SPONSOR: Sen. Seigfried & Rep. Romer
Sen. Mantzavinos; Rep. Hilovsky

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

# SENATE BILL NO. 341

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DELAWARE HEALTH INFORMATION NETWORK.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 10301, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10301. Purpose.

(a) The purpose of this chapter is to create the Delaware Health Information Network ("DHIN"), a not-for-profit body both politic and corporate, to serve as a public instrumentality that has the right, obligation, privilege, and purpose to promote the design, implementation, operation, and maintenance of facilities for public and private use of health care information in the State. DHIN is the State's sanctioned provider of health information exchange and health data utility services.

Section 2. Amend § 10303, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10303. Powers and Duties.

(a) DHIN has the power and duty to do all of the following:

(13) Promote efficient and effective communication among Delaware healthcare providers and stakeholders including hospitals, physicians, state agencies, payers, employers, ~~and laboratories.~~ pharmacies, laboratories, and other health care entities by serving as the State's sanctioned health data utility.

(b) To carry out the duties listed in this section, DHIN is granted all incident powers, without limitation, including the powers to do all of the following:

(5) Enter into contracts and business arrangements, including joint venture agreements, partnership agreements, sub-lease agreements, or other agreements, with organizations engaged in any business or health care activities permitted under Delaware law to further the underlying mission of DHIN.

(c) A contract or business arrangement entered into under subsection (b) of this section may not be construed to deem DHIN a health-care provider.

Section 3. Amend § 10307, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10307. Privacy; protection and use of information.

(a)(1) DHIN shall by rule or regulation ensure that patient specific health information is disclosed only with the patient's consent or best interest to those having a need to know.

(2) A disclosure that is made in the patient's "best interest to those having a need to know" includes any of the following:

a. Disclosure for treatment, payment and operations purposes, and ~~required~~ disclosures to public health authorities, as "treatment", "payment", "operations", and "public health authorities" are defined under the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and associated regulations.

b. Disclosure for other purposes permitted under Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and other federal law and regulations addressing the privacy of protected health information.

(e) In addition to the disclosures permitted by subsection (a) of this section, DHIN shall by rule or regulation provide a health-care payer, provider, purchaser, or researcher with access to clinical data in DHIN's possession, if and to the extent that the access is permitted by Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and DHIN's contract with the relevant data-sending organizations.

(2) DHIN may not provide patient-specific data to a person under this subsection without first obtaining written consent from the patient authorizing the ~~disclosure.~~ disclosure or otherwise taking reasonable steps to ensure that the provision of patient-specific data to a person under this subsection is permitted by the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) and the Federal Policy for the Protection of Human Subjects (the "Common Rule").

(3) Clinical data may be provided to a requesting person under this subsection only when a majority of the DHIN Board of Directors, or of a subcommittee established under DHIN's bylaws for purposes of reviewing data requests, determines that the clinical data should be provided to the requesting person to facilitate the purposes of this subsection.

b. ~~A request for~~ DHIN's release of limited data sets or identifiable data must go through Board or subcommittee review.

Section 4. Amend § 10312, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10312. Definitions.

As used in this chapter, unless amended, supplemented, or otherwise modified by regulations adopted under this chapter:

(7) "Pricing information" includes all of the ~~following:~~ following, when identifiable to a specific provider, payer, or patient:

a. The preadjudicated price that a provider or facility charges to a reporting entity for health-care services.

b. The amount a patient or insured individual pays, including copays and deductibles.

c. The postadjudicated price that a reporting entity pays to a provider for health-care services.

Section 5. Amend § 10314, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10314. External and public reporting of claims data.

(c)(1) For the purposes of public health improvement research and activities, DHIN shall provide access, at no cost, to ~~all claims data reported by~~ standardized data sets created by DHIN from claims data reported to the Delaware Health Care Claims Database under this subchapter to the following state agencies:

a. Office of Management and Budget.

b. State Employee Benefits Committee.

c. Division of Public Health.

d. State Council for Persons with Disabilities.

e. Division of Medicaid and Medical Assistance.

f. Department of Insurance.

g. Delaware Health Care Commission.

(g) DHIN shall promulgate regulations to provide individuals, providers, and other permitted users of clinical data access to clinically relevant information derived from claims data by incorporating clinical proxy data elements. Any data released under this subsection must exclude pricing information and is subject to the access and use requirements of § 10307 of this title.

SYNOPSIS

Sections 1 and 2 of this Act identify DHIN as the State's sanctioned provider of Health Data Utility (HDU) services. The HDU concept arises and builds off of services provided by Health Information Exchanges (HIEs) such as

DHIN. Including this language will align with DHIN's development and assist the State in responding to federal and other grant funding opportunities that require or prefer collaboration with a sanctioned HDU.

Section 2 of this Act is a clarifying provision that states DHIN's ability to contract with organizations in furtherance of its mission in business arrangements that facilitate DHIN's underlying mission, notwithstanding that those organizations may provide services (such as direct provision of treatment to patients) that DHIN does not directly provide under this chapter. It also makes a technical change to align the list of stakeholders identified with lists that appear elsewhere in the statute.

Section 3 of this Act aligns DHIN's use cases more clearly with the requirements of federal law that relate to using health data for analytic and research purposes, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Policy for Protection of Human Subjects (the Common Rule) and makes a technical correction to a description of DHIN processes. This change will also ensure consistency between permitted uses of claims data for research purposes and permitted uses of clinical data.

Sections 4 and 5 clarify DHIN's ability to incorporate clinically relevant information into a patient's longitudinal record, excluding pricing information, for access as permitted by the laws and regulations governing DHIN's HIE services. This clarification ensures patients will have access to the clinical information included in claims data for their own uses.

Section 5 makes a technical correction to recognize that DHIN's enabling legislation and applicable federal law do not permit DHIN to "report" data to the public that would be suitable for the public health improvement research and activities purposes designed to be encouraged by that section, and clarifies that the identified agencies will have access to the standardized claims data sets curated by DHIN from the Delaware Health Care Claims Database as otherwise permitted under this statute at no cost.

Author: Senator Seigfried