) Implementation of the Medicaid information technology system; and c) Development of infrastructure policies for electronic health records and e-prescribing.

*Tennessee SB 2268, 2007 (Enacted 5/30/2007)*

Requires the results of a test performed on a human specimen at the request of a designated entity to be reported directly to the requesting entity; "designated entity" is defined as an entity that performs actions or functions on behalf of the provider, payer or patient to create an electronic health record.

*Texas SB 204, 2007 (Enacted 6/15/2007)*

Requires electronic medical record systems sold to Texas health care providers who administer immunizations to interface with the state immunization registry. Directs the executive commissioner of the Health and Human Services Commission to specify the data fields and standards necessary to comply with bill requirements and authorizes the attorney general to file an injunction against a violation of bill provisions.

*Virginia HB 2198, 2007 (Enacted 3/20/2007)*

Requires any electronic health records system or software purchased by a state agency to adhere to accepted standards for interoperability or to be certified by a recognized certification body. Also requires that state agency grants made available to other entities for electronic patient information or electronic health records ensure that the system or software adheres to accepted standards for interoperability, privacy and data exchange or has been certified by a nationally recognized certification body.

*Washington HB 2549 (Enacted 4/1/2008)*

Establishes a patient-centered medical home pilot project. Requires the medical home collaborative to coordinate its work with other health information technology initiatives in the state. If the Washington Health Care Authority makes grants to primary care practices for health information technology in fiscal year 2009, it should try to award the grants to providers who are participating in the medical homes pilot.

**Financing***Alaska SB 221, 2008 (Enacted 5/23/2008)*

Makes and amends appropriations, including \$2.5 million to the Alaska Primary Care Association for the Health Information Technology Network for Community Health Centers.

*Arizona HB 2209, 2008 (Enacted 6/27/2008)*

General appropriations act; 2008-2009, includes \$300,000 to the Arizona State Hospital for electronic medical records.

*Arizona HB 2781, 2007 (Enacted 6/25/2007)*

Makes general appropriations, including \$300,000 to the Arizona State Hospital for electronic medical records.

*Colorado HB 1346, 2007 (Enacted 5/29/2007)*

Authorizes the Department of Health Care Policy and Financing to enter into prepaid inpatient health plan agreements to pay for services for recipients under the medical assistance program. Subject to approval of the state board, a prepaid inpatient health plan agreement also can provide for an increase in the contractor fee in an amount reasonably calculated to cover the costs of collecting and maintaining the medical records of recipients through an electronic medical records system.

*Connecticut HB 8001, 2007 (Enacted 6/26/2007)*

State budget bill. Transfers \$500,000 from the Tobacco and Health Trust Fund to The University of Connecticut Health Center for the Connecticut Health Information Network. Up to \$500,000 of the unexpended funds appropriated to the Department of Children and Families shall continue to be available for an electronic medical records system in FY 2008.

*Delaware HB 525 b, 2008 (Enacted 7/1/2008)*

Appropriates \$1.5 million for the Delaware Health Information Network. Funds are to be used to support development of an interoperable network to exchange clinical information among

all health care providers statewide. Before fund disbursement occurs, the Delaware Healthcare Commission, working with the health information network, must provide a minimum written commitment of \$1.5 million from non-state sources, a total project budget and a budget that outlines the use of state-appropriated funds.

*Delaware SB 155, 2007 (Enacted 7/1/2007)*

A Bond and Capital Improvements Act for the fiscal year ending June 30, 2008. The bill appropriates \$3 million for the Delaware Health Information Network to support development of an interoperable network to exchange clinical information among all healthcare providers statewide. Before fund disbursement occurs, the Delaware Healthcare Commission, working with the health information network, must provide a minimum written commitment of \$3 million from non-state sources, a total project budget and a budget that outlines the use of state-appropriated funds.

*District of Columbia B 2, 2007 (Enacted 1/16/2007)*

Among other things appropriates \$2.2 million in fiscal year 2007 and \$2.8 in fiscal year 2009 for grants to develop an electronic health record system for community health centers.

*Florida SB 2800, 2007 (Enacted 5/24/2007)*

Appropriations bill. Provides \$2 million from the Tobacco Settlement Trust Fund for the Florida Health Information Network grants program.

*Georgia HB 94, 2007 (Enacted 4/19/2007)*

The General Appropriations Act. Provides \$10,849,617 to The Georgia Association for Primary Health Care to complete the statewide Electronic Medical Records system to link the Federally Qualified Community Health Centers.

*Idaho HB 159, 2007 (Enacted 3/27/2007)*

Establishes the Community Health Center Grant Fund, to be used exclusively for grants for community health centers to improve access to health care services for Idahoans. Allows funds awarded to be used for purchase, construction, renovation or improvement of real property or for projects that are designed solely or predominantly for equipment purchase, including information technology and electronic health records.

*Idaho HB 625, 2008 (Enacted 3/25/2008)*

The appropriations bill for the Department of Health and Welfare for Medical Assistance Services provides \$500,000 in funding for the Idaho Health Data Exchange.

*Idaho HB 626, 2008 (Enacted 3/25/2008)*

The appropriations bill for the Department of Health and Welfare Physiatrist Hospitalization provides \$445,000 for electronic medical records.

*Illinois HB 3866, 2007 (Enacted 8/23/2007)*

Fiscal year 2008 appropriations bill. The bill appropriates \$67,800 for the Public Health Information Network and \$321,200 for the Adoption Registry and Medical Information Exchange.

*Iowa HB 909, 2007 (Enacted 5/29/2007)*

Makes appropriations for health and human services. Appropriates \$1 million for the state center at Woodward and \$1 million for the state center at Glenwood, of which \$750,000 at each shall be used to continue procurement and installation of the electronic medical records system initiated in the fiscal year beginning July 1, 2005.

*Kansas HB 2368, 2007 (Enacted 4/23/2007)*

An act appropriating funds. Authorizes the Kansas Health Policy Authority to use money appropriated from the state general fund or from any special revenue source for fiscal year 2008 to support ongoing health information exchange initiatives, including health information exchange infrastructure planning, privacy and security collaboration, the advanced identification card project and the community health record project.

*Louisiana HB 765, 2007 (Enacted 6/27/2007)*

Appropriations bill. Appropriates \$30 million to implement Phase I of the statewide electronic medical records system for state public hospitals and medical centers.

*Louisiana SB 238, 2007 (Enacted 6/27/2007)*

Establishes the health care redesign fund to help implement the findings of the Health Care Redesign Collaborative. Money in the fund shall be appropriated and used for the following health care initiatives and services: developing a medical home for low-income uninsured; reducing use of emergency room services; improving essential behavioral health services; providing mental health/addictive disorder services; expansion of health insurance through Medicaid; reengineering the state's vital records system; providing Quality Forum and health information technology initiatives; addressing health care workforce development and retention; developing disabilities services; providing essential adult and aging services and public health services; and enhancing provider reimbursement rates.

*Maine HB 383, 2007 (Enacted 6/7/2007)*

Appropriates funds for the 2008-09 biennium. Appropriates \$265,000 from the general fund on a one-time basis for grants to HealthInfoNet to help build the first phase of Maine's health information exchange system.

*Massachusetts HB 4900, 2008 (Enacted 7/13/2008)*

Fiscal Year 2009 Appropriations bill. Establishes and appropriates \$25 million to the e-Health Institute Fund. Provides the Department of Public Health with \$425,710 for a federally funded grant entitled Enabling Electronic Prescribing and Enhancement.

*Michigan SB 1094, 2008 (Enacted 7/17/2008)*

Appropriations bill for the Department of Community Health for fiscal year 2008-2009. The bill appropriates \$5 million for the Medical Services Administration for health IT initiatives.

Calls for the department to seek federal funds to permit the state to provide financial support for electronic prescribing and other health IT initiatives.

Requires the department to develop a three-year strategic plan for the implementation of electronic prescribing for the Medicaid program. Also requires the department to direct the

health IT commission to examine strategies that promote the ability to share medical records and to report the commission's findings by July 1, 2009.

*Michigan HB 4344, 2007 (Enacted 10/31/2007)*

Appropriation bill for the Department of Community Health. The bill appropriates \$5 million to the Medical Services Administration for health information technology initiatives. Requires southeast Michigan Medicaid health plans to participate in a risk-adverse, budget-neutral 10-month pilot program when an interoperable hub that provides secure aggregation and access to medication history data through an existing, outsourced health information exchange infrastructure has been developed. The pilot project is to include a way to identify and measure savings generated. Medicaid health plan payments for the project may not exceed savings achieved.

*Michigan SB 1, 2007 (Enacted 10/1/2007)*

Requires the Department of Community Health to seek financial support for electronic health records, including, but not limited to, personal health records, e-prescribing, web-based medical records, and other health information technology initiatives using Medicaid funds.

*Michigan SB 404, 2007 (Enacted 5/7/2007)*

Appropriations bill for the Department of Community Health. The bill appropriates \$7.25 million to the Medical Services Administration for health information technology initiatives.

*Minnesota HB 1063, 2007 (Enacted 5/30/2007)*

Omnibus higher education finance bill that establishes and amends higher education programs and appropriates money. "Section 4. One percent of the appropriation in subdivision 2 is available after the Board of Trustees of the Minnesota State Colleges and Universities demonstrates to the commissioner of finance that the Minnesota State Colleges and Universities system has achieved at least three of the following five goals:... (3) increase by at least 700, compared to fiscal year 2007, the number of students trained on the use of electronic medical record technology."

*Missouri HB 2011, 2008 (Enacted 6/27/2008)*

Appropriations bill for the Department of Social Services. Provides funding for a regionally integrated electronic medical records system to link rural physicians and hospitals in the northwest Missouri region. Provides funding for a pilot project in Green County to study the cost effectiveness of electronic health records in long-term care and the financial benefits to MO HealthNet.

*Missouri SB 577, 2007 (Enacted 1/1/2007)*

Establishes the Missouri Continuing Health Improvement Act of 2007, modifies various provisions relating to the state medical assistance program, and changes the name of the program to MO HealthNet. Creates a Health Care Technology Fund to consist of all gifts, donations, transfers and money appropriated by the General Assembly, and bequests to the fund. The state treasurer is custodian of the fund and may approve disbursements. The fund is administered by the Department of Social Services in accordance with the recommendations of the MO HealthNet oversight committee unless otherwise specified by the General Assembly. Money in the fund is to be distributed in accordance with specific appropriations by the

General Assembly. The director of the Department of Social Services must submit his or her recommendations for the disbursement of the funds to the governor and the General Assembly.

*New Mexico HB 2, 2008 (Enacted 2/12/2008)*

General appropriations act. The bill provides \$550,000 to the Department of Health for the continued implementation of electronic medical records and health information exchange.

*New Mexico HB 2, 2007 (Enacted 3/15/2007)*

General appropriations act. The bill provides \$63,000 for a health information exchange collaborative network and \$350,000 to the Department of Health to contract with a nonprofit to expand the health information exchange network.

*New Mexico SB 611, 2007 (Enacted 3/13/2007)*

Making appropriations and authorizing expenditures by state agencies. The bill appropriates \$25,000 to purchase electronic health records software for the Mora Valley community health center and \$150,000 to implement electronic patient health records in primary care clinics that are eligible to receive funds under the Rural Primary Health Care Act to help these clinics develop analyzable, comprehensive patient records.

*New York AB 2 a, 2008 (Enacted 8/20/2008)*

Public Protection and Government Budget. Reduces several appropriations, including:

- For services and expenses of the Health Information Technology program pursuant to chapter 58 of the laws of 2004, reduced from \$3 million to \$2.82 million.
- For services and expenses of the Health Information Technology program pursuant to chapter 58 of the laws of 2004, reduced from \$3 million to \$2.82 million..
- For services and expenses of Northeast Health Electronic Medical Records, reduced from \$400,000 to \$376,000.

*New York SB 6803, 2008 (Enacted 4/23/2008)*

Education, Labor and Family Assistance budget bill. Appropriates \$3 million for service and expenses of the health IT program pursuant to chapter 58 of the laws of 2004. Appropriates \$500,000 for services and expenses of Taconic IPA INC for an e-prescribing and electronic medical record program in the Hudson Valley. Appropriates \$200,000 for services and expenses for health IT for nursing homes program. Appropriates \$400,000 for services and expenses of Northeast Health electronic medical records.

*New York SB 6804, 2008 (Enacted 4/23/2008)*

Health and Mental Hygiene budget. Appropriates funds for various health IT items. Provides \$2.5 million to the Wadsworth Center for Laboratories and Research Program for the planning and implementation of electronic laboratory and state health information technology project for the report of communicable disease.

*New York SB 2104, 2007 (Enacted 4/9/2007)*

Appropriation bill for the Department of Health and Mental Hygiene. Among other health IT specific appropriations: For services and expenses of an electronic prescribing and electronic medical records program in the Hudson Valley \$500,000. For services and expenses of health information technology \$3 million.

*Pennsylvania HB 1589, 2008 (Enacted 7/4/2008)*

Provides for the capital budget for the fiscal year 2007-2008. Provides \$875,000 to Clearfield County to expand facilities to accommodate health IT and Western PA Health Information Connection, including construction of a new 10,000 square-foot building and associated infrastructure improvements at Dubois Regional Medical Center.

*Pennsylvania SB 1389, 2008 (Enacted 7/4/2008)*

General Appropriation Act of 2008. The bill appropriates \$4.483 million for health information exchange.

*Vermont HB 891, 2008 (Enacted 6/7/2008)*

Appropriation bill. Among other things the bill adds legislative findings related to savings from health IT use, and states that the Vermont Information Technology Leaders has identified a \$35 million to \$40 million funding gap for health IT over the next five years. The commissioner currently must contract with VITL to carry out its assigned duties; the bill changes this to a grant agreement.

Establishes a health IT fund to finance health care information technology programs and initiatives. The fund will be administered by the secretary of administration or his or her designee. Money from the following sources will be deposited in the fund: 1) revenue from the reinvestment fee imposed on health insurers; 2) contributions from the office of Vermont health access, as appropriated by the General Assembly; and 3) the proceeds from grants, donations, contributions, taxes and any other sources of revenue as may be provided by statute, rule or act of the General Assembly.

Creates a reinvestment fee to be paid by health insurers into the health e-fund. The quarterly fee is 0.199 percent of all health care claims of a health insurer operating in the state. The bill's definition of health insurer includes third-party administrators for self-insured employers.

*Vermont HB 537, 2007 (Enacted 6/4/2007)*

Fiscal Year 2008 Appropriations Act. Appropriates \$726,664 to the Vermont Information Technology Leaders (VITL). Availability of funds is contingent upon approval of VITL's sustainable business plan and its plan to coordinate activities with the Vermont blueprint for health chronic care initiative and a VITL commitment to use "best efforts" to secure a non-state match for the funds.

*Virginia HB 1650, 2007 (Enacted 4/4/2007)*

Appropriates public revenues and provides a portion of such revenues for the two years ending, respectively, on June 30, 2007, and June 30, 2008. Appropriates \$4,698,113 to the Department of Mental Health, Mental Retardation and Substance Abuse Services to develop and implement a system of electronic medical records for people who receive services at state

mental health and mental retardation facilities. Any agreement signed by the department for health information technology or a health information technology system for the retrieval, storage or exchange of health information must be consistent with federal standards for the electronic exchange of health information and include a provision to ensure interoperability.

*Virginia HB 29, 2008 (Enacted 4/11/2008)*

Amends and reenacts Chapter 847 of the 2007 Acts of Assembly, which appropriated the public revenues and provided a portion of such revenues for the two years ending, respectively, on June 30, 2007, and June 30, 2008. "E. Out of this appropriation, \$75,000 the second year from the general fund shall be used to match available special funds for the development and implementation of an electronic medical records system for local health departments. Release of this appropriation shall be contingent upon the Virginia Department of Health collaborating with the Secretary of Technology to pursue a multi-source procurement. This procurement will ensure interoperability and be consistent with federal standards for the electronic exchange of health information."

*Virginia HB 30, 2008 (Enacted 5/9/2008)*

A bill for all appropriations of the Budget for fiscal years ending on the June 30, 2009, and June 30, 2010. Provisions include the following.

- From the appropriation for Community Health Services, \$75,000 the first year and \$75,000 the second year from the general fund must be used to match funds to develop and implement electronic medical record systems for local health departments.
- Requires the Department of Health to collaborate with the secretary of technology to pursue a multi-source procurement that is interoperable and consistent with federal standards for the electronic exchange of health information.
- The governor must establish an Advisory Committee on electronic health records to develop recommendations for design and implementation of electronic health records systems in Virginia that will advance interoperability while protecting patient privacy.
- Provides \$95,000 the first year and \$95,000 the second year to continue the pilot project connecting public health providers to Carilion Health System's electronic health records system.
- From the Department of Mental Health, Mental Retardation and Substance Abuse Services appropriation, \$270,930 for the first year and \$570,930 for the second year from nongeneral funds must be used to develop, implement and maintain a system of electronic medical records at state mental health and mental retardation facilities. The department must pursue a multi-source procurement with the secretary of technology. Requires the department, in cooperation with Community Services Boards and the Virginia Information Technologies Agency, to create a plan for development of electronic health records in Community Services Boards. The plan is to include provisions to ensure interoperability and consistency with federal standards for the electronic exchange of health information.

*Washington HB 1128, 2007 (Enacted 5/15/2007)*

Making operating appropriations for 2007-2009. Appropriates \$1,012,000 for fiscal year 2008 and \$338,000 for fiscal year 2009 to the Department of Information Services to evaluate the information technology infrastructure capacity for institutions operated by the Department of Social and Health Services, Department of Veterans Affairs and Department of Corrections. The evaluation is to detail the status of the participating institutions' infrastructure and recommend an improvement strategy that includes use of electronic medical records. The department must report its findings to the appropriate committees of the Legislature by Jan. 1, 2009.

*West Virginia SB 150, 2008 (Enacted 4/8/2008)*

Appropriations bill. Allows the West Virginia Health Care Authority to transfer up to \$1.4 million to the West Virginia Health Information Network Account.

*West Virginia HB 4713, 2008 (Enacted 3/13/2008)*

Moves \$3.5 million from the Board of Risk and Insurance Management - Premium Tax Savings Fund to the West Virginia Health Information Network Account.

*West Virginia HB 2007, 2007 (Enacted 3/18/2007)*

Appropriations bill. Allows the West Virginia Health Care Authority to transfer up to \$1.4 million to the West Virginia Health Information Network Account.

*Wisconsin SB 40, 2007 (Enacted 10/26/2007)*

Budget Bill. Creates a tax credit for providers who purchase information technology tools (software or hardware) used to maintain electronic medical records. Providers can claim up to 50 percent of the cost of the system, with a maximum of \$10 million annually.

## Health Information Exchange

*Connecticut HB 8002, 2007 (Enacted 6/26/2007)*

By Nov. 30, 2007, the Department of Public Health, in consultation with the Office of Health Care Access is to hold a competitive bid for development of a statewide health information technology plan. The entity awarded the contract will be designated the lead state health information exchange organization for the period commencing Dec. 1, 2007, and ending June 30, 2009. The plan is to at least include standards for health information exchange, a pilot project for health information exchange, and data standards for a secure and interoperable statewide integrated electronic health information system.

Allows the Department of Public Health and The University of Connecticut Health Center, within available appropriations, to develop a Connecticut Health Information Network plan to securely integrate state health and social services data, consistent with state and federal privacy laws.

*Connecticut SB 1484 (Enacted 7/10/2007)*

On or before July 1, 2008, the Department of Public Health, in consultation with specified departments, shall develop electronic data standards to facilitate the development of a statewide,

integrated electronic health information system. The electronic data standards shall 1) include provisions relating to security, privacy, data content, structures and format, vocabulary and transmission protocols; 2) be compatible with any national data standards to allow for interstate interoperability; 3) permit collection of health information in a standard electronic format; and 4) be compatible with requirements for an electronic health information system.

Designates eHealth Connecticut as the lead health information exchange organization for Connecticut from July 1, 2007, to July 1, 2012. Requires the commissioner of public health to contract with eHealth Connecticut to create the statewide health information technology plan.

Establishes the Connecticut Health Information Network to securely integrate state health and social services data consistent with state and federal privacy laws. The network is to create an information portal to provide 1) access to public use data sets that contain health and social services information about Connecticut residents, maintained by state agencies and other nongovernmental entities; and 2) a platform to query the network to obtain aggregate data on key health indicators within the state.

*Maine HB 548, 2007 (Enacted 5/4/2007)*

Expands the definition of a health care facility to include "...a nonprofit statewide health information network incorporated in the State for the purpose of exchanging health care information among licensed health care providers in the state."

*Maryland HB 979, 2007 (Enacted 4/24/2007)*

Establishes a health information exchange pilot project to be operated by the Maryland-DC Collaborative. Requires the Maryland Health Care Commission and the State Health Services Cost Review Commission to ensure the pilot project addresses privacy, security and economic interoperability issues and establishes appropriate policies and protections in these areas. Hospitals can apply to the state health services cost review commission for a one-time award through rate adjustment to provide partial compensation for the cost of developing a data interface necessary for participation in the collaborative.

*Minnesota HB 3222, 2008 (Enacted 5/15/2008)*

Deals with annuities and transfers of assets, long-term care insurance policies, and a statewide health information exchange. The commissioner of human services is authorized to join and participate as a member in a legal entity that is developing and operating a statewide health information exchange. The commissioner can pay the state's prorated share of development-related expenses of the health information exchange retroactively from Oct. 29, 2007, regardless of the date the commissioner becomes a member.

*Oklahoma SB 1420, 2008 (Enacted 6/2/2008)*

Requires the State Board of Health to adopt and distribute a standard authorization form for exchange of health information. The exchange of health data under the authorization form, when used in accordance with the board's instructions, is immunized from liability in action upon state privacy or privilege law that may be claimed to arise from the exchange of such information.

*Texas HB 921, 2007 (Enacted 6/15/2007)*

Requires the Texas Health Care Policy Council, in consultation with the Department of Information Resources, to establish an information-sharing pilot program and develop standards for secure electronic sharing of information among state agencies that provide social services, mental health services, substance abuse services or health services.

*Texas SB 10, 2007 (Enacted 6/14/2007)*

Allows the medical assistance program to use technology to facilitate electronic communications to determine eligibility, enrollment, verification procedures and exchange of recipient medical information.

*Utah HB 47, 2008 (Enacted 3/19/2008)*

Authorizes the Department of Health to adopt standards for electronic health information exchange. Payers and providers must use standards adopted by the department if they wish to electronically exchange health information between health care systems. Payers and providers are not required to use the standards if they electronically exchange health information within a health care system.

*Vermont HB 887, 2008 (Enacted 6/10/2008)*

Seeks to expand access to affordable health coverage through various means. Supports health information technology by 1) authorizing limited liability for the Vermont Information Technology Leaders (VITL) in its operation of the state health information exchange network; 2) requiring VITL to update annually the health information technology plan for the state; and 3) requiring a study of the feasibility of a statewide e-prescriber program.

*Washington SB 5930, 2007 (Enacted 5/2/2007)*

Provides high-quality, affordable health care to residents based on the recommendations of the blue ribbon commission on health care costs and access. Requires a pilot project for a consumer-centric health information infrastructure and a health record bank. Allows establishment of an advisory board, a stakeholder committee and subcommittees to carry out the pilot project. Continues the Washington Health Information Collaborative to promote the adoption of electronic medical records and health information exchange.

**Miscellaneous***Colorado SB 217, 2008 (Enacted 6/3/2008)*

Requires the Department of Health Care Policy and Financing, in coordination with the Division of Insurance and a panel of experts, to prepare a request for information from health insurance carriers and other interested parties. Carriers are requested to provide information regarding the design of a new health insurance product, a value benefit plan, to be offered in the individual market. After information is received, the department, in collaboration with the division and the panel of experts, must acquire actuarial projections, research potential cost savings, and analyze information provided by the carriers. Requires a value benefit plan to encourage the use of health information technology and telemedicine.

*Idaho HB 489, 2008 (Enacted 4/1/2008)*

Removes the sunset date from the Health Quality Planning Commission. Directs the commission to prepare its work so it is accessible to all citizens of the state.

*Louisiana HB 1384, 2008 (Enacted 7/9/2008)*

Defines and authorizes the interstate practice of telemedicine. Authorizes the Louisiana State Board of Medical Examiners to establish criteria for issuing telemedicine licenses.

*Ohio HB 119, 2007 (Enacted 6/30/2007)*

Among other things, creates the health information and imaging technology workforce development pilot project. Under the project, in fiscal years 2008 through 2010, the Ohio board of regents shall design and implement a three-year pilot program to test, in the vicinity of Clark, Greene and Montgomery counties, how a P-16 public-private education and workforce development collaborative may address each of the following goals:... “(2) Increase the number of students pursuing professional careers in health information and imaging technology upon receiving related technical education and professional experience, in all demographic regions of the state;”

*Oklahoma SB 2076, 2008 (Enacted 6/9/2008)*

Among other things, defines telemedicine. Adds via telemedicine to the definition of a mental health evaluation, initial assessment and emergency examination.

*Texas SB 11, 2007 (Enacted 6/6/2007)*

Enacts provisions relating to homeland security and protection of the public. Changes the childhood immunization registry into an immunization registry. Amends existing text relating to which individuals the Texas Department of Health, by rule, is required to develop guidelines to inform about the registry, to include the guardian of each patient younger than age 18, rather than each patient. Requires the department, by rule, to develop guidelines to determine the process by which consent is verified, including affirmation by a health care provider, birth registrar, regional health information exchange, or local immunization registry.

*Texas HB 522, 2007 (Enacted 5/25/2007)*

Allows the commissioner to establish rules to require health plans to enable providers at the point of service to be able to access plan eligibility and benefits information. Requires the commissioner of the Department of Insurance to appoint a technical advisory committee to establish standards for exchanging eligibility and benefits information. Requires the commissioner to implement an identification card pilot program and to require the issuer of a health benefit plan offered in the county or counties selected for initial participation in the pilot program to issue identification cards to plan enrollees that comply with commissioner rules.

*Vermont SB 283, 2008 (Enacted 6/10/2008)*

Requires providers to report all immunizations to the department within one month of adopting an electronic health record that meets the standards developed by the Vermont Information Technology Leaders. Requires health insurers to report immunization data quarterly. Allows the department to establish an immunization registry with the data and details who can receive data from the registry.

*Vermont HB 380, 2007 (Enacted 5/16/2007)*

Relates to regulation of health care facilities. An applicant seeking expedited review of a certificate of need application for a health information technology project may simultaneously file a letter of intent and an application with the commissioner of banking, insurance, securities, and health care administration without providing the required public notice. The commissioner shall issue public notice of the application and the request for expedited review and identify a date by which a competing application or petition for interested party status may be filed. If a competing application is not filed and no one opposing the application is granted interested party status, the commissioner may formally declare the application uncontested and may issue a certificate of need without further process, upon finding the application is consistent with: the preliminary health information technology plan issued by the Vermont Information Technology Leaders on Jan. 1, 2007, and the health resource allocation plan.

**Planning/Study Commissions***Colorado SB 196, 2007 (Enacted 5/24/2007)*

Creates the health information technology advisory committee and establishes membership. The committee is charged with developing a long-range health information technology plan, on or before Jan. 1, 2009, for health care information technology that includes use of electronic medical records, computerized clinical support systems, computerized physician order entry, regional health information organization, data privacy and security measures; and achieves interoperability among health information technology systems. Requires the committee to pursue an interstate compact between, but not limited to, Arizona, Kansas, Montana, Oklahoma, New Mexico, North Dakota, South Dakota, Utah, and Wyoming to allow for interstate exchange of health data.

Provides for telemedicine reimbursement in the state's medical assistance programs for home health care services or home and community based services that are otherwise eligible for reimbursement.

*Colorado SB 74, 2007 (Enacted 5/25/2007)*

Creates a 2007 interim task force to examine and make recommendations to advance electronic medical record systems and create an interoperable statewide electronic health information exchange, including but not limited to, 1) privacy and security concerns; 2) benefits to public medical assistance programs of participating in an electronic health information exchange; 3) accessibility of electrocardiogram tracings by emergency treatment facilities; 4) priorities for implementing a statewide electronic health information exchange to improve health care safety, quality and cost-effectiveness; 5) how western states can leverage resources and influences to advance regional and national electronic health information exchanges; and 6) benefits of an electronic health information exchange for Colorado's health care reform efforts. The task force is to solicit information from an independent nonprofit organization established to facilitate the availability of a statewide electronic health information exchange, public and private health care providers from diverse geographic areas of the state, business interests, and consumers.

*Delaware HB 250, 2007 (Enacted 7/1/2007)*

Appropriates funds to development projects in the Office of Management and Budget, Budget Administration, to study implementing electronic medical records in the Department of Correction's telemedicine pilot programs.

*Iowa HB 2539, 2008 (Enacted 5/13/2008)*

Requires the Department of Human Services to direct a public-private collaborative effort to promote adoption and use of health information technology. The department is to coordinate development and implementation of an interoperable electronic health records system, telehealth expansion efforts, the health information technology infrastructure, and other health information technology initiatives in this state.

Creates an electronic health information advisory council. The council, with the support of the department, is to, among other things develop a statewide health information technology plan by July 1, 2009, that is consistent with national standards developed by the office of the national coordinator. The plan is to address, among other things, exchange standards, privacy and security, information ownership, health information exchange governance, patient identification issues, economic incentives and support to facilitate participation in an interoperable system by health care professionals. It also is to determine costs for accessing the network at a level that provides sufficient funding for the network.

*Iowa SB 2046, 2008 (Enacted 5/10/2008)*

Relates to appointments by members of the General Assembly to statutory boards, commissions, councils and committees. Modifies the appointment process for legislative members of the Electronic Health Records Task Force.

*Iowa HB 45, 2007 (Enacted 4/20/2007)*

Creates a single point of entry long-term living resource systems team. The team will issue a report to the General Assembly on or before Dec. 1, 2008, that includes recommendations regarding the use of electronic health records.

*Louisiana SB 332, 2008 (Enacted 7/7/2008)*

Establishes the Health Care Information Technology and Infrastructure Collaborative to be composed of the Louisiana Rural Health Information Exchange, the Health Information Technology Committee of the Louisiana Health Care Quality Forum, and any other current or future regional health information exchange. The collaborative will advise the secretary of the Department of Health and Hospitals about how to advance the use of health information technology by identifying state laws and regulations that impede its use. The collaborative will provide an annual report to the Legislature and the secretary.

*Louisiana SB 287, 2008 (Enacted 6/30/2008)*

Provides for the Louisiana Health Care Consumers Right to Know with the intent to provide a meaningful comparison of costs for specific health care services and specific quality of care measures between and among medical facilities, health care providers and health plans. Establishes a Health Data Panel to make recommendations to the secretary of the Department of Health and Hospitals on implementation of certain provisions of the bill. Requires that the panel include quality improvement and health information technology groups.

*Maine HB 1251, 2007 (Enacted 4/14/2008)*

Calls for the Maine Quality Forum and HealthInfoNet to collaborate to establish a broadly representative stakeholder group that will study and make recommendations for establishing and financing a quality improvement and technology fund. The initial goal of the fund would be to help establish and sustain HealthInfoNet and to help providers with limited financial resources obtain electronic medical record systems.

*Massachusetts HB 4160, 2007 (Enacted 10/10/2007)*

Creates an electronic health records systems task force to 1) develop an electronic health records system that links multiple settings including, but not limited to, the MassHealth and SCHIP programs, programs administered by the commonwealth connector and programs serving children in foster care, that use health records and that is consistent with requirements for community health records and electronic prescribing; 2) evaluate the economic model and the anticipated benefits of electronic health records; and 3) provide quarterly updates to the governor and the chairs of the House and Senate committees on ways and means and the chairs of the Joint Committee on Health Care Financing regarding progress in the development of national standards and the work of the task force.

*New Jersey AB 4044, 2007 (Enacted 1/13/2008)*

Establishes the Office for the Development, Implementation, and Deployment of Electronic Health Information Technology (e-HIT) and creates the New Jersey Health Information Commission. E-HIT, in collaboration with the New Jersey Health Information Commission, is to develop, implement and oversee operation of a statewide health information technology plan. The plan is to:

- Establish a secure, integrated, interoperable and statewide electronic health information infrastructure;
- Comply with all state and federal privacy requirements;
- Link all components of the health care delivery system; and
- The plan shall also provide for the designation of a custodian for all protected health information that meets federal and state privacy and security laws and is accredited by a national standard setting organization recognized by the department.

The commission, in collaboration with e-HIT is to submit a report to the governor and Legislature within 18 months of its first meeting and annually thereafter. The commission can “recommend to the Department of Banking and Insurance the necessary charges and assessments to be levied to collect payments from persons and entities for the provision of services or as the Office for e-HIT otherwise determines necessary to effectuate the purposes of this act.”

*New Mexico HB 428, 2007 (Enacted 3/13/2007)*

Amends the New Mexico Telehealth Act to the New Mexico Telehealth and Health Information Technology Commission Act. Expands the commission’s focus to include health information technology. Defines health information technology and adds to the commission a member from the health information technology industry.

*North Carolina HB 2431, 2008 (Enacted 8/4/2008)*

Provides for studies by the legislative research commission, statutory oversight committees and commissions and other agencies, committees and commissions. The Joint Legislative Health Care Oversight Committee can study development of a coordinated statewide electronic health information network to facilitate integration of health information technology into the health care system.

*North Dakota HB 1021, 2007 (Enacted 5/2/2007)*

Creates the North Dakota Health Information Technology Steering Committee, which consists of the state health officer or his designee, the governor or designee, the executive director of the

Department of Human Services or designee, those appointed by the governor to represent the state government interests, and those appointed by the state health officer to represent health information technology stakeholders.

*Oregon SB 329, 2007 (Enacted 6/28/2007)*

Establishes the Healthy Oregon Act. The intent of the Act is to develop the Oregon Health Fund program comprehensive plan that meets the program goals as set out in Section 4. Goals include covering the currently uninsured; reforming the health care delivery system; and ensuring timely access to effective, patient-centered, evidence-based and affordable health care. The plan can address use of information technology that is cost-neutral or has a positive return on investment to deliver efficient, safe and quality health care and a voluntary program to provide every Oregonian with a personal and portable electronic health record that is within the individual's control, use and access.

*Rhode Island HB 6125, 2007 (Enacted 10/30/2007)*

Amends the Rhode Island Coordinated Health Planning Act of 2006 to include a health care planning and accountability advisory council. The council will develop and promote recommendations to reform the health care systems, including the state's health care delivery and financing system. The council is authorized to develop and promote studies, advisory opinions and a unified health plan on the state's health care delivery and financing system. Items it can study include plans to promote the appropriate role of technology in improving the availability of health information across the health care system, while promoting practices that ensure the confidentiality and security of health records.

*Utah HB 24, 2008 (Enacted 3/14/2008)*

Amends members of the Utah Digital Health Service Commission. Revises duties of the commission to provide advice and make recommendations to the department regarding patient privacy policies. The commission is to study the use of digital health services to reduce health cost and increase quality, with special emphasis on providing access or development of electronic medical records to rural health care providers and special populations.

*Vermont HB 531, 2007 (Enacted 6/5/2007)*

Calls for development and implementation of a blueprint for health, including a five-year strategic plan. The blueprint must further the use of information technology. Establishes a medical home chronic care management pilot project. Primary care providers who participate in the pilot must use health information technology, which may include remote monitoring and patient registries, to monitor and track the health status of patients and provide patients with enhanced, convenient access to health care services.

## **Privacy and Security**

*California AB 1298, 2007 (Enacted 10/14/2007)*

Expands the state's data breach notification law to include unencrypted medical information and health insurance information as defined by the bill. Prohibits a provider of health care, a health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally sharing, selling, using for marketing or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, except

as expressly authorized by the patient, enrollee or subscriber, as specified, or as otherwise required or authorized by law. Includes within the definition of “provider of health care” any corporation organized for the primary purpose of maintaining medical information for treatment or diagnosis, as specified. Would apply the prohibitions of the Confidentiality of Medical Information Act to any business organized for the purpose of maintaining medical information to allow an individual to manage his or her information, or for treatment or diagnosis of the individual.

*Louisiana HB 954, 2008 (Enacted 7/3/2008)*

Permits consent for medical treatment to be given by electronic means. Allows electronic signature authentication and identification to be used for anyone who participates in agreements, authorizations, contracts, records or transactions that involve individually identifiable health information. Provides for electronic signature authentication and identification to be accomplished through an interactive system of security procedures.

*Nevada SB 536, 2007 (Enacted 6/13/2007)*

Exempts from more stringent state laws HIPAA-covered entities that electronically transmit individually identifiable health information in compliance with HIPAA provisions. Allows individuals to opt out of the electronic transmission of individually identifiable health information, with exceptions for Medicaid and SCHIP patients and when required by HIPAA or state law.

*Oklahoma SB 1719, 2008 (Enacted 6/10/2008)*

Creates the Oklahoma Health Information and Privacy Collaboration Advisory Board to advise and oversee the Oklahoma Health Information Privacy Collaboration. The board is to report on the collaboration’s status as necessary. Board membership is determined by the President Pro Tempore of the Senate and the Speaker of the House.

For purposes of the delivery of mental health care via telemedicine, the use of telemedicine shall be considered a face-to-face, physical contact and in-person encounter between the health care provider and the patient, including the initial visit.

*Wisconsin SB 487, 2008 (Enacted 3/17/2008)*

To facilitate health information exchange the bill adds diagnostic test results and symptoms to the list of elements that can be exchanged without written consent from a patient. Allows for the sharing of data with any health care provider involved in the patient’s care. Previously, data could be shared only with providers in a related health care entity. Eliminates more stringent state requirements to document all disclosures of health information.

Permits a health care provider to release a portion of a patient health care record to:

- Any person, if the patient or a person authorized by the patient is not incapacitated, is physically available, and agrees to the release of that portion.
- Any of the following, as applicable, if the patient and person authorized by the patient are incapacitated or are not physically available, or if an emergency makes it impracticable to obtain agreement from the patient or from the authorized person, and if the health care provider determines that the release is in the patient’s best interest:
  - o To a member of the patient’s immediate family; a relative; a close personal friend; or an individual identified by the patient; that portion of the record

- that is directly relevant to the involvement of that person in the patient's care;
- o To any person, that portion of the record that is necessary to identify, locate or notify a member of the patient's immediate family or another person that is responsible for the care of the patient concerning the patient's location, general condition or death.

## Resolutions

### *Alabama HJR 176, 2007 (Enacted 4/16/2007)*

Creates the Health Information Technology Partnership to provide leadership in redesign of the health care delivery system using health information technology. The partnership will address use of health information technology in the state, state agency expenditures on health information technology, and recommendations for implementing a statewide interoperable health information infrastructure.

### *Delaware HR 76, 2008 (Enacted 7/1/2008)*

Establishes the Delaware Health Information Network Task Force to review the goals and outcomes of the Delaware Health Information Network and to make recommendations to the House of Representatives. Establishes membership for the task force and requires a final report to be submitted to the Speaker of the House by Jan. 1, 2009.

### *Hawaii SR 15, 2008 (Enacted 4/11/2008)*

Requests the Department of Taxation to conduct a study of the tax recommendations of the Maui Health Initiative Task Force. One task force recommendation calls for tax credits to encourage development, maintenance and operation of interoperable electronic medical record systems.

### *Louisiana SCR 40, 2008 (Enacted 6/22/2008)*

Urges and requests the Department of Health and Hospitals to collaborate with the Louisiana State University Health Sciences Center to study the feasibility of the Department of Health and Hospitals' electronically posting certain medical records through the electronic systems currently in place with Louisiana State University Health Sciences Center.

### *Montana SJR 15, 2007 (Enacted 5/8/2007)*

Calls for a committee to study health care access and delivery in general, specifically focusing on the existence of specialty hospitals and the use of economic credentialing. Among items to be studied is health information technology.

### *Montana SJR 19, 2007 (Enacted 4/24/2007)*

Expresses the state's support for the development of secure and confidential health information technology and health information exchange. Supports funding for a demonstration project in specific communities throughout the state.

*New Mexico HM 60, 2007 (Enacted 3/7/2007)*

Asks the Health and Human Services Committee to conduct a comprehensive review of health care reform, including health information technology.

*Pennsylvania HR 665, 2008 (Enacted 4/7/2008)*

Designates May 12, 2008, as “Pennsylvania Health Care Information Technology Day.”

*Pennsylvania SR 275, 2008 (Enacted 4/1/2008)*

Recognizes May 12, 2008, as “Pennsylvania Health Care Information Technology Awareness Day.”

*Rhode Island HR 7909, 2008 (Enacted 7/5/2008)*

Creates the Electronic Health Records Task Force, a 23-member special legislative commission, to study and promote the interoperability of all aspects of electronic health record use in the state. The task force is to report to the General Assembly no later than Jan. 6, 2009, and is set to expire on March 6, 2009.

*Rhode Island SJR 1085, 2007 (Enacted 6/21/2007)*

Endorses adoption of electronic medical records and health information technology systems that improve the quality, safety and value of health care.

*Vermont HJR 44, 2008 (Enacted 4/4/2008)*

Approves the Vermont health information technology plan, submitted by Vermont Information Technology Leaders (VITL) as required by 22 V.S.A. §903(g). VITL is directed to continue to update the health information technology plan to include state and national privacy and security policies and procedures as they become available, to reflect industry best practices.







# Health Information Technology

## 2007 and 2008 State Legislation

Health information technology not only is key to state efforts to improve health care, but also is an integral part of state health reform initiatives. Appropriate, well-coordinated health information technologies bring together vital patient data that is scattered among providers. Having the information in one location is essential for high-quality care and helps reduce duplicative tests and procedures.

*Health Information Technology: 2007 and 2008 State Legislation* identifies and analyzes five major policy trends—planning, targeted financing initiatives, privacy law updates, promoting health information exchange, and advancing adoption and use—in the enacted legislation. Appendices compare legislation from three states and summarize the enacted legislation in all states.



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