

2012 -- S 2325

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO HEALTH AND SAFETY -- HEALTHCARE INFORMATION
TECHNOLOGY AND INFRASTRUCTURE FUND

Introduced By: Senators Perry, Nesselbush, Miller, DiPalma, and Doyle

Date Introduced: February 07, 2012

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-77-1, 23-77-2, 23-77-3 and 23-77-4 of the General Laws in
2 Chapter 23-77 entitled "Healthcare Information Technology and Infrastructure Development
3 Fund" are hereby amended to read as follows:
4 **23-77-1. Legislative findings and purpose.** – (a) Research shows that the application of
5 information technology such as electronic medical records, computer-based physician order entry
6 and electronic data interchange, has significant potential for improving healthcare quality and
7 safety and obtaining efficiencies in the healthcare delivery system. The healthcare system has
8 been slower than other sectors of the economy to use advances in information technology to
9 achieve improvements in efficiencies and quality. Hospitals and healthcare providers face barriers
10 in accessing the capital needed to make investments in information technology. Government,
11 which pays for about one-third (1/3) of the nation's healthcare cost, has a substantial interest in
12 obtaining cost efficiencies by promoting investment in healthcare information technology and
13 infrastructure. There is a need for coordination and collaboration among healthcare payers,
14 providers, consumers and government in designing and implementing a statewide interoperable
15 healthcare information infrastructure that includes standards for administrative data exchange,
16 clinical support programs, quality performance measures and the maintenance of the security and
17 confidentiality of individual patient data. It is the intent of the legislature to promote the
18 implementation of healthcare information technology and the development of an interoperable

1 statewide healthcare information infrastructure by creating a special fund to be used to
2 supplement any funds which would otherwise be available for these purposes.

3 (b) The financial support and security of the following health information technology
4 programs (collectively referred to as the “Program”) are critical to achieving a healthcare delivery
5 system with improved quality, safety, and efficiency for all Rhode Islanders. The program
6 includes Rhode Island’s American recovery and reinvestment act (ARRA)-funded health
7 information exchange (HIE); regional extension center (REC); Beacon communities’ initiative
8 and other regional health information organization (RHIO)-administered health information
9 infrastructure projects.

10 (c) The Rhode Island HIE is a secure electronic network that will allow authorized
11 medical professionals to access patients’ most up-to-date health information enabling them to
12 provide the best possible care.

13 (d) A robust HIE will enable physicians, hospitals and other providers to meet the ARRA
14 “meaningful use” requirements and as a result, assist them in obtaining electronic health records
15 incentive payments under the federal stimulus plan.

16 (e) The REC initiative is focused on assisting providers with the successful
17 implementation of electronic health records (EHRs) for the exchange of health information and
18 qualifying for incentive payments as a result of meeting “meaningful use” criteria. The Beacon
19 communities federal designation (Beacon) is aimed at electronically enabling patient-centered
20 medical homes and improving quality reporting statewide to achieve significant, measurable
21 improvements in healthcare quality, cost and population health in Rhode Island.

22 (f) The Rhode Island beacon and REC initiatives will leverage and expand upon other
23 aspects of the program.

24 ~~23-77-2. Establishment of the healthcare information technology and infrastructure~~
25 ~~development fund~~ **Establishment of the healthcare information technology and**
26 **infrastructure fund.** -- (a) There is established in the department of health, a dedicated restricted
27 receipt fund, the healthcare information technology and infrastructure development fund to be
28 administered by the director of the department of health for the sole purpose of promoting the
29 development and adoption of healthcare information technologies designed to improve the
30 quality, safety and efficiency of healthcare services ~~and the security of individual patient data~~
31 through the financing of programs and other services administered by the RHIO and/or health as
32 defined below.

33 ~~(b) Moneys in the fund shall be used for projects authorized by the director of health and~~
34 ~~may be expended by contract, loan, or grant, to develop, maintain, expand, and improve the~~

~~state's healthcare information technology infrastructure and to assist healthcare facilities and health service providers in adopting healthcare information technologies shown to improve healthcare quality, safety or efficiency. Such projects shall incorporate the goal of maintaining the security and confidentiality of individual patient data, and separate projects for that purpose may also be authorized from the fund. The director of health shall develop criteria for the selection of projects to be funded from the fund in consultation with the healthcare information technology and infrastructure advisory committee created in section 23-77-4.~~

(b) Moneys in the fund shall be used for projects which shall include, but not be limited to:

(1) Support for the state designated regional health information organization (RHIO), as defined in subsection 5-37.7-3(u), to build, operate and maintain a statewide HIE as defined in subsection 5-37.7-3(n);

(2) The costs and fees associated with the administration, operation and management of the program;

(3) Consulting services and professional fees for the installation, integration and clinical process re-engineering relating to the implementation and utilization of electronic health records in conjunction with the HIE and Beacon initiatives;

(4) The development of materials and outreach efforts conducted to educate citizens and medical service providers about the benefits of participating in and to recruit citizens and healthcare providers to participate in the program;

(5) The development and maintenance of an all-payer claims database.

(c) Any moneys provided by loan shall be disbursed for periods not exceeding twenty-five (25) years and at an annual rate of interest not exceeding five percent (5%).

(d) The director of the department of health, in consultation with the state healthcare information technology advisory committee, shall establish criteria for eligible healthcare information technology and infrastructure projects to be funded under this chapter.

(e) The fund revenues shall be derived from an assessment imposed upon health insurance claims in accordance with section 23-77-3 of this chapter.

(f) All revenue so collected may be invested as provided by law and all interest received on such investment shall be credited to the fund and used solely for fund purposes.

(g) The RHIO shall develop a detailed annual budget of proposed expenditures from the fund for each fiscal year. The annual budget shall include all revenue and expenditures for the upcoming fiscal year. The annual budget shall be submitted to the healthcare information technology and infrastructure advisory committee, established pursuant to section 23-77-4 for its

1 review.

2 (h) The RHIO shall submit quarterly expenditure reports to the general assembly, the
3 director of health and the fund advisory committee (defined in section 23-77-3), including a year-
4 end report by August 1 of each fiscal year. The year-end report will include, but not be limited to,
5 a listing of all receipts, expenditures, and balances of the fund, and a statement of outcomes
6 achieved.

7 **23-77-3. Funds received from insurers or others Health information infrastructure**
8 **fund assessment.** – (a) Definitions as used in this chapter:

9 (1) “Healthcare services” means any services included in the furnishing to any individual
10 of medical, podiatric, or dental care, or hospitalization, or incident to the furnishing of that care or
11 hospitalization, and the furnishing to any person of any and all other services for the purpose of
12 preventing, alleviating, curing or healing human illness, injury or physical disability.

13 (2) “Health insurance” means any group or individual healthcare benefit policy, contract,
14 or plan offered, issued, renewed or administered to a Rhode Island resident or an out-of-state
15 resident who receives healthcare services in Rhode Island, including any healthcare benefit plan
16 offered, issued, renewed or administered by any health insurance company, any nonprofit hospital
17 and medical service corporation, or any health maintenance organization as defined in section 27-
18 41-1. It does not include any business related to the administration of programs under Title XIX
19 of the Social Security Act, 42 U.S.C., nor any state healthcare assistance program financed in
20 whole or in part through a federal program, unless authorized by federal law and approved by the
21 general assembly.

22 (3) “Health insurer” means any domestic, foreign, or alien insurance company, mutual
23 association, organization or other insurer, including a health maintenance organization and third-
24 party administrator, or any person who offers, issues, renews, or administers a health insurance
25 policy, contract, or plan, or pays a claim for healthcare services provided in the state of Rhode
26 Island. The term shall not include a healthcare insurer with a quarterly average of less than two
27 hundred fifty (250) Rhode Island insured lives.

28 (b) Monthly, beginning January 15, 2013, every health insurer shall pay a fee into the
29 fund. The fee shall be equal to thirteen hundredths percent (0.13%) of all medical claims paid by
30 the health insurer for its Rhode Island members and out-of-state members (whether fully insured
31 or self-insured) who received health services in the state in the previous month as verified by
32 reporting to the national association of insurance commissioners. Said fee shall not be considered
33 an administrative expense, but rather a claims expense and be billed as such in premiums or self-
34 insured claims expense as well as considered as such for all reporting and/or filing purposes. The

1 fee shall be paid into the fund in monthly installments and shall include an oath or affirmation
2 signed by a duly authorized officer or agent of the health insurer that the amount is true and
3 correct and containing information that may be deemed necessary for the determination of the
4 amount of the fee imposed by this chapter. Monthly fees received into the fund account in excess
5 of the monthly amount shall be designated for: (1) The development and maintenance of all payer
6 claims database; and (2) The remainder shall be forwarded to the RHIO on a monthly basis, set
7 forth in regulations promulgated by the department of health.

8 ~~(a)(c)~~ The director of health is authorized to accept any grant, devise, bequest, donation,
9 gift, services in kind, assignment of money, bonds of other valuable securities, moneys
10 appropriated by the general assembly or received from insurers, for deposit in and credit of the
11 fund.

12 ~~(b) The director of health is authorized to expend from the healthcare information~~
13 ~~technology and infrastructure development fund any moneys deposited into the fund for the~~
14 ~~purposes set forth in section 23-77-2.~~

15 ~~(e)(d)~~ Notwithstanding any provision of their articles of incorporation, by-laws, or other
16 enabling documents or laws to the contrary, a health insurer or health plan is authorized to
17 allocate sums of money, derived from the collections of ~~premiums~~ the claims assessment, to the
18 healthcare information technology and infrastructure development fund.

19 ~~(d) Notwithstanding any provision of their articles of incorporation, by laws, or other~~
20 ~~enabling documents or law to the contrary, an insurer is further authorized to expend on an annual~~
21 ~~basis a sum of moneys equal to not more than five percent (5%) of its previous year's premium~~
22 ~~income for a project approved by the director of health, with the concurrence of the director of~~
23 ~~business regulation. The director of health is authorized to approve projects which are in~~
24 ~~conformance with the purposes of section 23-77-2.~~

25 (e) It is the intent of the general assembly that health insurers shall contribute equally to
26 the health information infrastructure fund established in section 72-2 of this chapter. In the event
27 that the fee established in subsection (b) of this section is found not to be enforceable as applied
28 to third-party administrators or other entities, the fee amounts owed by all other health insurers
29 shall remain at existing levels, and the general assembly shall consider alternative funding
30 mechanisms that would be enforceable as to all health insurers.

31 (f) In the event a health insurer fails to comply with the imposed fee after two (2)
32 consecutive quarters, such health insurer shall be delinquent, and therefore, interest in the amount
33 of six percent (6%) per annum may be assessed against the health insurer for the non-payment.
34 The office of the health insurance commissioner may impose penalties against a delinquent

1 [insurer pursuant to Rhode Island general laws, section 42-14.5-3 and has the authority to validate](#)
2 [any payments made into the fund.](#)

3 **23-77-4. Creation of the Rhode Island healthcare information technology advisory**

4 **committee.** ~~(a)~~ The director of health shall establish a healthcare information technology and
5 infrastructure advisory committee ~~to advise~~ [which shall consist of five \(5\) members or their](#)
6 [designees, namely the chairperson of the permanent joint legislative committee on healthcare](#)
7 [oversight, the director of health, one at-large member appointed by the director of health, and one](#)
8 [member of the HIE commission as established pursuant to Rhode Island general laws, section 5-](#)
9 [37.7-5. The committee shall meet at least quarterly in order to review the budget and reports filed](#)
10 [in accordance with section 23-77-2. The state-designated RHIO may request that the commission](#)
11 [meet on an as-needed basis more frequently than quarterly. The committee may also advise the](#)
12 [director of health](#) in the following matters:

13 (1) Assessment of use of healthcare information technology by the state's licensed
14 healthcare providers and facilities;

15 ~~(2) Recommendations for implementing a statewide interoperable healthcare information~~
16 ~~infrastructure to include estimates of necessary resources and for determining standards for~~
17 ~~administrative data exchange, clinical support programs, and the maintenance of the security and~~
18 ~~confidentiality of individual patient data;~~

19 ~~(3)~~(2) Criteria for selection of projects to be funded with moneys from the fund;

20 ~~(4)~~(3) Other related issues as requested by the director of health.

21 ~~(b) The members of the healthcare information technology and infrastructure advisory~~
22 ~~committee shall include the director or director's designees of the departments of health and~~
23 ~~human services and additional members to be appointed by the director of the department of~~
24 ~~health to include persons representing Rhode Island licensed hospitals and other licensed~~
25 ~~facilities/providers, the medical and nursing professions, health insurers and health plans, the~~
26 ~~state quality improvement organization and other parties, such as consumer advisory~~
27 ~~organizations, with an interest and expertise in health care information technology. The director~~
28 ~~may designate an existing state nonprofit organization whose primary purpose is to improve~~
29 ~~healthcare quality to fulfill the responsibilities of the Rhode Island Healthcare Information~~
30 ~~Technology Advisory Committee.~~

31 SECTION 2. Chapter 23-77 of the General Laws entitled "Healthcare Information
32 Technology and Infrastructure Development Fund" is hereby amended by adding thereto the
33 following sections:

34 **23-77-7. Rules and regulations.** ~~–~~ [The director of the department of health shall](#)

1 [implement rules and regulations pertaining to this chapter.](#)

2 **23-77-8. Sunset provision.** – [This chapter shall be and is hereby repealed effective July](#)
3 [1, 2018.](#)

4 SECTION 3. Section 35-4-27 of the General Laws in Chapter 35-4 entitled "State Funds"
5 is hereby amended to read as follows:

6 **35-4-27. Indirect cost recoveries on restricted receipt accounts.** -- Indirect cost
7 recoveries of ten percent (10%) of cash receipts shall be transferred from all restricted receipt
8 accounts, to be recorded as general revenues in the general fund. However, there shall be no
9 transfer from cash receipts with restrictions received exclusively: (1) from contributions from
10 non-profit charitable organizations; (2) from the assessment of indirect cost recovery rates on
11 federal grant funds; or (3) through transfers from state agencies to the department of
12 administration for the payment of debt service. These indirect cost recoveries shall be applied to
13 all accounts, unless prohibited by federal law or regulation, court order, or court settlement. The
14 following restricted receipt accounts shall not be subject to the provisions of this section:

15 Department of Human Services
16 Veterans' home -- Restricted account
17 Veterans' home -- Resident benefits
18 Organ transplant fund
19 Veteran's Cemetery Memorial Fund
20 Department of Health
21 Pandemic medications and equipment account
22 Department of Mental Health, Retardation and Hospitals
23 Eleanor Slater non-Medicaid third-party payor account
24 Hospital Medicare Part D Receipts
25 RICLAS Group Home Operations
26 Vignerón Memorial Fund Grant
27 Department of Environmental Management
28 National heritage revolving fund
29 Environmental response fund II
30 Underground storage tanks registration fees
31 Rhode Island Council on the Arts
32 Art for public facilities fund
33 Rhode Island Foundation Grant
34 Rhode Island Historical Preservation and Heritage Commission

1 Historic preservation revolving loan fund
2 Historic Preservation loan fund -- Interest revenue
3 Department of Public Safety
4 Forfeited property -- Retained
5 Forfeitures -- Federal
6 Forfeited property -- Gambling
7 Donation -- Polygraph and Law Enforcement Training
8 Rhode Island State Firefighter's League Training Account
9 Fire Academy Training Fees Account
10 Attorney General
11 Forfeiture of property
12 Federal forfeitures
13 Attorney General multi-state account
14 Department of Administration
15 Restore and replacement -- Insurance coverage
16 Convention Center Authority rental payments
17 Investment Receipts -- TANS
18 Car Rental Tax/Surcharge-Warwick Share
19 OPEB System Restricted Receipt Account
20 ARRA Administrative Expenses - Bureau of Audits
21 ARRA Administrative Expenses - Purchasing
22 Legislature
23 Audit of federal assisted programs
24 Department of Elderly Affairs
25 Pharmaceutical Rebates Account
26 Department of Children Youth and Families
27 Children's Trust Accounts -- SSI
28 Military Staff
29 RI Military Family Relief Fund
30 Treasury
31 Admin. Expenses -- State Retirement System
32 Retirement -- Treasury Investment Options
33 Business Regulation
34 Banking Division Reimbursement Account

- 1 Office of the Health Insurance Commissioner Reimbursement Account
- 2 Securities Division Reimbursement Account
- 3 Commercial Licensing and Racing and Athletics Division Reimbursement Account
- 4 Insurance Division Reimbursement Account
- 5 Historic Preservation Tax Credit Account.
- 6 Judiciary
- 7 Arbitration Fund Restricted Receipt Account
- 8 Department of Elementary and Secondary Education
- 9 Statewide Student Transportation Services Account
- 10 School for the Deaf Fee for Service Account
- 11 Davies Career and Technical School Local Education Aid Account
- 12 Office of the Governor
- 13 ARRA Administrative Expenses -- Office of Economic Recovery and ReInvestment
- 14 Department of Labor and Training
- 15 Job Development Fund -- Title XII loans principal and interest
- 16 [The Rhode Island Health Information Infrastructure Fund established pursuant to chapter](#)
- 17 [23-77](#)
- 18 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- HEALTHCARE INFORMATION
TECHNOLOGY AND INFRASTRUCTURE FUND

1 This act would modify aspects of the Rhode Island healthcare information technology
2 and infrastructure fund. It would also identify specific programs and projects to be financed by
3 the fund.

4 This act would take effect upon passage.

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