

# Health Information Exchange (HIE)

## Nevada's Department of Health & Human Services

July 17, 2014

Sections 439.581 through 439.595 of the *Nevada Revised Statutes* provide for a statewide Health Information Exchange (HIE) System. The establishment of a statewide HIE system for the electronic movement, storage, analysis, and exchange of electronic health records, health-related information, and related data began in Nevada even before these statutes were enacted in 2011. Following is a summary of the history of these efforts to date.

### Federal Grant Facts

- The *American Recovery and Reinvestment Act (ARRA)*, which included the *Health Information Technology for Economic and Clinical Health Act (HITECH)*, was signed into law on February 17, 2009.
  - The ARRA and HITECH Acts did not require states to create a Health Information Exchange (HIE); however, the Acts authorize the Secretary of HHS to provide incentive grants for states to establish the infrastructure to enable HIEs. As a result, grants were offered to all 50 states, the District of Columbia, and the five territories. All 56 entities applied, and all 56 entities received grant funding.
  - A formula created by the federal government determined the amount of the award for each state, district, or territory. Nevada's Department of Health and Human Services (DHHS) was awarded an "ARRA HITECH State Health Information Exchange (HIE) Cooperative Agreement" grant on February 8, 2010, in an amount not to exceed \$6,133,426.
  - The grant performance period was four years, from February 8, 2010 to February 7, 2014. Due to cost savings resulting from delays in federal approvals and prudent spending, it is anticipated that the total federal funds drawn down for the four-year project will be approximately \$4.2 million.
  - In 2010, work was conducted by the Office of Health Information Technology (OHIT) to develop the grant-mandated *State Health Information Technology Strategic & Operational Plan*. It was approved by the federal Department of Health & Human Services in May, 2011.  
<http://dhhs.nv.gov/Programs/HIT/StateHealthIT/Plan/>
  - During the 2011 Legislative Session, consistent with grant requirements to initiate and support HIE enabling legislation in Nevada, DHHS, through the

OHIT, facilitated passage of Senate Bill 43. It requires DHHS to establish or contract with a governing entity for a statewide health information exchange system and develop regulations to govern HIE in the state.

[http://www.leg.state.nv.us/Session/76th2011/Bills/SB/SB43\\_EN.pdf](http://www.leg.state.nv.us/Session/76th2011/Bills/SB/SB43_EN.pdf)

- Longer than anticipated federal approval processes and additional federal changes in grant requirements delayed the implementation of the Plan. In order to give the project more time to become self-sustainable and find revenue sources, DHHS, through the OHIT, requested a no-cost extension several times during meetings and conference calls with its Office of the National Coordinator (ONC) federal Project Officer between August and October, 2013. On November 15, 2013, and January 13, 2014, DHHS wrote formal letters requesting a no-cost extension from ONC (as did many other grantees). The request was officially denied on January 15, 2014, for all grantees.
- The federal ARRA HITECH grant stipulated each federal dollar spent must be matched based on escalating match ratios, in compliance with federal law. DHHS originally received guidance from the federal project manager that it would have until May 7 of 2014 to secure and expend the grant match. On December 17, 2013, ONC changed the date by which the state must secure and expend the grant match from May 7 to February 7, 2014 (reduced 3 months). DHHS has met the match requirement, chiefly through in-kind contributions.
- The federal government has confirmed that Nevada has met all of the required grant obligations. Despite the nonprofit board of the NV-HIE voting to cease operations, Nevada will not owe any federal funds back, because since 2010, Nevada has successfully accomplished the grant-required milestones for building HIE infrastructure. Some major milestones include: 1) creating the mandated State Health IT Coordinator position; 2) completing an approved *State Health Information Technology Strategic & Operational Plan*; 3) supporting the successful passage of HIE enabling legislation (SB 43, 2011); 4) supporting the enabling of pharmacies in Nevada to conduct electronic prescribing (97 percent of pharmacies are enabled); and 5) supporting health information exchange by medical laboratories (Nevada is ranked second highest among all grantees).
- In response to the nonprofit NV-HIE Board's decision to cease operations, DHHS has continued to discuss options with partners, vendors, corporations, and nonprofit entities in the State to explore ways to expand upon this initial investment in the infrastructure for HIEs in Nevada. DHHS is also considering options for meeting the statutory requirements in NRS 439.581 through 439.595 (SB 43, 2011). DHHS held two public hearings in July, 2014, to solicit public and stakeholder suggestions for the future of the HIE System in Nevada.

## Nevada Health Information Exchange (NV-HIE) Nonprofit Facts

- On September 11, 2012, in accordance with Nevada's *State Health Information Technology Strategic & Operational Plan*, the Nevada Health Information Exchange (NV-HIE) was created as a nonprofit corporation in Nevada [501(c)(3) status pending]. On January 13, 2013, the nonprofit NV-HIE became a sub-grantee of the DHHS State HIE grant managed through the HIT Office. The nonprofit NV-HIE became responsible for implementing a statewide HIE governing entity, contracting with a technical solution to create an HIE, and establishing a self-supporting revenue stream. The technical solution was required to meet nationally recognized standards for the electronic sharing of patient information among health care providers, payers, labs, and hospitals (pursuant to NRS 439.581 through 439.595 <http://www.leg.state.nv.us/NRS/NRS-439.html#NRS439Sec581>).
- The nonprofit NV-HIE Board of Directors was established in May 2012, and met regularly under Open Meeting Law (pursuant to NRS 439.588) between August 2012 and February 2014. The members were volunteers and were not compensated for their service.
- After adopting bylaws, applying for 501(c)(3) status, negotiating the subgrant with the DHHS OHIT, and developing a recruitment process, the NV-HIE Board of Directors hired their first Executive Director in May, 2013. The Executive Director proceeded to hire technical, marketing, and fiscal staff (5 staff members).
- In accordance with federal law and Open Meeting Law, the NV-HIE released a Request for Proposals (RFP) on July 3, 2013, for an HIE technology solution. After an extensive two-part competitive selection process involving the review of multiple HIE solutions and public demonstrations by three finalists, the nonprofit NV-HIE Board selected Orion Health in August 2013. Orion began implementation on September 27, 2013. The Orion Health HIE provider portal was demonstrated for the public at a November Board meeting, and the full HIE platform was on schedule to go live on January 31, 2014.
- During a meeting on January 24, 2014, the NV-HIE Board of Directors voted to cease operations on February 7, 2014 (the last day of the grant period), citing a reluctance to go into debt without a clear source of revenue. The main concerns expressed included:
  - The lack of fiscal sustainability of the project, since revenue streams could not be confirmed after the federal grant funding ended on February 7, 2014. There was not sufficient time between November 2013, when the product was demonstrated, and the end of the grant period on February 7, 2014, to

gain a sufficient revenue stream from participating providers, hospitals, and labs;

- ONC's unexpected decision to deny previously approved uses of grant funds, which left the NV-HIE nearly \$270,000 short and unable to pay the remainder of the Orion contract, which was necessary to make the HIE operational;
- The official federal denial of Nevada's multiple requests for a no-cost extension on January 15, 2014, which left them with inadequate time to recruit participants, create a revenue stream, and become self-sustainable;
- The existence of a competing HIE in the marketplace that already has many of the largest potential participants as members, which limits the potential sources of revenue; and
- The speed with which medical providers, payers, labs, and hospitals could be recruited and on-boarded to begin providing revenue. Connecting an entity to the HIE takes approximately 6 to 8 weeks and involves establishing an interface. The approximate cost to that entity is \$4,500 per location.

### **Fiscal Facts**

- Total federal fiscal grant, awarded in 2010 for the four-year project: Not to exceed \$6,133,426.
- Total anticipated to be spent by the end of the grant period (February 8, 2010 to February 7, 2014): Approximately \$4.2 million. Major expenses have included:
  - Expenses for DHHS Staff and operations for the grant-mandated State Health IT Coordinator position and Office of Health Information Technology from 2010 to 2014 (State HIT Coordinator and 2 staff): \$1,016,388;
  - A contract with Capgemini Government Solutions from 2010 to 2013: \$1,474,025. This information technology consulting firm helped DHHS to develop and complete the original grant-required *State Health Information Technology Strategic & Operational Plan* and one of the grant-required updates to the plan; conduct a statewide Health IT assessment; research and prepare several collaboration reports for use by DHHS and the NV-HIE Board; and support the development and completion of deliverables related to meeting the implementation requirements of the State HIE grant and SB 43 (2011).

- A subgrant issued by DHHS through the OHIT to the nonprofit NV-HIE corporation in January 2013: Approximately \$1.7 million. This amount includes the following major expenditures and obligations: the nonprofit NV-HIE corporation staff and operations between May 2013 and February 2014 (5 staff, \$254,695); a contract with a program management firm to assist with developing the technical solution RFP and facilitating the RFP process (\$53,175); a technical consultant to assist with the Orion Health HIE platform implementation (\$78,000); the grant-mandated program evaluation report and NV-HIE sustainability plan (University of Nevada, Reno, \$193,979); and the Orion Health HIE technical solution and platform (\$1,046,250).

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