



## NEVADA DEPARTMENT OF HEALTH & HUMAN SERVICES NOTICE OF HEARING TO SOLICIT PUBLIC COMMENTS ON THE STATEWIDE HEALTH INFORMATION EXCHANGE SYSTEM

Pursuant to Sections 439.587 through 439.589 of the *Nevada Revised Statutes* (NRS), the Department of Health & Human Services has begun drafting regulations relating to the Statewide Health Information Exchange System. In the process of developing these regulations, it has come to the Department's attention that there may be provisions in statute that should be updated to better reflect current technology and processes, and that these updates to statute may be advisable before the regulations are finalized.

**Stakeholders and members of the public are invited to provide comment on the Statewide Health Information Exchange System, including Sections 439.581 through 439.595 of the *Nevada Revised Statutes* and the development of related regulations on July 7, 2014, at 12:30 pm. The hearing will be held at 4150 Technology Way, Room 303, and videoconferenced to 4220 South Maryland Parkway, Suite D Large Conference Room. Members of the public may also participate by teleconference at 1-877-336-1828 (access code 8287730).**

This is not a public workshop on proposed regulations at this time, because we wish to conduct further research and gather public comment regarding how best to proceed with any proposed changes to the statute or future regulations. Depending upon the number of participants wishing to speak, a time limit may be applied. Everyone is encouraged to submit testimony in writing before or during the hearing. Those unable to attend are also invited to submit comments to [ajoiner@dhhs.nv.gov](mailto:ajoiner@dhhs.nv.gov) or 4126 Technology Way, Carson City, NV 89706, Suite 100 (Attention: Amber Joiner). Additional background information and testimony received before the hearing will be added to the website at <http://dhhs.nv.gov/Programs/HIT/>.

This is a public hearing. This notice has been sent to known stakeholders and posted at the Grant Sawyer Building, 555 E. Washington, Las Vegas; the NV Department of Health & Human Services at 4126 Technology Way, Carson City; the Nevada State Library and Archives at 100 Stewart Street, Carson City; and online at <http://dhhs.nv.gov/programs/HIT> and <https://notice.nv.gov/>. Members of the public needing assistance at the hearing may request accommodations by contacting Amber at one of the above addresses, or by calling 775-684-4000.



**MEETING MINUTES**  
**NEVADA DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**HEARING TO SOLICIT PUBLIC COMMENTS ON THE STATEWIDE**  
**HEALTH INFORMATION EXCHANGE SYSTEM**

Date and Time of Meeting: July 7, 2014  
12:30 p.m.

Place of Meeting: Carson City  
4150 Technology Way, Room 303

Videoconference Location: Las Vegas  
4220 South Maryland Parkway, Suite D  
Large Conference Room

Call in Number: 877-336-1828 Access Code: 8287730

People Present: Amber Joiner, Deputy Director, Department of Health & Human Services (DHHS) (Carson City)  
Saundra Langum, Administrative Assistant, DHHS (Carson City)  
Chris Bosse, Renown Health (Carson City)  
Joan Hall, Nevada Rural Hospital Partners (Carson City)  
Deborah Huber, HealthInsight Nevada (Las Vegas)  
Leslie Johnstone, HealthInsight Nevada (Las Vegas)  
Erick Maddox, HealthInsight Nevada (Carson City)

- I. **Call to Order** – Amber Joiner, Deputy Director, DHHS  
DHHS as a Department is looking for some feedback pursuant to NRS sections 439.587 through 439.489, which is from a bill presented a few sessions ago relating to the Health Information Exchange System in the State of Nevada [Senate Bill 43, 2011]. It has come to our attention these last two years that quite a bit has changed technologically as well as with the organizations that are in the state currently doing this type of work, and we have a lot more information to gather before we are really able to implement regulations that are feasible and workable. The other opportunity that we have is that as a Department, we have requested a Bill Draft Request placeholder. It has not yet been approved by the Budget Office or the Governor’s Office, so it is in its preliminary stages. Before we move it forward, we definitely wanted to receive feedback from the community and stakeholders relating to what changes if any may be needed in statute. So, today’s hearing is really wide open. We are welcoming comments about the NRS, about any revisions

you think would be ideal, as well as any comments you may have about the draft of regulations that was one of the handouts related to this hearing. We had begun to draft regulations when we realized that we needed more feedback. This is not an official regulatory hearing as far as we are not proposing these regulations, this is not a regulatory workshop of any kind. This is really an open public forum to receive feedback. I received comments this morning that there are some folks who did not hear about this meeting in time, so we will continue to receive public comment in written form, and we may hold another public hearing.

II. **Public Comment** – Las Vegas, Nevada

Leslie Johnstone, Vice President of Operations for Health Insight Nevada, introduced herself.

Deborah Huber, Executive Director of Health Insight Nevada made comments:

HealthInsight is the Medicare quality improvement organization for Nevada, Utah, and New Mexico. The portfolio has been extended the last few years, and we also manage and operate the private nonprofit Nevada corporation called HealthIE Nevada, which is the only statewide health information exchange in Nevada. It was incorporated in fall of 2011, and in early 2012 we began exchanging data between a hospital and physician group. Since then we have expanded to additional hospitals and physicians across the state, as well as laboratories, skilled nursing facilities, radiology centers, and a variety of others [see the full list of participants attached to these minutes]. HealthIE Nevada receives no public funding. It is funded with only private dollars through user fees collected from those providers and health plans that exchange data within the system [Ms. Huber then highlighted key points from the handout she submitted, which is attached to these minutes].

In the last little more than a year, HealthIE Nevada has collected nearly 35,000 consents. Of those, 94 percent of people consented to having their information exchanged (only 1,500 said no, not in any circumstances). We give them three options: 1) they can consent to having all of their information shared in the HIE; 2) they can consent to having it shared only in an emergency situation; or 3) they can say they do not consent at all to having any of it shared. This is labor intensive, and if there were ever the opportunity to do opt-out instead, we would likely support that. However, right now we are using the opt-in process quite successfully [Ms. Huber then continued to highlight key points from the handout she submitted, which is attached to these minutes].

There was no additional public comment from either location or the telephone.

III. **Adjournment** – Amber Joiner, Deputy Director, DHHS, adjourned the meeting at 12:55 p.m.

**Public Hearing  
Statewide Health Information Exchange System**

***HealthInsight Nevada Comments***  
**July 7, 2014**

Good morning. My name is Deborah Huber and I am the Executive Director of *HealthInsight Nevada*. We serve as the management company for HealthIE Nevada which operates the only statewide health information exchange in Nevada. This effort began three years ago and we currently have participating hospitals, physician groups and diagnostic services throughout the state. HealthIE Nevada is supported by private dollars through membership fees collected from our participating providers and payer groups.

We would like to submit several general comments regarding any proposed regulations pertaining to the Statewide HIE system. Some of our comments do pertain specifically to the “possible regulatory language” that was posted to the Department’s website. As a fully operational health information exchange, we have learned a great deal about the practical side of implementing and operating such a system. In general, the provider community embraces the concept of moving Nevada toward electronic health information exchanges but it is imperative that we all be sensitive to building such changes as seamlessly as possible into the workflow of their business models. Our experience doing just that serves as the main source for our comments today.

1. The statutory definition of “**Health information exchange**” needs to be changed. Currently, it is defined as an organization that provides for the electronic movement of health-related information across and among disparate organizations according to nationally recognized standards. This definition has ramifications in the proposed regulations that are very far reaching and would include the following current activity in our health care system:
  - a. Faxes from or to doctors
  - b. Electronic movement of radiology or lab result records between patients/providers and between providers
  - c. Electronic movement of lab results over existing interfaces or clearing houses.
  - d. Electronic movement of records over closed loop systems, such as EHR networks or internal corporate hospital networks like HCA and Dignity have established
  - e. Potentially - between insurers and providers
  - f. Etc.

It is recommended that the new definition be limited to systems that enable the mobilization of healthcare information electronically

- a. among and between multiple disparate organizations
- b. not be limited to point-to-point access
- c. etc.

2. Regulations need to correctly reflect the following functionality of an HIE
  - a. Any requirement to provide access to partial patient records (by diagnosis or time slice) is not practical. Defining the criteria for partial information would be impractical. Procedure codes would be very broad when intent is based on the result (e.g. lab tests conducted vs. results found). Billing codes are likely not precise enough. Diagnosis codes complicated when multiple diagnoses exist. There are a number of things that could be difficult to control or have ancillary data points that could point to the clinical knowledge.

HIV is a good example – It’s a communicable disease, its reportable to both CDC as well as local health authorities and while the HIE may exclude the actual diagnosis, there are a number of medications, therapies, etc. that could point to the diagnosis. This then begs the question about what you do with indications of Prophylaxis. While not the exact diagnosis it is an indication of risk which wouldn’t normally be restricted based on this regulation but which a person might want to have restricted because in the case of HIV if someone is on Pre-exposure Prophylaxis Therapy that could be an indication that a spouse, partner or significant other is likely HIV positive.

Lab results is another example – would not be able to redact specific to a diagnosis

- b. The HIE does not modify or correct data. It’s basically a pass through for data created by others. The patient should request any change in the data to the provider, not the HIE.
  - c. The HIE does not provide information or data to a patient. The patient must go to the provider for these types of requests.
3. The following policy approaches are recommended:
  - a. The patient owns the data related to their records in an HIE. This is separate from the matter of consent and should apply to all, including Medicaid/CHIP eligibles.
  - b. All HIE’s should be certified by the state to operate in the State of Nevada
  - c. HIE is a Business Associate, not a Covered Entity. The provider is the Covered Entity.
4. The following approaches are recommended regarding patient consent:
  - a. Consents should be required of any certified HIE.
  - b. The patient consent applies to the query and retrieval of their information from the HIE by providers or organizations involved in their healthcare where a direct relationship does not already exist (e.g. lab results to the ordering physician). Referred to as the “pull” of HIE data.
  - c. The patient does not have to consent for their health records to be transmitted to the HIE.
  - d. The patient does not have to consent for their health records to be sent to a provider with a direct relationship (e.g. lab results to the ordering physician). Referred to as the “push” of HIE data.

- e. The patient consent does not impact if their records can be moved between entities outside of an HIE. This could have implications on billing, reportable events, referrals, preventing off site back-ups of data for the provider EHR's, etc.
  - f. There are no "time slices" in the patient consent. In other words, if a patient consents, all of their information can be retrieved by their providers. It remains that way until revoked, at which time, none of their information can be retrieved by their providers. The same is true for Medicaid eligibles. If a patient is Medicaid eligible, all of their information can be retrieved. If they become non-Medicaid eligible, their information can still be retrieved until they positively change their consent status.
  - g. The patient should be able to change their consent status via any participating provider in the HIE that they provided their consent.
5. The following is recommended regarding the governing entity (requires statutory change):
- a. Recommend that the State contract with one of the certified HIE's as the "Statewide HIE System". While not all certified HIE's would necessarily be statewide, this would be a requirement to be contracted with as the "Statewide HIE System".
  - b. A contractual obligation of being designated the "Statewide HIE System" would include that, in the event of default or shutting down of the "Statewide HIE System", that the enterprise master patient index and a master health care provider and payer index would be transferred to the State.
  - c. Recommend that DHHS manage all certified HIE's with a similar authority that it licenses and monitors health facilities (i.e. no nonprofit governing entity)
6. The following is recommended regarding the certification process for HIE's:
- a. Certification regulations should apply only to the recommended definition of HIE's (see General Comment #1).
  - b. Regulations should refer to national industry standards/practice rather than specifics. This will enable business standards to evolve as the industry matures. Currently there are not standards but regulations could provide for in the future.
  - c. There should be a practical difference between "certified" and "provisionally certified" status in avoid entities indefinitely staying in provisional status. The provisional term should be shorter than the Certification Term.
  - d. There should be ramifications of operating a non-certified HIE

In closing, we would recommend that efforts be undertaken to basically cause SB43 of 2011 to be repealed and replaced with a structure allows regulations to be written that reflects the practical needs of HIE environment in order to provide maximum benefit to Nevadans.

Thank you and I would be happy to take any questions.

# HIE Participants

Current as of July 1, 2014



## Connected Participants/Financial Contributors

21 <sup>st</sup> Century Oncology, Las Vegas	Las Vegas Cardiology, Las Vegas
A Las Vegas Pediatrics, Las Vegas	Mountain Family Medicine, Reno
Access to Healthcare, Reno	Mountainside Internal Medicine, Las Vegas
Alpha Medical Group, Las Vegas	Nevada Cardiology Associates, Las Vegas
Ascent Primary Care, Las Vegas	Nevada Family Care, Las Vegas
Basic High School, Las Vegas	Northern Nevada Medical Center, Sparks
Cardiology & Cardiovascular Consultants, Las Vegas	Northern Nevada Medical Group, Reno
Carson Tahoe Continuing Care Hospital, Carson City	PacifiCare of Nevada
Carson Tahoe Regional Medical Center, Carson City	Pueblo Medical Imaging, Las Vegas
Carson Valley Family Health Center, Minden	Pulmonary Associates, Las Vegas
Carson Valley Medical Center, Gardnerville	Pulmonary Medicine Associates, Reno
Carson Valley Medical Center Clinics, Gardnerville	Quest Diagnostics, Las Vegas
Centennial Hills Hospital Medical Center, Las Vegas	Regional Emergency Medical Services Authority, Reno
Clinical Pathology Labs (CPL), Las Vegas	Reno Family Physicians, Reno
Connection MD, Las Vegas	Renown Regional Medical Center, Reno
Desert Radiologists, Las Vegas	Renown South Meadows Medical Center, Reno
Desert Springs Hospital Medical Center, Las Vegas	Saint Mary's Medical Group, Reno
Dr. Simon Farrow, Las Vegas	Saint Mary's Regional Medical Center, Reno
Dr. Greg Fihn (IMA ACO), Las Vegas	Sierra Health and Life
First Person Care Clinic, Las Vegas	Sierra Nevada Nephrology, Reno
Geriatric Specialty Care, Reno	Sierra Surgery Hospital, Carson City
GI Consultants, Reno	Silver Sage Center for Family Medicine, Reno
Great Basin Medical Group, Reno	Southwest Medical Associates, Las Vegas
Guadalupe Medical Center, Las Vegas	Sparks Family Medicine, Las Vegas
Dr. Mark Handelman, Las Vegas	Spring Valley Hospital Medical Center, Las Vegas
Headache Center of Southern Nevada, Las Vegas	St. Rose Dominican Hospital – Rose de Lima Campus, Henderson
Health Plan of Nevada	St. Rose Dominican Hospital – San Martin Campus, Las Vegas
IMA Lab, Las Vegas	St. Rose Dominican Hospital – Siena Campus, Henderson
Internal Medicine Associates, Las Vegas	Steinberg Diagnostic Medical Imaging Center, Las Vegas
Kindred Healthcare, Las Vegas	University Medical Center, Las Vegas
Lake Mead Care Center, Las Vegas	University of Nevada School of Medicine, Southern Nevada

# HIE Participants

Current as of July 1, 2014



Steljes Cardiology, Las Vegas	WellHealth Quality Care, Las Vegas
Summerlin Hospital Med. Center, Las Vegas	West Valley Imaging, Las Vegas
Sunset Clinics, Las Vegas	Dr. Carl Williams, Jr., Las Vegas
Urology Nevada, Reno	Women's Specialty Care, Las Vegas
Valley Hospital Medical Center, Las Vegas	Dr. Betty Yao, Las Vegas

## Participants in Implementation

Calderon Medical Group, Las Vegas	Nevada Orthopedic & Spine Center, Las Vegas
Community Health Alliance – HAWC, Reno	Tahoe Fracture & Orthopedic Medical Clinic, Inc., Carson City
First Person CARELINE, Las Vegas	University of Nevada School of Medicine, Northern Nevada
Howard J. Mason, MD, Las Vegas	WellCentive, Inc. Las Vegas
Nathan Adelson Hospice, Las Vegas	Western Regional Center for Brain & Spine Surgery, Las Vegas

## Participants with Signed Agreements

Barton Memorial Hospital, South Lake Tahoe, California	Internal Medicine of Spring Valley, Las Vegas
Clark Sports Medicine, Las Vegas	Las Vegas Radiology, Las Vegas
Cornerstone Family Practice, Las Vegas	Silverada Family Care, Reno
Dr. Andrea Dempsey, Las Vegas	Tahoe Carson Valley Medical Group, Reno
Health First Medical Center, Las Vegas	Western Physician Alliance, Reno
IMA Accountable Care Organization, Las Vegas	