

**[Del. Code tit. 16, §§ 10301 through 10304.]**

§§ 10301 through 10304: Delaware Health Information Network

§ 10301. Purpose

(a) The purpose of this chapter 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.

§ 10302. Creation of Delaware Health Information Network

(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 health-care 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.

### § 10303. Powers and duties

(a) In furtherance of the purposes of this chapter, 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 Chapter 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) 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;

(19) Develop and maintain a process to enable a hospital to record in the patient's electronic health record contained in the DHIN the patient's designation of a lay caregiver and the lay caregiver's contact information, as required by § 3002J(b) of this title, and if the hospital attempted to or did interface with the lay caregiver, as required by § 3004J(b) of this title;

(20) Develop, maintain, and administer the Delaware Health Care Claims Database under subchapter II of this chapter; and

(21) Perform any and all other activities in furtherance of this section.

(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 Chapter 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.

### § 10304. Immunity from suit; limitation of liability

(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.