A BILL TO BE ENTITLED
AN ACT EXTENDING THE DEADLINES BY WHICH CERTAIN PROVIDERS ARE REQUIRED TO CONNECT TO AND PARTICIPATE IN NORTH CAROLINA’S HEALTH INFORMATION EXCHANGE NETWORK KNOWN AS NC HEALTHCONNEX AND EXPANDING THE MEMBERSHIP OF THE NORTH CAROLINA HEALTH INFORMATION EXCHANGE ADVISORY BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-414.4 reads as rewritten:

"§ 90-414.4. Required participation in HIE Network for some providers.
(a) Findings. – The General Assembly makes the following findings:
(1) That controlling escalating health care costs of the Medicaid program and other State-funded health services is of significant importance to the State, its taxpayers, its Medicaid recipients, and other recipients of State-funded health services.
(2) That the State needs and covered entities in North Carolina need timely access to certain demographic and clinical information pertaining to services rendered to Medicaid and other State-funded health care program beneficiaries and paid for with Medicaid or other State-funded health care funds in order to assess performance, improve health care outcomes, pinpoint medical expense trends, identify beneficiary health risks, and evaluate how the State is spending money on Medicaid and other State-funded health services.
(3) That making demographic and clinical information available to the State and covered entities in North Carolina by secure electronic means as set forth in subsection (b) of this section will, with respect to Medicaid and other State-funded health care programs, will improve care coordination within and across health systems, increase care quality for such beneficiaries, enable more effective population health management, reduce duplication of medical services, augment syndromic surveillance, allow more accurate measurement of care services and outcomes, increase strategic knowledge about the health of the population, and facilitate health care cost containment.

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

(1) The following providers of Medicaid services licensed to operate in the State that have an electronic health record system shall begin submitting demographic and clinical data by June 1, 2018:
   a. Hospitals as defined in G.S. 131E-176(13).
   b. Physicians licensed to practice under Article 1 of Chapter 90 of the General Statutes, except for licensed physicians whose primary area of practice is psychiatry.
   c. Physician assistants as defined in 21 NCAC 32S.0201.
   d. Nurse practitioners as defined in 21 NCAC 36.0801.

(2) Except as provided in subdivisions (3), (4), and (5) of this subsection, all other providers of Medicaid and State-funded health care services shall begin submitting demographic and clinical data by June 1, 2019.

(3) The following entities shall submit encounter and claims data, as appropriate, in accordance with the following time line:
   a. Prepaid Health Plans, as defined in S.L. 2015-245, by the commencement date of a capitated contract with the Division of Health Benefits for the delivery of Medicaid and NC Health Choice services as specified in S.L. 2015-245.
   b. Local management entities/managed care organizations, as defined in G.S. 122C-3, by June 1, 2020.

(4) The following entities shall begin submitting demographic and clinical data by June 1, 2021:
   a. Ambulatory surgical centers as defined in G.S. 131E-146.
   b. Dentists licensed under Article 2 of Chapter 90 of the General Statutes.
   c. Licensed physicians whose primary area of practice is psychiatry.

(5) The following entities shall begin submitting claims data by June 1, 2021:
   a. Pharmacies registered with the North Carolina Board of Pharmacy under Article 4A of Chapter 90 of the General Statutes.
   b. Reserved for future codification.

(6) Upon implementation of an electronic health record system or other technology solution enabling connectivity to the HIE Network, the following entities shall begin submitting demographic and clinical data by June 1 of the following fiscal year:
   a. State health care facilities operated by the Secretary of the Department of Health and Human Services, including State psychiatric hospitals, developmental centers, alcohol and drug treatment centers, neuro-medical treatment centers, and the Whitaker Psychiatric Treatment Facility.
   b. The State Laboratory of Public Health operated by the Department of Health and Human Services.

(a2) Extensions of Time for Establishing Connection to the HIE Network. – The Department of Information Technology, in consultation with the Department of Health and Human Services, may establish a process to grant limited extensions of the time for providers and entities to connect to the HIE Network and begin submitting data as required by this section upon the request of a provider or entity that demonstrates an ongoing good-faith effort to take necessary steps to establish such connection and begin data submission as required by this section. The process for granting an extension of time must include a presentation by the provider or entity to the Department of Information Technology and the Department of Health and Human Services.
Services on the expected time line for connecting to the HIE Network and commencing data submission as required by this section. Neither the Department of Information Technology nor the Department of Health and Human Services shall grant an extension of time (i) to any provider or entity that fails to provide this information to both Departments, (ii) that would result in the provider or entity connecting to the HIE Network and commencing data submission as required by this section later than June 1, 2020, or (iii) that would result in any provider or entity specified in subdivisions (4) and (5) of subsection (a1) of this section connecting to the HIE Network and commencing data submission as required by this section later than June 1, 2021. subdivision (6) of subsection (a1) of this section connecting to the HIE Network and commencing data submission later than the date specified in that subdivision. The Department of Information Technology shall consult with the Department of Health and Human Services to review and decide upon a request for an extension of time under this section within 30 days after receiving a request for an extension.

(a3) Exemptions from Connecting to the HIE Network. – The Department of Health and Human Services shall establish a process, in consultation with the Department of Information Technology, for the Department of Health and Human Services to grant exemptions to providers of Medicaid and other State-funded health care services for whom acquiring and implementing an electronic health record system and connecting to the HIE Network as required by this section would constitute an undue hardship. In determining whether to grant a hardship exemption, the Department may consider, without limitation, the following: (i) a provider's impending retirement or closure; (ii) lack of access to affordable broadband capacity adequate to support implementation of electronic health record technology and connection to the HIE Network; (iii) lack of financial flexibility to acquire and implement health information technology solutions needed to connect to the HIE Network; and (iv) whether exclusion of the provider from Medicaid would result in a lack of access to care under the Department's network adequacy standards. The process for granting a hardship exception must include a written request by the provider to the Department setting forth the specific bases for, and nature of, the asserted undue hardship. The Department shall promptly notify the Department of Information Technology of providers granted hardship exemptions under the process established pursuant to this subsection.

(e) Connection is Voluntary for Certain Providers. – Notwithstanding the mandatory connection and data submission requirements in subsections (a1) and (b), respectively, the following providers who provide services to Medicaid and other State-funded health care program beneficiaries and who receive Medicaid or other State funds are not required to connect to the HIE Network or submit data. They may connect to the HIE Network and submit data voluntarily:

1. Respiratory, rehabilitative, restorative, assistive technology, and intellectual and developmental disability service providers.
2. Durable medical equipment providers.
3. Personal care, community alternatives programs, including CAP/C and Innovations, private duty nursing, and Program of All-Inclusive Care for the Elderly (PACE) service providers.
4. Home health providers.
5. School-based health providers, Children's Developmental Services Agencies, NC Infant-Toddler Program service providers, and providers of the residential behavioral health program for children operated by the Secretary of the Department of Health and Human Services at Wright School.
6. Speech, language, and hearing service providers.
7. Hospice service providers.
8. Respite care service providers.
9. Non-emergency medical transportation services.
(10) Occupational and physical therapy service providers.

(f) Confidentiality of Data. – All data submitted to or through the HIE Network containing protected health information or personally identifying information that are in the possession of the Department of Information Technology or other agency of the State shall be confidential and shall not be public records pursuant to G.S. 132-1.

SECTION 2. G.S. 90-414.8 reads as rewritten:


(a) Creation and Membership. – There is hereby established the North Carolina Health Information Exchange Advisory Board within the Department of Information Technology. The Advisory Board shall consist of the following 4-14 members:

(1) The following four five members appointed by the President Pro Tempore of the Senate:
   a. A licensed physician in good standing and actively practicing in a medical specialty in this State.
   b. A patient representative.
   c. An individual with technical expertise in health data analytics.
   d. A representative of a behavioral health provider.
   e. A representative of a payor.

(2) The following four five members appointed by the Speaker of the House of Representatives:
   a. A representative of a critical access hospital.
   b. A representative of a federally qualified health center.
   c. An individual with technical expertise in health information technology.
   d. A representative of a health system or integrated delivery network.
   e. A licensed independent primary care physician in good standing and actively practicing in this State.

(3) The following three four ex officio, nonvoting members:
   a. The State Chief Information Officer or a designee.
   b. The Director of GDAC or a designee.
   c. The Secretary of Health and Human Services, or a designee.
   d. The Executive Administrator of the State Health Plan for Teachers and State Employees, or a designee.

(4) The following ex officio, voting member:
   a. The Executive Administrator of the State Health Plan for Teachers and State Employees, or a designee.

SECTION 3. G.S. 90-414.10 reads as rewritten:

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

…

(d) Except as otherwise permitted in G.S. 90-414.9(a)(3), G.S. 90-414.11(a)(3), or as required by law, the protected health information of an individual who has exercised the right to opt out may not be made accessible or disclosed to covered entities or any other person or entity through the HIE Network for any purpose.

…"

SECTION 4. This act is effective when it becomes law.