

March 6, 2014

Kathleen C. Barnes

Via Hand Delivery

kbarnes@mcnair.net

T 843.785.2171

F 843.686.5991

Swati Patel
South Carolina Office of the Governor
1205 Pendleton Street
Columbia, SC 29201

**Re: Executive Order No. 2009-15; South Carolina Health Information
Exchange ("SCHIE")**

Dear Ms. Patel:

Enclosed please find a letter from Sue Veer, Chair of the Interim Governance Committee ("IGC") for SCHIE, as well as a draft Executive Order Rescinding Executive Order No. 2009-15. These documents are being sent for the Governor's consideration due to the approaching March 14, 2014 close of the State Health Information Exchange Cooperate Grant (the "Grant"). Byron Roberts shared with me that he previously spoke with you regarding the IGC's request that the Governor rescind Executive Order No. 2009-15 in conjunction with the close of the Grant. For your convenience, a copy of the original Executive Order is also enclosed. Please contact me with any questions, and thank you for your consideration.

Kind regards,

McNAIR LAW FIRM, P.A.



Kathleen C. Barnes

Enclosures

McNair Law Firm, P. A.
Shelter Cove Executive Park
23-B Shelter Cove Lane, Suite 400
Hilton Head Island, SC 29928

Mailing Address
Post Office Drawer 3
Hilton Head Island, SC 29938

mcnair.net



February 3, 2014

Governor Nikki R. Haley
Office of the Governor
1205 Pendleton Street
Columbia, SC 29201

**Re: Executive Order No. 2009-15; South Carolina Health
Information Exchange**

Dear Governor Haley:

This letter is to inform the Office of the Governor that the Interim Governance Committee (“IGC”), established by Executive Order No. 2009-15, has fulfilled the directives as described in the Executive Order and that the federal grant used to develop the South Carolina Health Information Exchange (“SCHIEEx”) is closing on March 14, 2014.

Executive Order No. 2009-15 was filed on October 16, 2009, and established the IGC. The IGC’s purpose, as stated in the Order, was “to recommend strategies and policies to successfully implement and sustain a statewide Health Information Exchange.” The Order charged the IGC with the following:

1. Convene healthcare stakeholders and build trust and consensus among the stakeholders;
2. Discuss ways to enhance the technical architecture and framework of the statewide HIE to promote the meaningful use of electronic health records by providers;
3. Cooperate with stakeholders to develop appropriate standards for the statewide HIE’s privacy, security, and interoperability that aligns with state and federal standards;
4. Establish mechanisms to provide oversight and accountability to the HIE; and
5. Advise and assist with the development of proposed enabling legislation to create a permanent governing body.

As noted in the Executive Order, the American Recovery and Reinvestment Act of 2009 (“ARRA”) provided for the expenditure of \$500 billion in federal funds for, among other things, healthcare. The ARRA includes The Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”). The purpose of HITECH is to advance the appropriate use of health information technology to improve the quality of care. In 2009, the State of South Carolina was awarded the State Health Information Exchange Cooperative Agreement Grant (the “Grant”) to operate and develop SCHIEEx through the South Carolina Department of Health and Human Services (“SCDHHS”) and the State Budget and Control Board, Office of Research and Statistics (“ORS”). Since that time, the Grant has funded the operation and development of the

exchange, including governance, oversight, accountability, privacy, security, and interoperability, through the joint efforts of SCDHHS, ORS, and the IGC. The Grant is closing on March 14, 2014.

In 2009-2010, the IGC advised on and assisted with the drafting of proposed legislation to create a permanent governing body to sustain the statewide HIE. The legislation was proposed in 2010 as House Bill 4538 but was not enacted by the General Assembly. In 2011, the Director of SCDHHS and member of the IGC, Anthony E. Keck, proposed the alternative of operating the statewide HIE through a non-profit corporation to contract with ORS for the exchange operation.

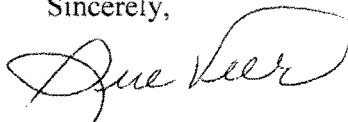
The IGC proceeded to evaluate the non-profit governance model and the process involved in establishing such an entity. The IGC found that a non-profit governance structure allows for flexibility and agility in HIE operations and adaptation to the progression of technology and the healthcare industry. The use of a non-profit governance structure for a statewide HIE is consistent with the national trend among other states. Additionally, the Office of National Coordinator for Health Information Technology worked with the IGC on the prospect of non-profit governance and is in favor of this model. The IGC, in conjunction with SCDHHS and ORS, has identified a qualified, non-profit entity appropriate for this role. The incorporating entities of this non-profit represent a broad spectrum of health care providers, and its Board of Directors includes knowledgeable leaders in the industry who have played an integral role in promoting the meaningful use of health information technology throughout the State.

The IGC has voted and recommends that SCHIE assign all Participation Agreements to South Carolina Health Information Partners, Inc. ("SC-HIP"). SC-HIP has agreed to assume responsibility for operating the exchange, as evidenced in the attached letter of intent, a copy of which was delivered to the Executive Director of SCHIE on January 8, 2014. SC-HIP is a nonprofit entity based in South Carolina whose purposes are to operate a secure health information exchange and to carry out those activities that will facilitate the utilization of health information by health care professionals, hospitals, related organizations, and the public in ways that improve the quality and efficiency of healthcare and patient safety. Members of the Board of Directors of SC-HIP worked with the SCHIE program for the last four years as members of the IGC.

The IGC requests that it be released from any further responsibilities related to the Executive Order No. 2009-15 and that the Order be rescinded.

The IGC would like to thank Governor Haley and the South Carolina Department of Health and Human Services for the opportunity to represent the people of South Carolina over the past four years in working to develop and implement the South Carolina Health Information Exchange.

Sincerely,



Sue Veer
Chair, Interim Governance Committee

[insert Executive Department Letterhead]

Executive Order No. 2014-__

WHEREAS, the Congress and President of the United States enacted the American Recovery and Reinvestment Act of 2009 (the “Act”), which provides for the expenditure of \$500 billion in federal funds for infrastructure investment, health care and welfare programs, and other public works;

WHEREAS, the Act included the Health Information Technology for Economic and Clinical Health Act of 2009 (the “HITECH Act”) that set forth a plan for advancing the appropriate use of health information technology to improve quality of care and establish a foundation for health care reform;

WHEREAS, Executive Order No. 2009-15 established the Interim Governance Committee (“Committee”) for the purpose of recommending strategies and policies to successfully implement and sustain a statewide Health Information Exchange as provided in that Order and the State Health Information Exchange Cooperative Agreement Grant (the “Grant”); and

WHEREAS, the Committee fulfilled the terms of Executive Order No. 2009-15.

NOW, THEREFORE, Executive Order No. 2009-15 is hereby rescinded.

This Order is effective immediately.

**GIVEN UNDER MY HAND AND
THE GREAT SEAL OF THE
STATE OF SOUTH CAROLINA,
THIS __th DAY OF MARCH
2014.**

NIKKI R. HALEY
Governor

State of South Carolina
Executive Department



FILED

OCT 16 2009

Mark H. H. H.
SECRETARY OF STATE ⁸

Office of the Governor

EXECUTIVE ORDER NO.

2009-15

WHEREAS, the Congress and President of the United States enacted the American Recovery and Reinvestment Act of 2009 (the Act), which provides for the expenditure of \$500 billion in federal funds for infrastructure investment, health care and welfare programs, and other public works;

WHEREAS, the Act includes the Health Information Technology for Economic and Clinical Health Act of 2009 (the HITECH Act) that sets forth a plan for advancing the appropriate use of health information technology to improve quality of care and establish a foundation for health care reform;

WHEREAS, the HITECH Act authorizes the Centers for Medicare and Medicaid Services (CMS) to administer incentives to eligible professionals and hospitals to encourage the use of secure, electronic health records (EHRs);

WHEREAS, to achieve the goal of transforming the health care system through health information technology, three things must first be established:

- Clinicians and hospitals must acquire and implement certified EHRs in a way that fully integrates these tools into the care delivery process;
- Technical, legal, and financial supports are needed to enable information to flow securely and to support health care and population health; and,
- A skilled workforce needs to support the adoption of EHRs, information exchange across health care providers and public health authorities, and the redesign of work-flows within health care settings to gain the quality and efficiency benefits of EHRs while maintaining individual privacy and security; and

WHEREAS, health information technology systems are powerful tools that may be used to achieve outstanding quality in health care delivery, resource coordination, cost efficiency, and patient safety in the health care system.

NOW, THEREFORE, I hereby establish the Interim Governance Committee (Committee). The Committee's purpose is to recommend strategies and policies to successfully implement and sustain a statewide Health Information Exchange (HIE).

The Committee shall:

- Convene healthcare stakeholders and build trust and consensus among the stakeholders;
- Discuss ways to enhance the technical architecture and framework of the statewide HIE to promote the meaningful use of electronic health records by providers;
- Cooperate with stakeholders to develop appropriate standards for the statewide HIE's privacy, security, and interoperability that aligns with state and federal standards;
- Establish mechanisms to provide oversight and accountability to the HIE; and
- Advise and assist with the development of proposed enabling legislation to create a permanent governing body.

The Committee consists of the following members or their designees:

- (1) President of the South Carolina Hospital Association;
- (2) Chief Executive Officer of the South Carolina Office of Rural Health;
- (3) President of the South Carolina Medical Association;
- (4) Chief Executive Officer of the South Carolina Primary Health Care Association;
- (5) President of the South Carolina Pharmacy Association;
- (6) Director of the South Carolina Department of Health and Human Services;
- (7) Director of the Budget and Control Board's Office of Research and Statistics;
- (8) Commissioner of the Department of Health and Environmental Control;
- (9) Chairman of the Board of the Lakelands Rural Health Network;
- (10) President and Chief Executive Officer of Health Sciences South Carolina;
and
- (11) A consumer.


This Order is effective immediately.

GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 16TH DAY
OF OCTOBER 2009.



MARK SANFORD
Governor

ATTEST:



MARK HAMMOND
SECRETARY OF STATE

