



December 21, 2009

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**RE: Comments Regarding the Pennsylvania Health Information Exchange Proposed Strategic Plan**

Dear Ms. Torregrossa:

The Pennsylvania eHealth Initiative (PAeHI) would like to thank the Governor's Office of Health Care Reform (GOHCR) for the opportunity to provide comments on its Proposed Pennsylvania Health Information Exchange (PHIX) Strategic Plan. PAeHI commends the efforts of GOHCR in moving its ambitious plan forward expeditiously, as it seeks to *Connect Pennsylvanians for Better Health* by leveraging the broader adoption of electronic health record (EHR) technology and health information exchange.

In a demonstration of collaboration that has been the hallmark of PAeHI, over forty PAeHI members from three committees (Business Analysis and Technology, Health Information Exchange and Policy), representing a broad array of healthcare stakeholders from across the Commonwealth recently convened to provide their assessment of the proposed plan, and collectively document their findings herein to help GOHCR improve upon its proposed plan, particularly in those areas which these subject matter experts have found as weak, deficient or requiring greater clarity. In addition to these comments and analysis, PAeHI herein provides specific recommendations towards improving the PHIX Strategic Plan.

**I. FINDINGS**

In addition to specific findings listed by each domain area, the following are general comments on the proposed plan:

- 1) A greater level of provider and stakeholder collaboration, consultation, transparency and decision making is needed in crafting the final PHIX strategic plan and in execution of the proposed strategy outlined therein; and
- 2) GOHCR arrived at their recommendation to leverage the existing Delaware Health Information Network (DHIN) contract by entering into an intergovernmental agreement for statewide HIE infrastructure development and services without the proper business and technical due diligence or the full consultation and consent of the PHIX Advisory Council.

In its first strategic plan "*Connecting Pennsylvanians for Better Health*" (2007), PAeHI laid out its *Guiding Principles* regarding the promotion of widespread EHR and HIE adoption and use in Pennsylvania, principles which we feel should also serve as guideposts for GOHCR:

- 1) Patients come first;
- 2) Consumer privacy, security and confidentiality are paramount; and
- 3) Multi-stakeholder collaboration is essential to implement achievable and measurable initiatives, and in order to demonstrate early progress and value.

Meaningful collaboration ensures consensus-based decision-making, and ensures that subsequent actions have both a broad and lasting impact. The alignment of HIT in Pennsylvania with the overall strategy of the PHIX will require the full and active involvement of all stakeholders within the state.

The following are specific findings regarding each of the five (5) Key Domain Areas:

#### 1. Governance

- a) Governance model of proposed plan appears to deviate from the prescribed National Governors Association model(s).
- b) Plan leaves the PAeHI role uncertain jeopardizing the momentum established following nearly five years of statewide EHR/HIE collaboration.
- c) Plan does not address how PHIX and DHIN will establish joint and mutually beneficial governance over the combined relationship.

#### 2. Finance

- a) PAeHI supports the proposed assessment on medical claims as a funding mechanism for statewide health information exchange and to support local health information exchange.
- b) PAeHI believes improved health care coordination, made possible through robust HIE and appropriate quality initiatives, largely benefits payers and patients - not providers.
- c) Five-year pro forma cost projections are not included in the proposed plan, which should provide a more detailed sustainability model regarding PHIX .

#### 3. Technical Infrastructure

- a) The success of interoperability depends on compliance with national standards. The Healthcare Information Technology Standards Panel (HITSP), Certification Commission for Healthcare Information Technology (CCHIT) and the ONC Health Information Technology Standards Committee and their workgroups have been hard at work mapping standards to support the achievement of "Meaningful Use." The proposed plan is almost silent on

the importance of standards, and the lack of discussion therein marginalizes the effort that went into the plan's formation.

- b) Due diligence in plan design, on many levels, appears to be missing or non-existent. The lack of technical due diligence dilutes the credibility of the plan as a realistic solution to a very complex problem.
- c) Integration complexity does not appear to be fully weighed or considered, leaving the likely potential for uncontrolled service costs under-explored, and significantly impacting the provider. The underpinnings of the plan does not address the bi-directional interface requirement for meaningful use or existing PA Department of Health interoperability projects currently underway with the state immunization information system (PA-SIIS).
- d) Plan undervalues the technical complexity and providers' technical commitments required for success.

#### 4. Business and Technical Operations

- a) Geographic diversity and alignment are not adequately addressed in the plan.
- b) No tie-in regarding "Meaningful Use" (MU) nor the state's role/responsibility in helping PA providers meet MU requirements.
- c) Inadequate strategy to couple the efforts with the Pennsylvania HIT Regional Extension Center(s).
- d) No benchmarking was proposed to measure the quality of outcomes and analytics used.

#### 5. Legal/Policy

- a) PAeHI applauds the creation of the state's newly-formed HIT/HIE Legal Workgroup and its engagement of outside counsel.
- b) Simplicity in patient consent/authorization is needed to recognize the relative inability of existing EHR systems to segregate sensitive information.
- c) Clinicians agree that having some historical clinical patient information is valuable at the point of care, but they are concerned that incomplete historical information could adversely impact their diagnosis and treatment decisions.

## II. RECOMMENDATIONS

### 1. Governance

- a) PAeHI supports the recommendation to create a new multi-stakeholder authority to govern the PHIX.
- b) PAeHI should play the following significant roles in support of health information exchange and the PHIX Authority:

- PAeHI should be named as an advisory committee to the PHIX.
  - PAeHI should have at least one seat on the PHIX Board.
  - PAeHI should provide definition and guidance for added-value services offered through the PHIX.
  - PAeHI should provide independent and nonpartisan research and analysis to the PHIX Authority to validate and promote the use, expansion and sustainability of the PHIX.
  - PAeHI should facilitate broad stakeholder engagement in PHIX decision making and oversight processes.
  - PAeHI should assist PHIX in the development and deployment of a stakeholder communication/education campaign, including consumer outreach.
- c) The state should help to ensure that PAeHI has adequate resources to appropriately support the PHIX Authority.
- d) The PHIX Authority should manage the statewide health information exchange to optimize the delivery of coordinated quality health care services for all Pennsylvanians.
2. Finance
- a) Financing based on claims assessment makes sense (and was recommended previously in PAeHI's HIE sustainability white paper—see Attachment 1), but PHIX should leave open the option to offer value-based services to generate additional revenue.
- b) The legislation creating the assessment should include limitations on the amount of future monies raised (e.g. assessment rate cap; periodic review process) from assessment on claims and the ability to reduce future assessments to meet lower operating costs after the PHIX is fully deployed.
3. Technical Infrastructure
- a) Many stakeholders continue to be concerned with the plan's recommendation to piggy-back on the Delaware Health Information Network (DHIN) technical infrastructure; therefore, significant due diligence remains to be completed and communicated to Pennsylvania stakeholders before an acceptable level of technical certainty and sustainability can be achieved.
- b) The PHIX must structure its agreements with Delaware and their technology partner (Medicity) to ensure that Pennsylvania is not at risk for: uncontrolled costs; a third party's decision to end a contract; and/or an inability to negotiate favorable contract terms.
- c) The PHIX technical infrastructure should be implemented in a coordinated staged approach that will assist providers in attaining "meaningful use."
4. Business and Technical Operations

- a) Policies and procedures for governing and operating the DHIN may not be directly portable to Pennsylvania due to the diversity and size of Pennsylvania providers, other stakeholders and Pennsylvania law. PHIX policies and procedures need to be vetted with the broad stakeholder community before adoption.
- b) The most current recommended DURSA agreement should be utilized. Link to the HHS/NHIN webpage that has info regarding the DURSA are included at the end of this letter (page 6 of 6).

5. Legal/Policy

- a) The PHIX should operate on an opt-in vs. opt-out basis, as the technology does not currently exist to permit exclusion of "sensitive" data in many provider EHRs.
- b) As standard EHR system technology evolves to allow more granular control of patient information, the PHIX policies regarding opt-in vs. opt-out should be revisited.
- c) The PHIX should maintain a master patient consent index which patients control and upon which providers can rely on for exchanging or not exchanging patient information.
- d) State should take the lead through its Legal Workgroup in following through on drafting a Universal Consent Form for HIE in Pennsylvania, which has received significant and broad-based provider support (and was recommended previously in PAeHI's privacy & security white paper—see Attachment 2).
- e) The PHIX should become the standard means for providers to meet the various state reporting requirements.
- f) Existing state law should be changed to allow the recommendations above.

PAeHI applauds GOHCR for its efforts to engage the broader stakeholder community in reviewing the proposed PHIX strategic plan. We appreciate your consideration of our findings and recommendations. We would be happy to meet with you to discuss our comments and the value that PAeHI can bring to your efforts to create the PHIX. We look forward to working collaboratively with you and your office and the new PHIX Authority in the future.

Comments Submitted on behalf of the PAeHI Board of Directors (see Attachment 3) and its membership (see Attachment 4) by:

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## About PAeHI

The **Pennsylvania eHealth Initiative (PAeHI)** is a 501(c)(3) community-based not-for-profit created in 2005 by the state's leading healthcare stakeholders to encourage the development and use of electronic medical records (EMR) in Pennsylvania along with health information exchanges (HIE), which will ultimately tie into a nationwide system allowing patients and healthcare providers to securely access medical records regionally and throughout the country. The initiative is working with providers, health insurers, businesses, and government to inform health care stakeholders and all Pennsylvanians of the benefits of utilizing electronic health records; interconnect all health care stakeholders to make health information available; address legal and policy issues which could impede the development of HIEs; enable secure, confidential access to health information; and enable patient access and control of their health information. Beyond collaboration, the skill set of PAeHI's stakeholders include technical, integration and interoperability, vendor relations, contracts, clinical processes, industry recognized HIE experience and EMPI expertise. PAeHI is a viable and recognized entity with a mission that supports HIE. *In Governor Rendell's March 2008 Executive Order which created the PHIX program, PAeHI was listed as the only named "Advisory Organization".*

## Attachments:

1. Executive Summary with Recommendations, ***"Building a Sustainable Model for Health Information Exchange in Pennsylvania"***, February 2008, PAeHI.
2. Executive Summary with Recommendations, ***"Ensuring Privacy and Security of Health Information Exchange in Pennsylvania"***, March 2009, PAeHI.
3. 2009 Board of Directors, Pennsylvania eHealth Initiative.
4. 2009 PAeHI Membership List.

## Links:

HHS/NHIN webpage that has info regarding the DURSA, etc.:

[http://healthit.hhs.gov/portal/server.pt?open=512&objID=1194&parentname=CommunityPage&parentid=1&mode=2&in\\_hi\\_userid=10741&cached=true](http://healthit.hhs.gov/portal/server.pt?open=512&objID=1194&parentname=CommunityPage&parentid=1&mode=2&in_hi_userid=10741&cached=true)

Link to the most recent DURSA agreement (Dec '09):

[http://healthit.hhs.gov/portal/server.pt/gateway/PTARGS\\_0\\_11673\\_909240\\_0\\_0\\_18/DURSAVersionforProductionPilotsFinal.pdf](http://healthit.hhs.gov/portal/server.pt/gateway/PTARGS_0_11673_909240_0_0_18/DURSAVersionforProductionPilotsFinal.pdf)