



STATE OF DELAWARE  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
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The Honorable John Carney  
Governor

John McNeal  
SCPD Director

## MEMORANDUM

DATE: June 14, 2021

TO: All Members of the Delaware State Senate  
and House of Representatives

FROM: Terri Hancharick – Chairperson *TH*  
State Council for Persons with Disabilities

RE: S.B. 118 (Long-Term Care Facility Participation in the Delaware  
Health Information Network (DHIN))

The State Council for Persons with Disabilities (SCPD) has reviewed S.B. 118, which seeks to require long-term care facilities to enroll and share data with the Delaware Health Information Network (“DHIN”). The DHIN is a statewide health information exchange first launched in 2007 and widely used by medical providers. SCPD endorses the proposed legislation and has the following observations.

The proposed legislation would require a long-term care facility that “provides services to a Delaware resident” to enroll in the DHIN “as an active user of the Community Health Record, no later than 30 days after the long-term care facility begins providing the services.” Additionally, facilities using electronic health records in providing services to a Delaware resident would be required to enter into an agreement with the DHIN to “provide the DHIN with a summary of each

episode of care in an electronic format that DHIN establishes” within 90 days of when the facility begins providing services. Long-term care facilities already serving a Delaware resident or using electronic health records in providing services to a Delaware resident would also need to come into compliance with the law within the timelines specified after the date of enactment.

This legislation was suggested by the Joint Legislative Oversight and Sunset Committee (“JLOSC”) Task Force on the DHIN.

According to the DHIN website, 100% of long-term care facilities in the state are already using the DHIN. It is unclear from the information provided, however, whether that means that all long-term care facilities are using the Community Health Record or have entered into the data sharing agreements for electronic health records that this legislation would require. Additionally, this legislation appears to apply to out-of-state facilities, that may not otherwise have an immediate reason to enroll in the DHIN when they are providing care to a Delaware resident. As many Delaware residents may travel to nearby states for care, this would help ensure that individual health records are complete.

One reason that long-term care providers have been encouraged to use health information exchanges is that many individuals in long-term care settings may have numerous co-occurring health issues and sometimes require frequent transfer between various types of facilities. Health information exchange would ensure that no important information is lost the shuffle and various treating clinicians can appropriately coordinate care regardless of where the individual patient is currently located. See, e.g., “Long-Term and Post-Acute Care (LTPAC) Providers and Health Information Exchange (HIE),” The Office of the National Coordinator for Health Information Technology, available at: [https://www.healthit.gov/sites/default/files/ltpac\\_providers\\_and\\_hie\\_082516\\_final\\_2.pdf](https://www.healthit.gov/sites/default/files/ltpac_providers_and_hie_082516_final_2.pdf).

The Covid-19 pandemic has only further highlighted how health information exchanges may benefit residents in long-term care facilities and make it easier for facilities to monitor residents’ health during emergency situations. In response to the Covid-19 public health emergency, CMS waived many existing restrictions on when and how residents could be moved within long-term care facilities or transferred between facilities. These measures were taken so facilities could act quickly in the case of a potential outbreak and to encourage “cohorting” based on residents’ Covid-19 status as recommended by public health officials. In this situation, facilities using the Community Health Record and other features of the

DHIN would be able to ensure that all necessary medical information traveled with a resident, even if a transfer occurred on short notice. While some of the CMS emergency waivers relating to transfers are no longer in effect as of May 10, 2021, similar measures could certainly be taken in case of a future public health emergency. According to the DHIN website, the DHIN began receiving data from Curative, a major provider of Covid-19 testing, in February 2021. Long-term care providers using the DHIN would therefore have quick access to residents' Covid testing results to inform appropriate measures that need to be taken to protect both the individual resident and other residents and staff within a facility. Additionally, the pandemic has emphasized the need for public health officials to have access to current information in real time as well as tools for data aggregation and analysis. Long-term care facility participation in the DHIN would help to ensure that public health officials have accurate data regarding long-term care facility residents, a population that has been especially vulnerable during the Covid-19 pandemic.

Although long-term care facilities may already be participating in the DHIN, SCPD endorses this proposed legislation as it may help facilitate continuity of care for residents of long-term care facilities and ensure that all facilities have access to the same tools to protect residents in public health emergencies like the Covid-19 pandemic.

Additionally, the first sentence of the proposed § 1119D(a) in the bill appears to be missing a word, as it currently reads "A long-term care that provides services...".

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our position and observations on the proposed legislation.

cc: Ms. Laura Waterland, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council