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DELAWARE STATE SENATE
145th GENERAL ASSEMBLY

SENATE BILL NO. 80

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

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

1 Section 1. Amend Title 16, of the Delaware Code by adding a Chapter 103 to read as follows:

2 "Chapter 103. Delaware Health Consortium.

3 §10301. Definitions:

4 (a) 'Board of Directors' means the Oversight Board initially appointed to manage the Delaware Health
5 Consortium.

6 (b) 'Chair' means the individual appointed to the Board that is selected by the other Directors to preside over the
7 Board.

8 (c) 'Corporation' means the Delaware Health Consortium; a non-profit, non stock corporation.

9 §10302. Delaware Health Consortium ("DHC") Oversight Board

10 (a) The DHC Oversight Board shall consist of the following Twelve (12) members who shall be directors of the
11 corporation: Three (3) members representing different hospitals from within the State as selected by the Delaware
12 Healthcare Association; Three (3) members selected by the Medical Society of Delaware; The Secretary of the
13 Department of Health and Social Services (DHSS) or his or her designee; The Secretary of the Department of
14 Technology and Information (DTI) or his or her designee; The Director of Office of Management and Budget
15 (OMB) or his or her designee; One (1) representative from a Delaware based health insurer appointed by the
16 Oversight Board; One (1) community member appointed by the Oversight Board, and One (1) appointee of the
17 Governor. An Executive Director of the Corporation shall serve on the Board of Directors in a non-voting
18 capacity. The Chair of the Board shall be elected by a majority of the Directors.

19 (b) The DHC Oversight Board shall be governed by and subject to the Delaware Freedom of Information Act
20 [Chapter 100 of Title 29].

21 (c) The DHC Oversight Board shall include a provision in its bylaws pertaining to conflicts of interest and Board
22 members, DHC staff, committee members and others conducting business and/or associated with DHC, shall be
23 required to sign conflict of interest statements.

24 (d) Board members shall serve without compensation except they may recover reasonable travel expenses.

25 (e) No Board member, nor family member of a Board Member, shall receive financial gain from service on the
26 Board.

27 (f) General Powers of the Oversight Board. The Oversight Board shall have the authority to:

28 (1) Adopt by laws to govern the conduct of its affairs and to carry out and discharge its powers, duties and
29 functions and to adopt policies as appropriate to carry out and discharge its powers, duties, and functions, and to
30 sue, but not be sued, to enter into contracts and agreements and to plan, control facilities and such real and
31 personal property as it may deem necessary, convenient or desirable without regard to state procurement laws.

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

35 (3) To exercise all of the power and the authority with respect to the operation, development and maintenance of
36 the DHC.

37 (4) To do all acts and things necessary or convenient to carry out its functions, including without limitation, the
38 authority to open and operate separate bank accounts in the name of the corporation.

39 (5) To collect, receive, hold and disburse funds in accordance with the needs of the Corporation, including user
40 fees set by the DHC.

41 (6) Implement and operate a state wide integrated health information network to enable communication of clinical
42 and financial health information, and other information and other related functions as deemed necessary by the
43 Board.

44 (7) Promote efficient and effective communication among Delaware health care providers and stakeholders
45 including hospitals, physicians, state agencies, payers, employers, and laboratories.

46 (8) Create efficiencies in health care costs by eliminating duplication of health data and improving operational
47 efficiencies in the healthcare delivery system.

48 (9) Provide reliable health information to health care providers and consumers.

49 (10) Establish a Health Policy Institute to create policies that guide the Delaware Health Consortium's operations,
50 including addressing privacy and security of healthcare information and addressing ongoing community health
51 issues, and serving as a health policy and health technology policy resource within and outside of Delaware.

52 (11) Work with the Delaware Department of Health and Social Services, Department of Technology and
53 Information, and Delaware's healthcare community and citizens to integrate public and private health technology
54 and technology infrastructure.

55 (12) Require that all Delaware healthcare facilities, hospitals and health care providers submit by January 14, 2011
56 an electronic integration compliance plan on how they will be integrated into the DHC by July 18, 2012.

57 (13) Provide a web based base level of electronic medical record keeping for health care providers without EMR
58 capabilities that is integrated into the DHC system.

59 (14) Improve the quality of health care and the ability to monitor community health status and facilitate health
60 promotions by providing immediate and current outcome, treatment and cost data and related information so that
61 patients, providers and payers can make informed and timely decisions about health care.

62 (15) Work with governments, and other states to integrate into DHC and/or assist them in providing regional
63 integrated health information systems.

64 (16) Utilize DHC's Health Policy Institute to assist other governments and states in addressing their health
65 information technology policy needs.

66 §10303. Immunity from suit; limitation of liability.

67 (a) All members of the Board of Directors of the DHC and all officers, directors, employees and members of the
68 corporation, whether temporary or permanent, shall not be subject to and shall be immune from claim, suit, liability,
69 damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken,
70 performed or reached in good faith and without malice by any such member or members acting individually or jointly in
71 carrying out the responsibilities, authority, duties, powers and privileges of the offices conferred by law upon them under
72 this chapter, or any other State law, or duly adopted rules and regulations of the aforementioned committees, good faith
73 being presumed until proven otherwise, with malice required to be shown by a complainant. All employees and staff of the
74 DHC and the Corporation, whether temporary or permanent, shall enjoy the same rights and privileges concerning
75 immunity from suit otherwise enjoyed by State employees pursuant to the Constitution of this State and Title 10 of the
76 Delaware Code.

77 (b) The DHC is not a health care provider and is not subject to the claims under Chapter 68 of Title 18. No person
78 who participates or subscribes to the services or information provided by the DHC shall be liable in any action for damages

79 or costs of any nature, in law or equity, which result solely from the person's use or failure to use DHC information or data
80 that was imputed or retrieved in accordance with the rules or regulations of the DHC as approved by the Corporation. In
81 addition, no person shall be subject to antitrust or unfair competition liability based on membership or participation in the
82 DHC, which provides an essential function for the public health and safety.

83 §10304. Reports and Audits: The Corporation shall make annual reports to the Governor and the General Assembly setting
84 forth in details its operations and transactions, which shall include annual audits of the books and accounts of the
85 Corporation made by a firm of independent certified public accountants and may make such additional reports from time to
86 time as it desires.”

SYNOPSIS

This Bill creates the Delaware Health Consortium, charged with implementing and operating a State wide health information network. The network will enable ready communication throughout the State of clinical and financial health information. It establishes a twelve member oversight board, governed under the Freedom of Information Act, to adopt bylaws and to govern the affairs of the DHC. The Bill also provides for criminal and civil immunity from suit for Board members and employees conducting the affairs of the DHC. It also requires an annual report and annual audits of the DHC's operations and financial positions.

Author: Senator Katz