



TITLE 16

Health and Safety

Delaware Health Information Network [Effective Jan. 1, 2011]

CHAPTER 103. DELAWARE HEALTH INFORMATION NETWORK [EFFECTIVE JAN. 1, 2011]

§ 10301. Purpose [Effective Jan. 1, 2011]

(a) The purpose of this subchapter is to create a public instrumentality of this State known as the Delaware Health Information Network ("DHIN") which is a not-for-profit body both politic and corporate, which shall have the rights, obligations, privileges and purpose to promote the design, implementation, operation and maintenance of facilities for public and private use of health care information in the State. The DHIN shall be the State's sanctioned provider of health information exchange services.

(b) It is intended that the DHIN be a public-private partnership for the benefit of all of the citizens of this State.

(c) The DHIN shall ensure the privacy of patient health care information.

[71 Del. Laws, c. 177, § 1; 77 Del. Laws, c. 368, §§ 1, 16.;](#)

§ 10302. Creation of Delaware Health Information Network [Effective Jan. 1, 2011]

(a) There is hereby established the Delaware Health Information Network, which will be managed and operated by a Board of Directors consisting of 19 members. It is intended that the membership of the Board include individuals with various business, technology and healthcare industry skills committed to managing the Corporation in an efficient, effective and competitive manner. The Board shall be comprised of the following members:

(1) The Director of the Office of Management and Budget or the Director's designee;

(2) The Chief Information Officer of the Department of Technology and Information or the Chief Information Officer's designee;

(3) The Secretary of the Department of Health and Social Services or the Secretary's designee;

(4) The Controller General or the Controller General's designee;

(5) Six members, appointed by the Governor, including at least 1 person who shall represent the interests of medical consumers and at least 3 with experience and/or expertise in the healthcare industry;

(6) Three members appointed by the Governor representing hospitals or health systems;

(7) Three members appointed by the Governor representing physicians;

(8) One member appointed by the Governor representing businesses or employers;
and

(9) Two members appointed by the Governor representing health insurers or health plans.

The Chair of the Board shall be elected from among its members by a majority of the Directors and shall serve a 3-year term. Each member shall serve a 3-year term, with such initial terms being staggered as set by the Governor and each member continuing to serve beyond such term until a successor is appointed. Any member absent without adequate reason for 3 consecutive meetings, or who fails to attend at least half of all regular business meetings during any calendar year, may be removed from the Board with the approval of the Governor upon a recommendation from the Board. The Board, the Delaware Healthcare Association, the Medical Society of Delaware, Delaware State Chamber of Commerce, and other interested organizations may make nonbinding recommendations to the Governor for appointments to the Board.

(b) No state officer or employee appointed to the Board or serving in any other capacity for the Board shall be deemed to have resigned from public office or employment by reason of such appointment or service. Members of the Board who are serving on January 1, 2011, shall continue to serve until a successor is appointed by the Governor or otherwise designated by the ex officio members.

(c) The Board is authorized to conduct its business by a majority of a quorum. A quorum is a simple majority of the members appointed.

[71 Del. Laws, c. 177, § 1](#); [70 Del. Laws, c. 186, § 1](#); [75 Del. Laws, c. 88, § 21\(8\)](#); [75 Del. Laws, c. 389, § 1](#); [77 Del. Laws, c. 368, §§ 2-5, 16](#);

§ 10303. Powers and duties [Effective Jan. 1, 2011]

(a) In furtherance of the purposes of this subchapter, the DHIN shall have the following powers and duties:

(1) Develop and maintain a community-based health information network to facilitate communication of patient clinical and financial information, designed to:

a. Promote more efficient and effective communication among multiple health care providers, including, but not limited to, hospitals, physicians, payers, employers, pharmacies, laboratories and other health care entities;

b. Create efficiencies in health care costs by eliminating redundancy in data capture and storage and reducing administrative, billing and data collection costs;

c. Create the ability to monitor community health status; and

d. Provide reliable information to health care consumers and purchasers regarding the quality and cost-effectiveness of health care, health plans and health care providers;

(2) Develop or design other initiatives in furtherance of its purpose;

(3) Report and make recommendations to the Governor and General Assembly;

(4) Adopt bylaws to govern the conduct of its affairs and to carry out and discharge its powers, duties and functions and to adopt policies as appropriate to carry out and discharge its powers, duties, and functions, and to sue, but not be sued, to enter into contracts and agreements and to plan, control facilities and such real and personal property as it may deem necessary, convenient or desirable without applications of the provisions of Chapters 59, 69, or 70 of Title 29;

(5) All prior regulations and rules promulgated by the Delaware Health Care Commission regarding the DHIN shall remain in full force and effect until the DHIN replaces the aforementioned regulations and rules with bylaws and/or policies;

(6) The bylaws shall include a provision pertaining to conflicts of interest and that Board members, staff, committee members and others conducting business or associated with the DHIN shall be required to sign conflict of interest statements;

(7) To have and exercise any and all powers available to a corporation organized pursuant to Chapter 1 of Title 8, the Delaware General Corporation Law;

(8) To employ such personnel and provide such benefits as necessary to carry out its functions and to retain by contract engineers, advisors, and other providers of advice, counsel and services which it deems advisable or necessary in the exercise of its purposes and powers and upon such terms as it deems appropriate;

(9) To exercise all of the power and the authority with respect to the operation, development and maintenance of the DHIN;

(10) To do all acts and things necessary or convenient to carry out its functions, including without limitation, the authority to open and operate separate bank accounts in the name of the DHIN;

(11) To collect, receive, hold and disburse funds in accordance with the needs of the DHIN, including user fees set by the DHIN;

(12) Implement and operate a statewide integrated health information network to enable communication of clinical and financial health information, and other information and other related functions as deemed necessary by the Board;

(13) Promote efficient and effective communication among Delaware healthcare providers and stakeholders including hospitals, physicians, state agencies, payers, employers, and laboratories;

(14) Promote efficiencies in the healthcare delivery system;

(15) Provide a reliable health information exchange to authorized users;

(16) Work with governments and other states to integrate into or with the DHIN and/or assist them in providing regional integrated health information systems;

(17) Work towards improving the quality of health care and the ability to monitor community health status and facilitate health promotions by providing immediate and current outcome, treatment and cost data and related information so that patients, providers and payers can make informed and timely decisions about health care;

(18) The DHIN shall make annual reports to the Governor and members of the General Assembly setting forth in detail its operations and transactions, which shall include annual audits of the books and accounts of the DHIN made by a firm of independent certified public accountants mutually agreed to by the Auditor of Accounts and the Director of the Office of Management and Budget; and

(19) Perform any and all other activities in furtherance of the above.

(b) To carry out the above duties, the DHIN is granted all incidental powers, without limitation, including the following:

(1) To contract with sufficient third parties and/or employ nonstate employees, without applications of the provisions of Chapters 59, 69, or 70 of Title 29 respectively;

(2) To establish a nonappropriated special funds account in its budget in order to receive gifts and donations;

(3) To establish reasonable fees or charges for provision of its services to nonparticipant third parties; and

(4) To sell or license any copyrighted or patented intellectual property.

[71 Del. Laws, c. 177, § 1; 77 Del. Laws, c. 368, §§ 6-8, 16;](#)

§ 10304. Immunity from suit; limitation of liability [Effective Jan. 1, 2011]

(a) All members of the Board of Directors of the DHIN, whether temporary or permanent, shall not be subject to and shall be immune from claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken, performed or reached in good faith and without malice by any such member or members acting individually or jointly in carrying out the responsibilities, authority, duties, powers and privileges of the offices conferred by law upon them under this chapter, or any other State law, or duly adopted rules and regulations of the DHIN, good faith being presumed until proven otherwise, with malice required to be shown by a complainant. All employees and staff

of the DHIN, whether temporary or permanent, shall enjoy the same rights and privileges concerning immunity from suit otherwise enjoyed by State employees pursuant to the Constitution of this State and §§ 4001 through 4005 of Title 10.

(b) The DHIN is not a health care provider and is not subject to claims under Chapter 68 of Title 18. No person or entity who participates or subscribes to the services or information provided by the DHIN shall be liable in any action for damages or costs of any nature, in law or equity, which result solely from that person's use or failure to use DHIN information or data that was imputed or retrieved in accordance with the rules or regulations of the DHIN. In addition, no person shall be subject to antitrust or unfair competition liability based on membership or participation in the DHIN as the State's sanctioned provider of health information services that are deemed to be essential to governmental function for the public health and safety.

[71 Del. Laws, c. 177, § 1](#); [70 Del. Laws, c. 186, § 1](#); [77 Del. Laws, c. 368, §§ 9, 10, 16](#);

§ 10305. Property rights [Effective Jan. 1, 2011]

(a) All persons providing information and data to the DHIN shall retain a property right in that information or data, but grant to the other participants or subscribers a nonexclusive license to retrieve and use that information or data in accordance with the rules or regulation promulgated by the DHIN.

(b) All processes or software developed, designed or purchased by the DHIN shall remain its property subject to use by participants or subscribers in accordance with the rules or regulations promulgated by the DHIN.

[71 Del. Laws, c. 177, § 1](#); [77 Del. Laws, c. 368, §§ 11, 16](#);

§ 10306. Regulations; resolution of disputes [Effective Jan. 1, 2011]

(a) The DHIN is hereby authorized to promulgate rules and regulations under and pursuant to subchapter II of Chapter 101 of Title 29 to carry out the objectives of this subchapter. All prior regulations and rules promulgated by the Delaware Health Care Commission in regards to the DHIN shall remain in full force and effect until amended or repealed by the DHIN.

(b) To resolve disputes under this subchapter or the rules and regulations promulgated herein among participants, subscribers or the public, the DHIN is hereby authorized to hear and determine case decisions under and pursuant to subchapter III of Chapter 101 of Title 29.

(c) Any person aggrieved by the unlawfulness of any rule or regulation of the DHIN herein, or any person against whom a case decision has been decided, may appeal to the Superior Court in accordance with subchapter V of Chapter 101 of Title 29.

[71 Del. Laws, c. 177, § 1](#); [77 Del. Laws, c. 368, §§ 12, 13, 16](#);

§ 10307. Privacy; protection of information [Effective Jan. 1, 2011]

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

(b) The health information and data of the DHIN shall not be subject to the Freedom of Information Act, Chapter 100 of Title 29, nor to subpoena by any court. Such information may only be disclosed by consent of the patient or in accordance with the DHIN's rules, regulations or orders.

(c) Any violation of the DHIN's rules or regulations regarding access or misuse of the DHIN health information or data shall be reported to the office of the Attorney General, and subject to prosecution and penalties under the Delaware Criminal Code or federal law.

[71 Del. Laws, c. 177, § 1; 77 Del. Laws, c. 368, §§ 14, 16.;](#)

§ 10308. No pledge of state credit; no assumption of liability by State [Effective Jan. 1, 2011]

The DHIN shall have no power, except where expressly granted by separate act of the General Assembly, to pledge the credit or to create any debt or liability of the State or of any other agency or of any political subdivision of the State, and the State shall not assume or be deemed to have assumed any debt or liability of the DHIN as a result of any actions by the DHIN.

[71 Del. Laws, c. 177, § 1; 77 Del. Laws, c. 368, § 16.;](#)