SPONSOR: Sen. Mantzavinos & Rep. Romer
Sens. Huxtable, Walsh; Rep. Hilovsky

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 138
AS AMENDED BY
SENATE AMENDMENT NO. 1

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,~~ 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 services.

Section 2. Amend § 10302, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10302. Delaware Health Information Network Board of Directors.

(a) A Delaware Health Information Network Board of Directors ("Board") manages and operates DHIN. Board membership must include individuals with various business, technology, and healthcare industry skills who are committed to managing DHIN in an efficient, effective, and competitive manner. Board membership is comprised as follows:

(5) ~~Fifteen~~ Nine members ~~are~~ appointed by the Governor. The Board, Delaware Healthcare Association, Medical Society of Delaware, Delaware State Chamber of Commerce, Delaware Nurses Association, and other interested organizations may make nonbinding recommendations to the Governor for appointments to the Board. The Governor's appointments ~~are as follows:~~

~~a. Six general members, including at least 1 individual who represents the interests of medical consumers and at least 3 individuals who have experience or expertise in the health-care industry.~~

~~b. Three members who represent a hospital or health system.~~

~~c. Three members who represent physicians.~~

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~~d. One member who represents a business or employer.~~

~~e. Two members who represent a health insurer or health plan.~~

must be broadly representative of the healthcare industry generally, and appointees must possess knowledge of the healthcare industry or technical expertise relevant to DHIN's operations. Members must include representatives of medical consumers, hospitals or hospital systems, physicians, nurses, businesses or employers, and payers.

(6) a. Board members shall elect the Board chair from among ~~its~~ the Board's members. The chair serves as chair for a 3-year term.

b. Each member serves a 3-year term, unless the member resigns or is removed from the Board earlier. ~~with each member continuing to serve beyond the term until a successor is appointed.~~ A member may continue to serve beyond the 3-year term until a successor is appointed.

Section 3. Amend § 10303, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 10303. Powers and duties.

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

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

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

(3) Establish reasonable fees or charges for provision of DHIN's services to ~~nonparticipant third parties.~~ network participants and users of DHIN services.

Section 4. Amend § 10306, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10306. Regulations; resolution of disputes.

(a) DHIN may promulgate rules and regulations under ~~subchapter~~ Subchapter II of Chapter 101 of Title 29 to carry out the objective of this chapter. ~~Regulations and rules that the Delaware Health Care Commission promulgated prior to July 12, 2010, regarding DHIN remain in full force and effect until amended or repealed through DHIN.~~

Section 5. Amend § 10311, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 10311. The Delaware Health Care Claims Database — Findings; purpose; creation.

(a) The General Assembly finds that:

(2) ~~The ongoing work of the Delaware Center for Health Innovation~~ This State's ongoing effort to transform the State's health-care system from a fee-for-service system to a value-based system that rewards health-care providers for quality and efficiency of care is a worthy effort, and, to that end, the General Assembly supports the establishment of a health-care claims database to assist in ~~the~~ this State's efforts to achieve the Triple ~~Aim~~ Aim of improving patient care, improving population health, and reducing the per capita costs of health-care.

Section 6. 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.

(b) Claims data provided to a requesting person under this section must be provided under DHIN's existing confidentiality and data security protocols and in compliance with applicable state and federal laws relating to the privacy and security of protected health information, including compliance, to the fullest extent practicable consistent with the purposes under this subchapter, with ~~guidance found in Statement 6 of the Department of Justice and Federal Trade Commission Enforcement Policy~~ any applicable federal antitrust guidance regarding the exchange of price and cost information. A provider or purchaser must maintain individually identifiable patient health information under all applicable state and federal laws relating to the confidentiality and security of protected health information, including privacy and security requirements under regulations promulgated under this chapter.