

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2025

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SENATE BILL DRS15195-MGfa-82

Short Title: Health Information Exchange Act Revisions. (Public)

Sponsors: Senators Hise, Burgin, and Adcock (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT REVISING THE STATEWIDE HEALTH INFORMATION EXCHANGE ACT;  
3 AND AUTHORIZING THE IMPOSITION OF NEW CIVIL PENALTIES FOR  
4 VIOLATIONS OF THE ACT AND A NEW STATE HEALTH DATA ASSESSMENT FEE.  
5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 29B of Chapter 90 of the General Statutes reads as rewritten:  
7 "Article 29B.

8 "Statewide Health Information Exchange Act.

9 "§ 90-414.1. Title.

10 This ~~act~~ Article shall be known and may be cited as the "Statewide Health Information  
11 Exchange Act."

12 "§ 90-414.2. Purpose.

13 This Article is intended to improve the quality of health care delivery within this State by  
14 facilitating and regulating the use of a voluntary, statewide health information exchange network  
15 for the secure electronic transmission of individually identifiable health information among  
16 health care providers, health plans, ~~and health care clearinghouses~~ clearinghouses, and the State  
17 in a manner that is consistent with the Health Insurance Portability and Accountability Act,  
18 Privacy Rule and Security Rule, 45 C.F.R. §§ 160, 164.

19 "§ 90-414.3. Definitions.

20 The following definitions apply in this Article:

21 (1) Annual compliance report. – The annual report required by G.S. 90-414.13.

22 (1a) Business associate. – As defined in 45 C.F.R. § 160.103.

23 (2) Business associate contract. – The documentation required by 45 C.F.R. §  
24 164.502(e)(2) that meets the applicable requirements of 45 C.F.R. §  
25 164.504(e).

26 (3) Covered entity. – Any entity described in 45 C.F.R. § 160.103 or any other  
27 facility or practitioner licensed by the State to provide health care services.

28 (3a) Data transfer systems. – Electronic systems or platforms that (i) facilitate the  
29 submission of any combination of clinical, demographic, or claims data to the  
30 HIE Network and (ii) are maintained, controlled, directed, or licensed by, or  
31 on behalf of, a covered entity or hybrid entity subject to this Article. Data  
32 transfer systems may be comprised of health information technology or claims  
33 processing technology, or both, including hardware, software, integrated  
34 technologies and related licenses, or packaged solutions sold as services. Data  
35 transfer systems include, but are not limited to, electronic systems or platforms  
36 related to electronic health records, pharmacy benefits and claims, claims



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- 1 processing, or care management. Data transfer systems do not include any  
2 information technology systems that are directly maintained, controlled, or  
3 licensed by the State Health Plan for Teachers and State Employees.  
4 (4) Department. – North Carolina Department of Health and Human Services.  
5 (5) Disclose or disclosure. – The release, transfer, provision of access to, or  
6 divulging in any other manner an individual's protected health information  
7 through the HIE Network.  
8 (6) Repealed by Session Laws 2017-57, s. 11A.5(f), effective July 1, 2017.  
9 (7) GDAC. – The North Carolina Government Data Analytics Center.  
10 (8) HIE Network. – The voluntary, statewide health information exchange  
11 ~~network~~ network, which is a health data utility overseen and administered by  
12 the Authority.  
13 (9) HIPAA. – Sections 261 through 264 of the federal Health Insurance  
14 Portability and Accountability Act of 1996, P.L. 104-191, as amended, and  
15 any federal regulations adopted to implement these sections, as amended.  
16 (10) Individual. – As defined in 45 C.F.R. § 160.103.  
17 (11) North Carolina Health Information Exchange Advisory Board or Advisory  
18 Board. – The Advisory Board established under G.S. 90-414.8.  
19 (12) North Carolina Health Information Exchange Authority or Authority. – The  
20 entity established pursuant to G.S. 90-414.7.  
21 (13) Opt out. – An individual's affirmative decision communicated to the Authority  
22 in writing to disallow his or her protected health information from being  
23 disclosed by the Authority to covered entities or other persons or entities  
24 through the HIE Network.  
25 (13a) Organization National Provider Identifier or Organization NPI. – The HIPAA  
26 Administrative Simplification Standard that utilizes a 10-position all-numeric  
27 identification number assigned by the federal National Provider System to  
28 uniquely identify a health care provider that is an entity other than an  
29 individual human being that furnishes health care.  
30 (14) Protected health information. – As defined in 45 C.F.R. § 160.103.  
31 (15) Public health purposes. – The public health activities and purposes described  
32 in 45 C.F.R. § 164.512(b).  
33 (16) Qualified organization. – An entity with which the Authority has contracted  
34 for the sole purpose of facilitating the exchange of data with or through the  
35 HIE Network.  
36 (17) Research purposes. – Research purposes referenced in and subject to the  
37 standards described in 45 C.F.R. § 164.512(i).  
38 (18) State CIO. – The State Chief Information Officer.  
39 (19) State-funded health care. – Means all of the following:  
40 a. The North Carolina Medicaid program.  
41 b. The State Health Plan for Teachers and State Employees.  
42 c. Health care facilities and health care programs administered or  
43 operated by the Department of Health and Human Services, the  
44 Department of Public Safety, or the Department of Adult Correction,  
45 and their employees, agents, or grantees.  
46 (20) State health care funds. – Monies paid to providers or entities for the provision  
47 of health care services to recipients of State-funded health care. The term  
48 includes both (i) direct payments from the State to providers and entities and  
49 (ii) payments that providers and entities receive from third parties, or the  
50 agents of third parties, that are retained by the State for the administration or

1 delivery, or both, of State-funded health care, including prepaid health plans  
2 as defined in G.S. 108D-1 and claims processors as defined in G.S. 135-48.1.

3 **"§ 90-414.4. Required participation in HIE Network for some providers.**

4 (a) Findings. – The General Assembly makes the following findings:

- 5 (1) That controlling escalating ~~health care costs of the Medicaid program and~~  
6 ~~other State-funded health care services~~ is of significant importance to the  
7 State, its taxpayers, its Medicaid recipients, and other ~~recipients~~ beneficiaries  
8 of State-funded health care services.  
9 (2) That the State and covered entities in North Carolina need timely access to  
10 certain demographic and clinical information pertaining to services rendered  
11 to ~~Medicaid and other beneficiaries of State-funded health care program~~  
12 ~~beneficiaries~~ and paid for with ~~Medicaid or other State-funded State~~ health  
13 care funds in order to assess performance, improve health care outcomes,  
14 pinpoint medical expense trends, identify beneficiary health risks, and  
15 evaluate how the State is spending money on Medicaid and other State-funded  
16 ~~health care services.~~ The care. To that end, the Department of Information  
17 Technology, the Department of State Treasurer, State Health Plan Division,  
18 and the Department of Health and Human Services, Division of Health  
19 Benefits, have an affirmative duty to facilitate and support participation by  
20 covered entities in the statewide health information exchange network.  
21 (3) That making demographic and clinical information available to the State and  
22 covered entities in North Carolina by secure electronic means as set forth in  
23 subsection (b) of this section will improve care coordination within and across  
24 health systems, increase care quality for ~~such beneficiaries,~~ beneficiaries of  
25 State-funded health care, enable more effective population health  
26 management, reduce duplication of medical services, augment syndromic  
27 surveillance, allow more accurate measurement of care services and  
28 outcomes, increase strategic knowledge about the health of the population,  
29 and facilitate health care cost containment.

30 (a1) Mandatory Connection to HIE Network. – Notwithstanding the voluntary nature of  
31 the HIE Network under G.S. 90-414.2, the following providers and entities shall be connected to  
32 the HIE Network and begin submitting data through the HIE Network pertaining to services  
33 rendered to ~~Medicaid beneficiaries and to other of State-funded health care program beneficiaries~~  
34 ~~and paid for with Medicaid or other State-funded State~~ health care funds in accordance with the  
35 following time line:

- 36 (1) The following providers of Medicaid services licensed to operate in the State  
37 that have an electronic health record system shall begin submitting, at a  
38 minimum, demographic and clinical data by June 1, 2018:  
39 a. Hospitals as defined in G.S. 131E-176(13).  
40 b. Physicians licensed to practice under Article 1 of ~~Chapter 90 of the~~  
41 ~~General Statutes,~~ this Chapter, except for licensed physicians whose  
42 primary area of practice is psychiatry.  
43 c. Physician assistants as defined in 21 NCAC 32S.0201.  
44 d. Nurse practitioners as defined in 21 NCAC 36.0801.  
45 (2) Except as provided in subdivisions (3), (4), and (5) of this subsection, all other  
46 providers of ~~Medicaid and State-funded health care services~~ and their  
47 affiliated entities shall begin submitting demographic and clinical data by  
48 January 1, 2023.  
49 (3) The following entities shall submit encounter and claims data, as appropriate,  
50 in accordance with the following time line:

1 a. Prepaid Health Plans, as defined in G.S. 108D-1, by the  
2 commencement date of a capitated contract with the Division of  
3 Health Benefits for the delivery of Medicaid services as specified in  
4 Article 4 of Chapter 108D of the General Statutes.

5 b. Local management entities/managed care organizations, as defined in  
6 G.S. 122C-3, by June 1, 2020.

7 If authorized by the Authority in accordance with this Article, the Department  
8 of Health and Human Services may submit the data required by this subsection  
9 on behalf of the entities specified in this subdivision.

10 (4) The following entities shall begin submitting demographic and clinical data  
11 by January 1, 2023:

12 a. Physicians who perform procedures at ambulatory surgical centers as  
13 defined in G.S. 131E-146.

14 ~~b. Dentists licensed under Article 2 of Chapter 90 of the General Statutes.~~

15 c. Licensed physicians whose primary area of practice is psychiatry.

16 d. The State Laboratory of Public Health operated by the Department of  
17 Health and Human Services.

18 (5) The following entities shall begin submitting claims data by January 1, 2023:

19 a. Pharmacies registered with the North Carolina Board of Pharmacy  
20 under Article 4A of ~~Chapter 90 of the General Statutes~~ this Chapter.

21 b. State health care facilities operated under the jurisdiction of the  
22 Secretary of the Department of Health and Human Services, including  
23 State psychiatric hospitals, developmental centers, alcohol and drug  
24 treatment centers, neuro-medical treatment centers, and residential  
25 programs for children such as ~~the Wright School and the Whitaker~~  
26 ~~Psychiatric Residential Treatment Facility.~~

27 c. Dentists licensed under Article 2 of this Chapter.

28 ~~(a2) Extensions of Time for Establishing Connection to the HIE Network.—The~~  
29 ~~Department of Information Technology, in consultation with the Department of Health and~~  
30 ~~Human Services and the State Health Plan for Teachers and State Employees, may establish a~~  
31 ~~process to grant limited extensions of the time for providers and entities to connect to the HIE~~  
32 ~~Network and begin submitting data as required by this section upon the request of a provider or~~  
33 ~~entity that demonstrates an ongoing good faith effort to take necessary steps to establish such~~  
34 ~~connection and begin data submission as required by this section. The process for granting an~~  
35 ~~extension of time must include a presentation by the provider or entity to the Department of~~  
36 ~~Information Technology, the Department of Health and Human Services, and the State Health~~  
37 ~~Plan for Teachers and State Employees on the expected time line for connecting to the HIE~~  
38 ~~Network and commencing data submission as required by this section. Neither the Department~~  
39 ~~of Information Technology, the Department of Health and Human Services, nor the State Health~~  
40 ~~Plan for Teachers and State Employees shall grant an extension of time (i) to any provider or~~  
41 ~~entity that fails to provide this information to both Departments, and the State Health Plan for~~  
42 ~~Teachers and State Employees, (ii) that would result in the provider or entity connecting to the~~  
43 ~~HIE Network and commencing data submission as required by this section later than January 1,~~  
44 ~~2023. The Department of Information Technology shall consult with the Department of Health~~  
45 ~~and Human Services and the State Health Plan for Teachers and State Employees to review and~~  
46 ~~decide upon a request for an extension of time under this section within 30 days after receiving~~  
47 ~~a request for an extension.~~

48 ~~(a3) Exemptions from Connecting to the HIE Network.—The Secretary of Health and~~  
49 ~~Human Services, or the Secretary's designee, shall have the authority to grant exemptions to~~  
50 ~~classes of providers of Medicaid and other State-funded health care services for whom acquiring~~  
51 ~~and implementing an electronic health record system and connecting to the HIE Network as~~

1 required by this section would constitute an undue hardship. The Secretary, or the Secretary's  
2 designee, shall promptly notify the Department of Information Technology of classes of  
3 providers granted hardship exemptions under this subsection. Neither the Secretary nor the  
4 Secretary's designee shall grant any hardship exemption that would result in any class of provider  
5 connecting to the HIE Network and submitting data later than December 31, 2022.

6 (a4) Connected Status. – A provider or entity identified in subsection (a1) of this section  
7 is deemed connected to the HIE Network when the covered entity that provides, maintains,  
8 controls, directs, or licenses that provider's or entity's data transfer system has done all of the  
9 following:

- 10 (1) Established an operable technical connection with the HIE Network approved  
11 by the Authority that supports the submission of required patient data  
12 generated by the provider or entity.
- 13 (2) Provided its Organization NPI to the Authority.
- 14 (3) Executed with the Authority a valid, written participation agreement pursuant  
15 to subdivision (b)(6) of G.S. 90-414.7.
- 16 (4) Communicated to the Authority, in writing, the identity of all providers and  
17 entities on whose behalf it maintains a data transfer system.
- 18 (5) Either has met or is making reasonable efforts to meet data quality standards  
19 established by the Authority that are published on its website.

20 (b) Mandatory Submission of Demographic and Clinical Data. – Notwithstanding the  
21 voluntary nature of the HIE Network under G.S. 90-414.2 and, except as otherwise provided in  
22 subsection-subsections (c) and (c1) of this section, as a condition of receiving State funds,  
23 including Medicaid funds, the following entities shall submit at least twice daily, through the  
24 HIE network, demographic and clinical information pertaining to services rendered to Medicaid  
25 and other beneficiaries of State-funded health care program beneficiaries and paid for with  
26 Medicaid or other State-funded State health care funds, solely for the purposes set forth in  
27 subsection (a) of this section:

- 28 (1) Each hospital, as defined in G.S. 131E-176(13) that has an electronic health  
29 record system.
- 30 (2) Each Medicaid provider, unless the provider is an ambulatory surgical center  
31 as defined in G.S. 131E-146; however, a physician who performs a procedure  
32 at the ambulatory surgical center must be connected to the HIE Network.
- 33 (3) Each provider that receives State health care funds for the provision of health  
34 services, State-funded health care, unless the provider is an ambulatory  
35 surgical center as defined in G.S. 131E-146; however, a physician who  
36 performs a procedure at the ambulatory surgical center must be connected to  
37 the HIE Network.
- 38 (4) Each prepaid health plan, as defined in G.S. 58-93-5, that is under a capitated  
39 contract with the Department for the delivery of Medicaid services, or a local  
40 management entity/managed care organization, as defined in  
41 G.S. 122C-3.G.S. 122C-3, that is under a capitated prepaid health plan  
42 contract with the Department.

43 (b1) Balance Billing Prohibition. – An in-network provider or entity who that (i) renders  
44 health care services, including prescription drugs and durable medical equipment, under a  
45 contract with the State Health Plan for Teachers and State Employees and who (ii) is not  
46 connected to the HIE Network in accordance with this Article, is prohibited from billing the State  
47 Health Plan or a Plan member more than either party would be billed if the entity or provider was  
48 connected to the HIE Network. Balance billing because the provider or entity did not connect to  
49 the HIE Network is prohibited.

50 (c) Exemption for Certain Records. – Providers with patient records that are subject to  
51 the disclosure restrictions of 42 C.F.R. § 2 are exempt from the requirements of subsection (b)

1 of this section but only with respect to the patient records subject to these disclosure restrictions.  
2 ~~Providers shall comply with the requirements of subsection (b) of this section with respect to all~~  
3 ~~other patient records. A pharmacy shall only be~~ Pharmacies registered with the North Carolina  
4 Board of Pharmacy under Article 4A of this Chapter and dentists licensed under Article 2 of this  
5 Chapter are only required to submit claims data pertaining to services rendered to Medicaid and  
6 other State-funded health care program beneficiaries of State-funded health care and paid for  
7 with Medicaid or other State-funded State health care funds.

8 (c1) Exemption from Twice Daily Submission. – ~~A pharmacy shall only be~~ The following  
9 ~~entities are~~ required to submit claims data only once daily through the HIE Network ~~Network~~:

10 (1) Pharmacies registered with the North Carolina Board of Pharmacy under  
11 Article 4A of this Chapter, using pharmacy industry standardized formats.

12 (2) Dentists licensed under Article 2 of this Chapter.

13 (c2) 42 C.F.R. § 2 Records. – Notwithstanding subsection (b) of this section, patient  
14 records protected by 42 C.F.R. § 2 shall be disclosed through the HIE Network only if the  
15 Authority has provided written notice to the participating entity that data protected by 42 C.F.R.  
16 § 2 can be disclosed for a specific purpose.

17 (d) Method of Data Submissions. – ~~The~~ Any provider or entity required to submit data  
18 ~~submissions required~~ under this section shall ~~be~~ make the submission by connection to the HIE  
19 Network periodic asynchronous secure structured file transfer or any other secure electronic  
20 means commonly used in the industry and consistent with document exchange and data  
21 submission standards established by the ~~Office~~ Assistant Secretary for Technology Policy/Office  
22 of the National Coordinator for Information Technology within the U.S. Department of Health  
23 and Human Services.

24 (e) Voluntary Connection for Certain Providers. – Notwithstanding the mandatory  
25 connection and data submission requirements ~~in~~ of subsections (a1) and (b) of this section, the  
26 following providers of ~~Medicaid services or other~~ State-funded health care services are not  
27 required to connect to the HIE Network or submit data but may connect to the HIE Network and  
28 submit data voluntarily:

29 (1) Community-based long-term services and supports providers, including  
30 personal care services, private duty nursing, home health, and hospice care  
31 providers.

32 (2) Intellectual and developmental disability services and supports providers,  
33 such as day supports and supported living providers.

34 (3) Community Alternatives Program waiver services (including CAP/DA,  
35 CAP/C, and Innovations) providers.

36 (4) Eye and vision services providers.

37 (5) Speech, language, and hearing services providers.

38 (6) Occupational and physical therapy providers.

39 (7) Durable medical equipment providers.

40 (8) Nonemergency medical transportation service providers.

41 (9) Ambulance (emergency medical transportation service) providers.

42 (10) Local education agencies ~~and~~ agencies, school-based health  
43 ~~providers, providers, and student health centers that primarily serve students~~  
44 matriculating at public or private institutions of higher education in this State.

45 (11) Chiropractors licensed under Article 8 of this Chapter.

46 (12) Dentists licensed under Article 2 of this Chapter.

47 Connection to the HIE Network by any other covered entities that are not required by  
48 subsections (a1) and (b) of this section to connect to the HIE Network or submit data is voluntary.

49 (e1) Mandatory and Voluntary Connection and Submissions by the Same Covered Entity.  
50 – A covered entity that provides, maintains, controls, directs, or licenses a data transfer system  
51 on behalf of providers and entities that are required to connect to, and submit data through, the

1 HIE Network under this Article, as well as on behalf of providers and entities that voluntarily  
2 connect to, and submit data through, the HIE Network may elect not to submit through the HIE  
3 Network clinical, demographic, or claims data generated by the providers and entities that  
4 voluntarily connect to, and submit data through, the HIE Network. However, the covered entity  
5 is required to submit through the HIE Network clinical, demographic, or claims data generated  
6 by providers and entities that are required to connect to, and submit data through, the HIE  
7 Network.

8 (f) Confidentiality of Data. – All data submitted to or through the HIE Network  
9 containing protected health information, personally identifying information, or a combination of  
10 these, that are in the possession of the Department of Information Technology or any other  
11 agency of the State are confidential and shall not be defined as public records under G.S. 132-1.  
12 This subsection shall not be construed to prohibit the disclosure of any such data as otherwise  
13 permitted under federal law.

14 (g) Time-Limited Exceptions for Connecting to, and Submitting Data Through, the HIE  
15 Network. – All of the following apply to any exception granted by the Authority for connecting  
16 to, and submitting data through, the HIE Network:

17 (1) A covered entity that provides, maintains, controls, directs, or licenses a data  
18 transfer system on behalf of providers or entities identified in subsection (a1)  
19 of this section may seek to obtain from the Authority a time-limited exception  
20 for those providers or entities to connect to, and begin submitting required  
21 data through, the HIE Network.

22 (2) The Authority shall administer the process by which a covered entity seeks a  
23 time-limited exception for providers or entities to connect to, and begin  
24 submitting required data through, the HIE Network. The Authority shall make  
25 the final determination about whether to grant or deny requests for a  
26 time-limited exception. Any exception authorized by the Authority may not  
27 exceed a one-year period. However, a covered entity may seek to renew an  
28 exception.

29 (3) In order for a covered entity to obtain a time-limited exception for the  
30 providers and entities on whose behalf it provides, maintains, controls, directs,  
31 or licenses a data transfer system, the covered entity must demonstrate  
32 eligibility for the exception by meeting at least one of the following criteria:

33 a. During the previous year, the covered entity and the providers and  
34 entities on whose behalf it maintained, controlled, directed, or licensed  
35 a data transfer system received in the aggregate less than one million  
36 dollars (\$1,000,000) in State health care funds for providing health  
37 care services to beneficiaries of State-funded health care.

38 b. The covered entity and the providers and entities on whose behalf it  
39 provides, maintains, controls, directs, or licenses a data transfer system  
40 operated in whole or in part in a geographic area with limited or  
41 emergent broadband availability. The Department of Information  
42 Technology, Division of Broadband, shall identify these geographic  
43 areas and the Authority shall publish a list of the identified geographic  
44 areas to its website. Alternatively, the Authority, after consultation  
45 with the Department of Information Technology, Division of  
46 Broadband, may, in its discretion, grant a time-limited exception after  
47 evaluating materials provided by a covered entity regarding its level  
48 of broadband connectivity.

49 c. The covered entity will close, dissolve, or be acquired by another  
50 entity within the next 12 months.

- 1                   d.       The provider or entity has not yet implemented or is in the process of  
2                               implementing a data transfer system.
- 3           (4)   To request a time-limited exception under this subsection, the covered entity  
4                   shall submit to the Authority an application and attestation form, which shall  
5                   both be created by the Authority and made available on its website, containing  
6                   at least all of the following information:
- 7                   a.       Date of request and application period.  
8                   b.       Name, Organization NPI, and location.  
9                   c.       Names of providers and entities on whose behalf the covered entity is  
10                   applying, as well as their respective Organization NPIs.  
11                   d.       Technical information regarding its data transfer system and vendor,  
12                               if applicable.  
13                   e.       Provider network information for the State Health Plan for Teachers  
14                   and State Employees and the North Carolina Medicaid program, as  
15                   applicable.  
16                   f.       Identification of the bases criterion, or criteria, in subdivision (g)(3) of  
17                   this section for which the covered entity seeks a time-limited  
18                   exception.  
19                   g.       Supporting documents and materials determined by the Authority to  
20                   be necessary to substantiate the covered entity's eligibility for the  
21                   exception.  
22                   h.       An attestation executed by an authorized representative of the covered  
23                   entity regarding the validity, truth, and completeness of the application  
24                   and attestation form submitted by the covered entity to the Authority.

25   **"§ 90-414.5. State agency and legislative access to HIE Network data.**

26       (a)   The Authority shall provide the Department and the State Health Plan for Teachers  
27   and State Employees secure, real-time access to data and information disclosed through the HIE  
28   Network, solely for the purposes set forth in G.S. 90-414.4(a) and in G.S. 90-414.2. The  
29   Authority shall limit access granted to the State Health Plan for Teachers and State Employees  
30   pursuant to this section to data and information disclosed through the HIE Network that pertains  
31   to services (i) rendered to teachers and State employees and (ii) paid for by the State Health Plan.

32       (b)   At the written request of the Director of the Fiscal Research, Legislative Drafting, or  
33   Legislative Analysis Division of the General Assembly for an aggregate analysis of the data and  
34   information disclosed through the HIE Network, the Authority shall provide the professional  
35   staff of these Divisions with the aggregated analysis responsive to the Director's request. Prior to  
36   providing the Director or General Assembly's staff with any aggregate data or information  
37   submitted through the HIE Network or with any analysis of this aggregate data or information,  
38   the Authority shall redact any personal identifying information in a manner consistent with the  
39   standards specified for de-identification of health information under the HIPAA Privacy Rule,  
40   45 C.F.R. § 164.514, as amended.

41   **"§ 90-414.6. State ownership of HIE Network data.**

42       Any data pertaining to services rendered to ~~Medicaid and other~~ beneficiaries of State-funded  
43   health care ~~program beneficiaries that is~~ submitted through and stored by the HIE Network  
44   pursuant to G.S. 90-414.4 or any other provision of this Article shall be and will remain the sole  
45   property of the State. Any data or product derived from the aggregated, de-identified data  
46   submitted to and stored by the HIE Network pursuant to G.S. 90-414.4 or any other provision of  
47   this Article, shall be and will remain the sole property of the State. The Authority shall not allow  
48   data it receives pursuant to G.S. 90-414.4 or any other provision of this Article to be used or  
49   disclosed by or to any person or entity for commercial purposes or for any other purpose other  
50   than those set forth in G.S. 90-414.4(a) or G.S. 90-414.2. To the extent the Authority receives  
51   requests for electronic health information as the term is defined in 45 C.F.R. § 171.102, or other



1 medical records from an individual, an individual's personal representative, or an individual or  
2 entity purporting to act on an individual's behalf, the Authority (i) shall not fulfill the request and  
3 (ii) shall make available to the requester and the public, via the Authority's website, educational  
4 materials about how to access such information from other sources. If the Authority participates  
5 in the Trusted Exchange Framework and Common Agreement, then it may provide individual  
6 access services through the Trusted Exchange Framework and Common Agreement. Patient  
7 identifiers created and utilized by the Authority to integrate identity data in the HIE Network,  
8 along with the minimum necessary required demographic information related to those patients,  
9 shall be released to the GDAC and the Department by the Authority for purposes of entity  
10 resolution and master data management. These identifiers shall not be considered public records  
11 pursuant to Chapter 132 of the General Statutes.

12 **"§ 90-414.7. North Carolina Health Information Exchange Authority.**

13 (a) Creation. – There is hereby established the North Carolina Health Information  
14 Exchange Authority to oversee and administer the HIE Network in accordance with this Article.  
15 The Authority shall be located within the Department of Information Technology and shall be  
16 under the supervision, direction, and control of the State CIO. The State CIO shall employ an  
17 Authority Director and may delegate to the Authority Director all powers and duties associated  
18 with the daily operation of the Authority, its staff, and the performance of the powers and duties  
19 set forth in subsection (b) of this section. In making this delegation, however, the State CIO  
20 maintains the responsibility for the performance of these powers and duties.

21 (b) Powers and Duties. – The Authority has the following powers and duties:

- 22 (1) Oversee and administer the HIE Network in a manner that ensures all of the  
23 following:
- 24 a. Compliance with this Article.
  - 25 b. Compliance with HIPAA and any rules adopted under HIPAA,  
26 including the Privacy Rule and Security Rule.
  - 27 c. Compliance with the terms of any participation agreement, business  
28 associate agreement, or other agreement the Authority or qualified  
29 organization or other person or entity enters into with a covered entity  
30 participating in submission of data through or accessing the HIE  
31 Network.
  - 32 d. Notice to the patient by the healthcare provider or other person or  
33 entity about the HIE Network, including information and education  
34 about the right of individuals on a continuing basis to opt out or rescind  
35 a decision to opt out.
  - 36 e. Opportunity for all individuals whose data has been submitted to the  
37 HIE Network to exercise on a continuing basis the right to opt out or  
38 rescind a decision to opt out.
  - 39 f. Nondiscriminatory treatment by covered entities of individuals who  
40 exercise the right to opt out.
  - 41 g. Facilitation of HIE Network interoperability with electronic health  
42 record systems of all covered entities listed in G.S. 90-414.4(b).
  - 43 h. Minimization of the amount of data required to be submitted under  
44 G.S. 90-414.4(b) and any use or disclosure of such data to what is  
45 determined by the Authority to be required in order to advance the  
46 purposes set forth in G.S. 90-414.2 and G.S. 90-414.4(a).
- 47 (2) In consultation with the Advisory Board, set guiding principles for the  
48 development, implementation, and operation of the HIE Network.
- 49 (3) Employ staff necessary to carry out the provisions of this Article and  
50 determine the compensation, duties, and other terms and conditions of  
51 employment of hired staff.

- 1 (4) Enter into contracts pertaining to the oversight and administration of the HIE  
2 Network, including contracts of a consulting or advisory nature.  
3 G.S. 143-64.20 does not apply to this subdivision.
- 4 (5) Establish fees for participation in the HIE Network and report the established  
5 fees to the General Assembly, with an explanation of the fee determination  
6 process.
- 7 (6) Following consultation with the Advisory Board, develop, approve, and enter  
8 into, directly or through qualified organizations acting under the authority of  
9 the Authority, written participation agreements with persons or entities that  
10 participate in or are granted access or user rights to the HIE Network. The  
11 participation agreements shall set forth terms and conditions governing  
12 participation in, access to, or use of the HIE Network not less than those set  
13 forth in agreements already governing covered entities' participation in the  
14 federal eHealth Exchange. The agreement shall also require compliance with  
15 policies developed by the Authority pursuant to this Article or pursuant to  
16 applicable laws of the state of residence for entities located outside of North  
17 Carolina.
- 18 (7) Receive, access, add, and remove data submitted through and stored by the  
19 HIE Network in accordance with this Article.
- 20 (8) Following consultation with the Advisory Board, enter into, directly or  
21 through qualified organizations acting under the authority of the Authority, a  
22 HIPAA compliant business associate agreement with each of the persons or  
23 entities participating in or granted access or user rights to the HIE  
24 ~~Network~~.Network, except for federal agencies that access the HIE Network  
25 solely to review patient data for treatment purposes and exchanges made  
26 through eHealth Exchange or the Trusted Exchange Framework and Common  
27 Agreement so long as the Authority enters into the agreements that are  
28 required to participate in each of these respective national networks.
- 29 (9) Following consultation with the Advisory Board, grant user rights to the HIE  
30 Network to business associates of covered entities participating in the HIE  
31 Network (i) at the request of the covered entities and (ii) at the discretion of  
32 and subject to contractual, policy, and other requirements of the Authority  
33 upon consideration of and consistent with the business associates' legitimate  
34 need for utilizing the HIE Network and privacy and security concerns.
- 35 (10) Facilitate and promote use of the HIE Network by covered ~~entities~~.entities and  
36 business associates acting on their behalf.
- 37 (11) Actively monitor compliance with this Article by the Department, covered  
38 entities, and any other persons or entities participating in or granted access or  
39 user rights to the HIE Network or any data submitted through or stored by the  
40 HIE Network.
- 41 (12) Collaborate with the State CIO to ensure that resources available through the  
42 GDAC are properly leveraged, assigned, or deployed to support the work of  
43 the Authority. The duty to collaborate under this subdivision includes  
44 collaboration on data hosting and development, implementation, operation,  
45 and maintenance of the HIE Network.
- 46 (13) Initiate or direct expansion of existing public-private partnerships within the  
47 GDAC as necessary to meet the requirements, duties, and obligations of the  
48 Authority. Notwithstanding any other provision of law and subject to the  
49 availability of funds, the State CIO, at the request of the Authority, shall assist  
50 and facilitate expansion of existing contracts related to the HIE Network,

- 1 provided that such request is made in writing by the Authority to the State  
 2 CIO with reference to specific requirements set forth in this Article.
- 3 (14) In consultation with the Advisory Board, develop a strategic plan for  
 4 achieving statewide participation in the HIE Network by all hospitals and  
 5 health care providers licensed in this State.
- 6 (15) In consultation with the Advisory Board, define the following with respect to  
 7 operation of the HIE Network:
- 8 a. Business policy.
- 9 b. Protocols for data integrity, data sharing, data security, HIPAA  
 10 compliance, and business intelligence as defined in G.S. 143B-1381.  
 11 To the extent permitted by HIPAA, protocols for data sharing shall  
 12 allow for the disclosure of data for academic research.
- 13 c. Qualitative and quantitative performance measures.
- 14 d. An operational budget and assumptions.
- 15 (16) Annually report to the Joint Legislative Oversight Committee on Health and  
 16 Human Services and the Joint Legislative Oversight Committee on  
 17 Information Technology on the following:
- 18 a. The operation of the HIE Network.
- 19 b. Any efforts or progress in expanding participation in the HIE Network.
- 20 c. Health care trends based on information disclosed through the HIE  
 21 Network.
- 22 (17) Ensure that the HIE Network interfaces with the federal level HIE, the eHealth  
 23 Exchange.
- 24 (18) Enforce the provisions of this Article.
- 25 (19) Provide data related services, as allowed by G.S. 90-414.16.
- 26 (20) Adopt rules as needed to implement the appeal process established by  
 27 G.S. 90-414.15.

28 **"§ 90-414.8. North Carolina Health Information Exchange Advisory Board.**

- 29 (a) Creation and Membership. – There is hereby established the North Carolina Health  
 30 Information Exchange Advisory Board within the Department of Information Technology. The  
 31 Advisory Board shall consist of the following ~~12~~13 members:
- 32 (1) The following four members appointed by the President Pro Tempore of the  
 33 Senate:
- 34 a. A licensed physician in good standing and actively practicing in this  
 35 State.
- 36 b. A patient representative.
- 37 c. An individual with technical expertise in health data analytics.
- 38 d. A representative of a behavioral health provider.
- 39 (2) The following four members appointed by the Speaker of the House of  
 40 Representatives:
- 41 a. A representative of a critical access hospital.
- 42 b. A representative of a federally qualified health center.
- 43 c. An individual with technical expertise in health information  
 44 technology.
- 45 d. A representative of a health system or integrated delivery network.
- 46 (3) The following three ex officio, nonvoting members:
- 47 a. The State Chief Information Officer or a designee.
- 48 b. The Director of GDAC or a designee.
- 49 c. The Secretary of Health and Human Services, or a designee.
- 50 (4) The following ex officio, voting ~~member~~members:

- 1                   a.       The Executive Administrator of the State Health Plan for Teachers and  
2                   State Employees, or a designee.
- 3                   b.       The Deputy Secretary for the State's Medicaid program, or a designee.
- 4       (b)       Chairperson. – A chairperson shall be elected from among the members. The  
5       chairperson shall organize and direct the work of the Advisory Board.
- 6       (c)       Administrative Support. – The Department of Information Technology shall provide  
7       necessary clerical and administrative support to the Advisory Board.
- 8       (d)       Meetings. – The Advisory Board shall meet at least quarterly and at the call of the  
9       chairperson. A majority of the Advisory Board constitutes a quorum for the transaction of  
10      business.
- 11      (e)       Terms. – In order to stagger terms, in making initial appointments, the President Pro  
12      Tempore of the Senate shall designate two of the members appointed under subdivision (1) of  
13      subsection (a) of this section to serve for a one-year period from the date of appointment and, the  
14      Speaker of the House of Representatives shall designate two members appointed under  
15      subdivision (2) of subsection (a) of this section to serve for a one-year period from the date of  
16      appointment. The remaining appointed voting members shall serve two-year periods. Future  
17      appointees who are voting members shall serve terms of two years, with staggered terms based  
18      on this subsection. Appointed voting members may serve up to two consecutive terms, not  
19      including the abbreviated two-year terms that establish staggered terms or terms of less than two  
20      years that result from the filling of a vacancy. Ex officio, nonvoting and voting members are not  
21      subject to these term limits. A vacancy other than by expiration of a term shall be filled by the  
22      appointing authority.
- 23      (f)       Expenses. – Members of the Advisory Board who are State officers or employees  
24      shall receive no compensation for serving on the Advisory Board but may be reimbursed for their  
25      expenses in accordance with G.S. 138-6. Members of the Advisory Board who are full-time  
26      salaried public officers or employees other than State officers or employees shall receive no  
27      compensation for serving on the Advisory Board but may be reimbursed for their expenses in  
28      accordance with G.S. 138-5(b). All other members of the Advisory Board may receive  
29      compensation and reimbursement for expenses in accordance with G.S. 138-5.
- 30      (g)       Duties. – The Advisory Board shall provide consultation to the Authority with respect  
31      to the advancement, administration, and operation of the HIE Network and on matters pertaining  
32      to health information technology and exchange, generally. In carrying out its responsibilities, the  
33      Advisory Board may form committees of the Advisory Board to examine particular issues related  
34      to the advancement, administration, or operation of the HIE Network.
- 35      **"§ 90-414.9. Participation by covered entities.**
- 36      (a)       ~~Each~~ Except for federal agencies that access the HIE Network solely to review patient  
37      data for treatment purposes, all covered entity that participates ~~entities that participate~~ in the HIE  
38      Network shall enter into a HIPAA compliant business associate agreement described in  
39      G.S. 90-414.7(b)(8) and a written participation agreement described in G.S. 90-414.7(b)(6) with  
40      the Authority or qualified organization prior to submitting data through or in the HIE Network.  
41      Notwithstanding this subsection, the Authority may exchange data in the HIE Network through  
42      the national eHealth Exchange and the Trusted Exchange Framework and Common Agreement  
43      so long as the Authority enters into the agreements that are necessary to participate in each of  
44      these national networks.
- 45      (b)       Each covered entity that participates in the HIE Network may authorize its business  
46      associates on behalf of the covered entity to submit data through, or access data stored in, the  
47      HIE Network in accordance with this Article and at the discretion of the Authority, as provided  
48      in G.S. 90-414.7(b)(8).
- 49      (c)       Notwithstanding any federal or State law or regulation to the contrary, each covered  
50      entity that participates in the HIE Network may disclose an individual's protected health

1 information through the HIE Network to other covered entities for any purpose permitted by  
2 HIPAA.

3 **"§ 90-414.10. Continuing right to opt out; effect of opt out.**

4 (a) Each individual has the right on a continuing basis to opt out or rescind a decision to  
5 opt out.

6 (b) The Authority or its designee shall enforce an individual's decision to opt out or  
7 rescind an opt out prospectively from the date the Authority or its designee receives written notice  
8 of the individual's decision to opt out or rescind an opt out in the manner prescribed by the  
9 Authority. An individual's decision to opt out or rescind an opt out does not affect any disclosures  
10 made by the Authority or covered entities through the HIE Network prior to receipt by the  
11 Authority or its designee of the individual's written notice to opt out or rescind an opt out.

12 (c) A covered entity shall not deny treatment, coverage, or benefits to an individual  
13 because of the individual's decision to opt out. However, nothing in this Article is intended to  
14 restrict a health care provider from otherwise appropriately terminating a relationship with an  
15 individual in accordance with applicable law and professional ethical standards.

16 (d) Except as otherwise permitted in G.S. 90-414.11(a)(3), or as required by law, the  
17 protected health information of an individual who has exercised the right to opt out may not be  
18 made accessible or disclosed to covered entities or any other person or entity through the HIE  
19 Network for any purpose.

20 (e) Repealed by Session Laws 2017-57, s. 11A.5(e), effective July 1, 2017.

21 **"§ 90-414.11. Construction and applicability.**

22 (a) Nothing in this Article shall be construed to do any of the following:

23 (1) Impair any rights conferred upon an individual under HIPAA, including all of  
24 the following rights related to an individual's protected health information:

25 a. The right to receive a notice of privacy practices.

26 b. The right to request restriction of use and disclosure.

27 c. The right of access to inspect and obtain copies.

28 d. The right to request amendment.

29 e. The right to request confidential forms of communication.

30 f. The right to receive an accounting of disclosures.

31 (2) Authorize the disclosure of protected health information through the HIE  
32 Network to the extent that the disclosure is restricted by federal laws or  
33 regulations, including the federal drug and alcohol confidentiality regulations  
34 set forth in 42 C.F.R. Part 2.

35 (3) Restrict the disclosure of protected health information through the HIE  
36 Network for public health purposes or research purposes, so long as disclosure  
37 is permitted by both HIPAA and State law.

38 (4) Prohibit the Authority or any covered entity participating in the HIE Network  
39 from maintaining in the Authority's or qualified organization's computer  
40 system a copy of the protected health information of an individual who has  
41 exercised the right to opt out, as long as the Authority or the qualified  
42 organization does not access, use, or disclose the individual's protected health  
43 information for any purpose other than for necessary system maintenance or  
44 as required by federal or State law.

45 (b) This Article applies only to disclosures of protected health information made through  
46 the HIE Network, including disclosures made within qualified organizations. It does not apply to  
47 the use or disclosure of protected health information in any context outside of the HIE Network,  
48 including the redisclosure of protected health information obtained through the HIE Network.

49 **"§ 90-414.12. Penalties and remedies; immunity for covered entities and business associates  
50 for good faith participation.**

1 (a) Except as provided in subsection (b) of this section, a covered entity that discloses  
2 protected health information in violation of this Article is subject to the following:

- 3 (1) Any civil penalty or criminal penalty, or both, that may be imposed on the  
4 covered entity pursuant to ~~the Health Information Technology for Economic~~  
5 ~~and Clinical Health (HITECH) Act, P.L. 111-5, Div. A, Title XIII, section~~  
6 ~~13001, as amended, and any regulations adopted under the HITECH~~  
7 ~~Act.~~federal law or regulation.
- 8 (2) Any civil remedy available under the HITECH Act or any regulations adopted  
9 under the HITECH Act that is available to the Attorney General or to an  
10 individual who has been harmed by a violation of this Article, including  
11 damages, penalties, attorneys' fees, and costs.~~federal law or regulation.~~
- 12 (3) Disciplinary action by the respective licensing board or regulatory agency  
13 with jurisdiction over the covered entity.
- 14 (4) Any penalty authorized under Article 2A of Chapter 75 of the General Statutes  
15 if the violation of this Article is also a violation of Article 2A of Chapter 75  
16 of the General Statutes.
- 17 (5) Any other civil or administrative remedy available to a plaintiff by State or  
18 federal law or equity.

19 (a1) In connection with the submission of the annual compliance report required by  
20 G.S. 90-414.13, it is unlawful for any person or entity to knowingly present or cause to be  
21 presented to the Authority a false record to avoid full payment of the State health data assessment  
22 under G.S. 90-414.4. The Authority may assess against any person or entity that violates this  
23 subsection a civil penalty of not less than five thousand dollars (\$5,000) and not more than ten  
24 thousand dollars (\$10,000), plus three times the amount of damages sustained by the Authority  
25 as a result of that person's or entity's actions. The clear proceeds of civil penalties provided for  
26 in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with  
27 G.S. 115C-457.2.

28 (a2) The Authority may assess a civil penalty not to exceed fifty dollars (\$50.00) for each  
29 day after the required reporting period or deadline that the annual compliance report remains out  
30 of compliance with the requirements prescribed by G.S. 90-414.13.

31 (b) To the extent permitted under or consistent with federal law, a covered entity or its  
32 business associate that in good faith submits data through, accesses, uses, discloses, or relies  
33 upon data submitted through the HIE Network shall not be subject to criminal prosecution or  
34 civil liability for damages caused by such submission, access, use, disclosure, or reliance.

35 **"§ 90-414.13. Annual compliance report.**

36 (a) Reporting Requirement. – Each covered entity that provides, maintains, controls,  
37 directs, or licenses the data transfer system of a provider or entity subject to G.S. 90-414.4(a1)  
38 that provides health care services to beneficiaries of State-funded health care shall submit an  
39 annual compliance report to the Authority on a form created by the Authority that meets the  
40 requirements of this section.

41 (b) The Authority shall develop and make available to covered entities an annual  
42 compliance report form, which the Authority may update from time to time after consultation  
43 with the Advisory Board. The annual compliance report form shall include fields for at least all  
44 of the following information:

- 45 (1) Name of the covered entity, its location, and the Organization NPI.  
46 (2) Names of providers and entities on whose behalf the covered entity is  
47 submitting the annual compliance report, as well as their respective  
48 Organization NPIs.  
49 (3) Acknowledgment of the provision of health care services to beneficiaries of  
50 State-funded health care.

- 1           (4)    Status of technical connection to the HIE Network, as determined under  
2           G.S. 90-414.4(a4).
- 3           (5)    The status of data submission through the HIE Network that is in compliance  
4           with G.S. 90-414.4.
- 5           (6)    Representations regarding each of the following, as applicable:
- 6           a.     For a covered entity that has executed an agreement with the  
7           Authority, a representation regarding that entity's compliance with  
8           such agreement.
- 9           b.     For a covered entity that has received a time-limited exception from  
10           the Authority, a representation regarding its present intent to connect  
11           to, and begin submitting data through, the HIE Network.
- 12           c.     For a covered entity that is required to pay the State health data  
13           assessment fee authorized by G.S. 90-414.14, a representation  
14           regarding the amount of the fee owed to the State, an explanation of  
15           how the fee amount was calculated, and whether the fee was submitted  
16           contemporaneously with the annual compliance report as required by  
17           G.S. 90-414.14.
- 18           d.     For a covered entity that asserts it is exempt from paying the annual  
19           State health data assessment fee, representations regarding why it is  
20           eligible to claim the exemption allowed by G.S. 90-414.14(e).
- 21           (7)    Attestation to the completeness and validity of the annual compliance report  
22           form and all representations contained on the form.
- 23           (c)    Covered entities shall submit to the Authority all reports and related statements,  
24           documents, and payments required by this section by the first of May each year. Covered entities  
25           shall be deemed to have submitted timely annual compliance reports if complete reports are  
26           postmarked or digitally time-stamped on or before the day the reports are due to the Authority.  
27           If an annual compliance report or any related statements, documents, or payments are submitted  
28           in a manner that does not comply with this section, the Authority may assess a civil penalty not  
29           to exceed fifty dollars (\$50.00) for each day after the first of May that the report remains out of  
30           compliance with the requirements of this section. The clear proceeds of civil penalties provided  
31           for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance  
32           with G.S. 115C-457.2.
- 33           (d)    A covered entity that provides, maintains, controls, directs, or licenses a data transfer  
34           system solely on behalf of a provider or entity that voluntarily connects to the HIE Network  
35           pursuant to G.S. 90-414.4(e) is not required to submit an annual compliance report.
- 36           (e)    State agencies are required to submit an abbreviated annual compliance report, on a  
37           form provided by the Authority, that shall be made available only to State agencies.
- 38           (f)    At the request of a covered entity, the Authority may waive any requirement in this  
39           section for good cause if the covered entity demonstrates to the satisfaction of the Authority that  
40           complying with a requirement in this section would cause an undue hardship.
- 41           (g)    The Department's Division of Health Benefits shall assist in administering the annual  
42           compliance report process as it pertains to the State's Medicaid providers, as determined  
43           necessary by the Authority. At a minimum, the Division of Health Benefits shall annually provide  
44           the Authority with a current list of enrolled Medicaid providers, assist with notifying those  
45           Medicaid providers about the annual compliance report requirement and reporting deadline  
46           established by this section, and provide available information requested by the Authority that is  
47           necessary for the Authority to audit or verify the completeness and accuracy of an enrolled  
48           Medicaid provider's annual compliance report and related materials submitted to the Authority  
49           by or on behalf of that provider.
- 50           "**§ 90-414.14. Annual State health data assessment fee.**"

1       (a) Annual Fee Requirement. – Each covered entity that provides, maintains, controls,  
2 directs, or licenses a data transfer system on behalf of a provider or entity subject to the  
3 mandatory connection and data submission requirements of G.S. 90-414.4 shall pay an annual  
4 State health data assessment fee each year if the covered entity meets any of the following  
5 criteria:

6           (1) Is not connected to the HIE Network, as determined pursuant to subsection  
7 (a4) of G.S. 90-414.4.

8           (2) Is connected to the HIE Network, as determined pursuant to subsection (a4)  
9 of G.S. 90-414.4 but is not submitting required data through the HIE Network.

10       (b) Amount of Annual Fee. – The General Assembly shall determine the State health data  
11 assessment fee schedules for annual compliance report periods.

12       (c) Fee Due Date. – A covered entity shall pay any required State health data assessment  
13 fee contemporaneously with the submission of the annual compliance report required by  
14 G.S. 90-414.13.

15       (d) HIE Network Data and Participation Fund; Use of Proceeds. – The HIE Network Data  
16 and Participation Fund (Fund) is established as a special fund in the Department of Information  
17 Technology under the management and control of the Authority. The Fund shall consist of the  
18 fees collected by the Authority pursuant to this section and all other funds received by the  
19 Authority pursuant to this Article, except for the clear proceeds of civil penalties collected  
20 pursuant to G.S. 90-414.12, 90-414.13, 90-414.16, and subsection (g) of this section. The Fund  
21 shall be placed in an interest-bearing account, and any interest or other income derived from the  
22 Fund shall be credited to the Fund. The Authority shall not use monies in this Fund for any  
23 purpose other than to pay for expenses incurred by the Authority in carrying out its powers and  
24 duties as set forth in this Article. Monies in the Fund shall only be available for expenditure upon  
25 an act of appropriation of the General Assembly. The Fund is subject to the provisions of the  
26 State Budget Act, except that no unexpended surplus of the Fund shall revert to the General Fund.

27       (e) Fee Exemption. – A covered entity that provides, maintains, controls, directs, or  
28 licenses a data transfer system for providers or entities subject to the HIE Network connection  
29 and data submission requirements of this Article may claim an exemption from the State health  
30 data assessment fee during a reporting period by demonstrating to the satisfaction of the  
31 Authority that one or more of the following is true:

32           (1) The covered entity has secured a time-limited exception from the Authority  
33 under G.S. 90-414.4(g) for the applicable State health data assessment fee  
34 reporting period.

35           (2) The covered entity attests, in writing, that it and the providers and entities on  
36 whose behalf it provides, maintains, controls, directs, or licenses a data  
37 transfer system received less than five hundred thousand dollars (\$500,000)  
38 in State health care funds for providing health care services to beneficiaries of  
39 State-funded health care.

40           (3) The covered entity is acting in good faith to comply with the Statewide Health  
41 Information Exchange Act as evidenced by all of the following:

42           a. Has entered into a participation agreement with the Authority.

43           b. Maintains contact with the Authority.

44           c. Timely responds to direct communications from the Authority  
45 regarding matters such as connection status, onboarding, training, and  
46 data submission.

47           (4) The covered entity is in its first year of existence, as evidenced by filings with  
48 the Office of the Secretary of State.

49           (5) The covered entity attests, in writing, that it is actively transitioning between  
50 data transfer systems.



1       (f) Revocation of Exempt Status. – The Authority may revoke a covered entity's  
2 exemption from payment of the State health data assessment fee if the covered entity is  
3 unresponsive to communications from the Authority or if the covered entity fails to maintain  
4 contact with the Authority. The Authority may revoke an exemption from the payment of the  
5 State health data assessment fee for good cause after giving the covered entity 30 days' written  
6 notice and an opportunity to cure any unresponsiveness to, or failure to maintain contact with,  
7 the Authority.

8       (g) Civil Penalty for Submitting a False Record to Avoid the Fee. – It is unlawful for any  
9 person or entity to knowingly present or cause to be presented to the Authority a false record to  
10 avoid full payment of the State health data assessment fee due under this section. The Authority  
11 shall assess against any person or entity that violates this section a civil penalty of not less than  
12 five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000), plus three times  
13 the amount of damages sustained by the Authority as a result of that person's or entity's actions.  
14 The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil  
15 Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

16 **"§ 90-414.15. Appeal of Authority's determinations.**

17       (a) Determinations and Appeals. – The Authority shall make the following  
18 determinations regarding providers' and entities' obligations: (i) grant or deny requests for  
19 time-limited exceptions under G.S. 90-414.4 and (ii) assess penalties under G.S. 90-414.14. The  
20 Authority shall send these determinations, in writing, to providers and entities via certified mail,  
21 return receipt requested, and via email, if known to the Authority. If a provider or entity disagrees  
22 with the Authority's determination, it shall deliver a petition for appeal to the Department of  
23 Information Technology's registered agent via certified mail, return receipt requested, within 30  
24 calendar days after receipt of the Authority's written determination. The petition for appeal shall  
25 include an explanation of the specific reasons the provider or entity disagrees with the Authority's  
26 determination and shall be supported by documentation and affidavits regarding the petitioner's  
27 compliance with this Article along with any other supporting documentation the petitioner deems  
28 relevant to the appeal. The Authority shall develop and make available on its website the form to  
29 be used by any provider or entity seeking to appeal the Authority's determination.

30       (b) Untimely Appeals. – A petitioner's failure to submit a timely petition for appeal shall  
31 result in the dismissal of the appeal with prejudice. The Department of Information Technology  
32 shall notify the provider or entity of such dismissal in writing.

33       (c) Review by the State CIO or the State CIO's Designee. – The State CIO or the State  
34 CIO's designee shall review all timely petitions for appeal under this section. The State CIO or  
35 the State CIO's designee may render a decision on the petition without meeting with the  
36 petitioner. If the State CIO or State CIO's designee renders a decision without meeting with the  
37 petitioner, then the State CIO or the State CIO's designee shall notify the petitioner of his or her  
38 decision, in writing, within 30 calendar days after the date the petition was received by the  
39 Department of Information Technology. If the State CIO or the State CIO's designee determines  
40 it is necessary to meet with the petitioner prior to rendering a decision, the State CIO or the State  
41 CIO's designee and petitioner shall schedule a meeting within 30 calendar days after the date the  
42 petition was received by the Department of Information Technology, or as soon as reasonably  
43 practical thereafter, or as agreed upon by the parties. Within 30 calendar days after the date of  
44 the meeting, the State CIO or the State CIO's designee shall submit a decision, in writing, to the  
45 petitioner by certified mail, return receipt requested, and via email, if known.

46       (d) Administrative Review. – If the petitioner disagrees with the decision of the State  
47 CIO or the State CIO's designee, the petitioner may commence a contested case under Article 3A  
48 of Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30  
49 calendar days after the earlier of either the date the decision of the State CIO or the State CIO's  
50 designee is mailed to the petitioner or the date the decision of the State CIO or the State CIO's  
51 designee is emailed to the petitioner. Except as otherwise provided by this Article, no other

disputes between the Authority and providers or entities, including disputes involving the terms or conditions of any agreement described in G.S. 90-414.7(b), or a party's performance under any such agreement, are subject to the contested case provisions of Chapter 150B of the General Statutes.

**"§ 90-414.16. Data related services.**

(a) **Data Related Services.** – The Authority may provide data related services to a covered entity participating in the HIE Network or to a business associate of the participating covered entity that is using the service to perform a function for the participating covered entity. Only covered entities participating in the HIE Network may make a request to the Authority for data related services. Nothing in this section shall be construed to require the Authority to provide data related services to covered entities or their business associates. Data disclosed or used in the Authority's provision of these services to any person or entity shall not be used for commercial purposes.

(b) **Cost Recovery.** – If the Authority voluntarily elects to provide a data related service to a covered entity, then it may charge a reasonable fee that may not exceed the actual cost incurred for the service. The cost recovery shall be based on generally accepted accounting principles and may include labor costs of the personnel providing the service, any information technology expense, and any other administrative expense."

**SECTION 2.** The deadline for submitting the first report due under G.S. 90-414.13 and the accompanying State health data assessment fee, if applicable, is May 1, 2028.

**SECTION 3.** Pursuant to G.S. 90-414.14(b), the initial State health data assessment fee schedules for annual compliance report periods beginning in 2028, 2029, and 2030 are as follows:

(1) For the annual compliance report period beginning in 2028:

<b>Amount of State Health Care Funds received in 2024</b>	<b>State Health Data Assessment Fee: Amount Due</b>
\$1,000,000 +	1.6% of State health care funds received in 2027
\$750,001 – \$1,000,000	\$9,000
\$500,001 – \$750,000	\$6,000
\$250,001 – \$500,000	\$3,000
Less than \$250,000	(No fee)

(2) For the annual compliance report period beginning in 2029:

<b>Amount of State Health Care Funds received in 2025</b>	<b>State Health Data Assessment Fee: Amount Due</b>
\$1,000,000 +	1.6% of State health care funds received in 2028
\$750,001 – \$1,000,000	\$12,000
\$500,001 – \$750,000	\$8,000
\$250,001 – \$500,000	\$4,000
Less than \$250,000	(No fee)

(3) For the annual compliance report period beginning in 2030:

<b>Amount of State Health Care Funds received in 2026</b>	<b>State Health Data Assessment Fee: Amount Due</b>
\$1,000,000 +	1.6% of State health care funds received in 2029
\$750,001 – \$1,000,000	\$15,000
\$500,001 – \$750,000	\$9,000
\$250,001 – \$500,000	\$4,500
Less than \$250,000	(No fee)

**SECTION 4.** This act becomes effective December 1, 2025.