



---

## **Data Use Agreement**

### **Important Notices**

This is a Delaware Health Information Network (DHIN) computer system. This system, including all related hardware and software, peripheral equipment, network devices, and network services (including Internet access) are provided only for the use of authorized DHIN participants and members as defined by the DHIN, pursuant to 16 *Del. C.* § 9920, et seq. Activities performed on a DHIN computer system may be monitored at any time to facilitate protection against unauthorized access and to verify security procedures, survivability, and operational security. Monitoring includes activities by authorized DHIN entities under the cognizance of the Information Security Officer to test or verify the security of the system.

Individuals using this system without authority, or in excess of their authority, are subject to having all of their activities on this system monitored and recorded by system personnel. In the course of monitoring individuals improperly using this system, or in the course of system maintenance, the activities of authorized users may also be monitored. During monitoring, information may be examined, recorded, copied and used for authorized purposes. All information, including personal information, placed or sent over this system may be monitored.

Use of this DHIN computer system constitutes consent to monitoring and each user is advised that if such monitoring reveals possible evidence of criminal activity, system personnel may provide that evidence to law enforcement officials and may subject the user to criminal prosecution. Evidence of unauthorized activities may also be used for administrative action. Anyone using this system expressly consents to such monitoring.

### **Privacy Act Warning**

Information contained in this system is subject to the Privacy Act of 1974, 5 USC 552a, as amended. Personal information contained in this system may be used only by authorized persons in the conduct of official business. Any individual responsible for unauthorized disclosure or misuse of personal information may be subject to a fine of up to \$5,000 plus civil penalties.

### **DHIN Utility Terms and Conditions of Use**

These Terms govern your use of the DHIN Utility ("Utility"). Please read the following Terms and Conditions of Use ("Terms") carefully before using the Utility.

### **Your Permission to use the DHIN Utility:**

DHIN hereby gives you permission to use the Utility, subject to the conditions and limitations set forth in these Terms. You may only use or download patient information contained on the Utility for the following purposes and only to the extent permissible under all applicable laws regarding the privacy of patient information: (i) for treatment of

those patients under your care; (ii) to collect payment for the services you provide to your patients; (iii) to conduct your business operations; and (iv) to comply with the laws that govern health care. All patient information viewed through the Utility is strictly confidential and is subject to the protections of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the privacy and security regulations promulgated pursuant to HIPAA, including, but not limited to, 45 C.F.R. Parts 160 and 164 Subparts C and E, as may be amended from time to time. You may not:

- Use, reproduce or copy all or part of the content of the Utility except as expressly permitted by these terms or applicable law
- Change or delete any proprietary notices from materials downloaded or printed out from the Utility
- Use the content of the Utility for the benefit of a third party, except as contemplated by these Terms
- Transmit or provide any data or other content from the Utility to a third party, except as specifically provided by these Terms
- Incorporate any data or other content from the Utility in a product designed, developed, marketed, sold or licensed by you or on your behalf
- Use the Utility in a manner contrary to any applicable law

The DHIN may terminate your access to the Utility at any time, with or without cause, upon ten (10) days prior notice. The DHIN may terminate your access to the Utility immediately if you breach these Terms. In addition, the DHIN may terminate your access to the Utility if you have not used the Utility at all for a period of six (6) months.

The DHIN is the owner or licensee of all rights in the Utility, its content, software, and services. You have no rights to such content, software or services except as expressly granted in these Terms. "DHIN" and the logos or other proprietary marks of DHIN's licensors and partners are trademarks of the DHIN or its licensors and partners. No right, title or interest in those trademarks is granted to you in these Terms.

### **Release of Liability, Indemnification**

You agree to be solely responsible for your use of this Utility and for maintaining the confidentiality of your unique username and password. You agree that any use of the Utility by your employees or agents is subject to the Terms, and that you will inform your employees and agents of such Terms and their obligations to abide them. You agree to be responsible for the use of the Utility by your employees and agents. The Utility provides access to general educational information; you understand and agree that such information is not to be used as a substitute for the medical judgment of a qualified health care professional.

In consideration for the DHIN permitting you to use the Utility, you expressly release and hold harmless the DHIN, its trustees, officers, directors, employees, agents and affiliates from any and all claims, liabilities, demands, causes of action, costs, expenses, and damages of every kind and nature, in law, equity, or otherwise, arising out of or in any way related to your use of the Utility, whether arising from any acts or omissions by the DHIN.

In addition, you will indemnify and hold harmless the DHIN, its officers, directors, agents, affiliates, and employees, against all actual and direct losses, liabilities, damages, claims, costs or expenses (including reasonable attorney's fees) they may suffer as the result of third party claims, demands, actions, investigations, settlements or judgments against them arising from or in connection with any breach of these Terms, or from any claim of any nature or any wrongful acts or omissions, by you or your employees, officers or agents.

The provisions of this section entitled "Release of Liability, Indemnification" shall survive termination of this agreement.

The DHIN is not responsible for any links to or from other sites.

This Utility may contain links to other Web sites, and other Web sites may provide links to this Utility. These links are provided for your convenience only. The DHIN does not control these other sites and assumes no liability or responsibility for them, including any content or services provided to you by such sites. You should not consider any link to or from another site as an endorsement of that site by the DHIN.

#### **You Agree that the DHIN May Use and Disclose Certain Information About You.**

You agree that, should you elect to supply it, the Delaware Health Information Network may use your name, email address, physical address, or other data to communicate with you. You may request to have this information modified or deleted from our records. The DHIN may use this information as necessary to enforce these Terms.

You further agree that the DHIN may use the information for its internal business purposes and disclose the information to third parties who are performing services on its behalf. The DHIN will not otherwise share this information with any other party.

This Agreement is governed by Delaware Law. Accordingly, these Terms shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of law principles.

Any action against the DHIN must be commenced in the State of Delaware.

You agree that the courts located in or serving the State of Delaware shall have exclusive jurisdiction and venue over any action arising out of or relating to these Terms or your use of the Utility. You waive any defense that a court located in or serving Wilmington, Delaware, lacks personal jurisdiction over you, is an improper venue, or is an inconvenient forum.

#### **Other Miscellaneous Provisions**

These Terms constitute the entire and only understanding between you and the DHIN regarding your use of this Utility. No modification or attempted modification of these Terms by you shall be binding on the DHIN unless made in writing and physically signed by an authorized officer of the DHIN. The DHIN may modify these Terms at any time.

Notices sent to you by the DHIN in connection with these Terms or your use of the Utility may be delivered to you by electronic mail, a general notice on the Utility, or by written communication delivered by first class U.S. mail. You may give notice to the DHIN at any time by letter delivered by first class postage prepaid U. S. mail or overnight courier to the following address:

Delaware Health Information Network  
107 Wolf Creek Blvd., Ste. 2  
Dover, DE 19901

These Terms are severable to the extent any term is deemed invalid, illegal or unenforceable.

The DHIN's failure to enforce any provision of these Terms shall not be deemed a waiver of that or any other provision of these Terms.

The parties to this agreement are independent contractors of one another; nothing herein shall be deemed to create any relationship of agency, partnership or joint venture between the parties.

You may not assign any of your rights and obligations arising under these Terms without the prior written consent of the DHIN; any attempted assignment not in compliance with this sentence shall be void.

#### **Legal Disclaimer**

SERVICES PROVIDED THROUGH AND INFORMATION CONTAINED ON THE SITE ARE PROVIDED "AS IS". THE DHIN MAKES NO, AND HEREBY DISCLAIMS ANY, WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR PURPOSE. FURTHER, DHIN DISCLAIMS ANY WARRANTY THAT THE UTILITY WILL BE AVAILABLE AT ALL TIMES OR WILL OPERATE WITHOUT INTERRUPTION OR ERROR. DHIN MAKES NO WARRANTY AS TO THE RELIABILITY, ACCURACY, TIMELINESS, USEFULNESS, ADEQUACY, COMPLETENESS OR SUITABILITY OF THE SERVICES OR INFORMATION PROVIDED THROUGH THE UTILITY.