



DHIN End User 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.* § 103, 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 DHIN Information Security Officer to test or verify the security of the system.

Individuals using this DHIN computer system are subject to having all their activities on this system monitored and recorded by system personnel, and use of this DHIN computer system constitutes consent to such monitoring. Use of the system without authority or in excess of authority may rise to the level of criminal activity. 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, HIPAA, and HITECH Warning

Information contained in this system is subject to the Privacy Act of 1974, 5 USC 552a, as amended and the Health Information Technology for Economic and Clinical Health Act, 42 USC § 17921 et seq. Personal information including but not limited to protected health information (PHI) 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 fines, civil penalties and/or criminal prosecution.

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) as permitted by federal and state privacy laws and regulations. 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"), the HITECH Act, 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 the terms of this Agreement and/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, other than the subject patient, 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 or in compliance with the law
- 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

You agree that you will delete or destroy any protected health information that is misdirected to you, mistakenly received by you, and/or inappropriately disclosed to you. You agree to inform DHIN of such inappropriate disclosure and agree that you will not forward or otherwise further disclose the information. You further agree that you will promptly inform DHIN of any issues relating to the content or timeliness of information provided through DHINs systems.

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 any of the Terms in this Data Use Agreement. In addition, the DHIN may immediately 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 of this Data Use Agreement, and that you will inform your employees and agents of such Terms and their obligations to abide by them, and will supervise their access. You agree to be responsible for the use of the Utility by your employees and agents. You agree that you will promptly inform DHIN should you become aware of any violations by your employees or agents, and that you will cooperate fully with any investigation that arises from DHIN's monitoring of the system. 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 or the use of your employees and agents 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 your 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 the Terms of this Data Use Agreement.

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.

Signatories:

<hr/>	<u>Delaware Health Information Network (DHIN)</u>
Organization	
<hr/>	<u>Janice L. Lee, MD</u>
Name of Authorized Agent (print)	
<hr/>	<u>Chief Executive Officer</u>
Title	
<hr/>	<u>Signature</u>
Signature	
<hr/>	<u>Date</u>
Date	