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Jonathan C. Greer
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December 18, 2009

Ann S. Torregrossa, Director
Governor's Office of Health Care Reform
439 Forum Building
Harrisburg, PA 17120

Re: PHIX Draft Strategic Plan - Comments

Dear Ms. Torregrossa:

The Insurance Federation of Pennsylvania, on behalf of its members and in conjunction with the national insurance trade associations, offers the following comments on the Pennsylvania Health Information Exchange (PHIX) draft strategic plan.

We understand a final strategic plan will be submitted to the federal government early next year to obtain a grant aimed at fostering the creation of a statewide system for the electronic exchange of medical records. Such a system, in part, intends to produce better health outcomes and reduce costs through the avoidance of duplicative services.

In concept, we support these goals. That said, we recommend that a number of proposals in the draft be dropped or reconsidered. We appreciate your goal that PHIX be administered in a manner that ensures broad participation with clearly defined requirements on providers and payers and with an equitable funding source. We share that goal, while noting that the only thing worse than doing nothing in this area is doing something incomplete or haphazard. In that spirit, we offer the following comments.

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1. Ensuring a Comprehensive Approach

For PHIX to have a lasting impact on improving the delivery of health care in the Commonwealth, the information it exchanges must be complete and interoperable across the state and, ultimately, the country.

We were therefore surprised to learn the draft does not require all Commonwealth health care providers to participate in the PHIX system. This will result in regional - as opposed to statewide - interaction and lead to incomplete electronic health records.

Both factors serve to undermine PHIX's full potential of avoiding the duplication of services and obtaining better health outcomes. Whether for the patient or the provider, the real value of creating electronic health records is not so much sharing whatever already exists as electronic medical records, but getting all providers to keep medical records in a consistent and shared electronic system - in Pennsylvania and nationally. PHIX doesn't achieve that or, at as we read the draft, outline a means to get there.

We recommend the draft detail the amount of medical records it believes will be part of an individual's electronic health record - as to what will be in the electronic record and what will be missing - as well as plans or possibilities for adding to the electronic records over time. Electronic sharing of what is now kept electronically is one thing; but a comprehensive electronic data base of all medical records seems the long-term objective, and any report should be framed under that measure.

While the draft cites Vermont as an example of a state that has already established a health information exchange, we think is an approach to avoid. Vermont, a small state and an even smaller insurance market and provider base, has a system that forced insurers to invest heavily in new IT systems to accommodate its unique reporting requirements. These outlays, combined with the current economic climate, has caused some insurers to question their presence in the state. We'd hope one benefit of PHIX is to attract, not dissuade, health insurers from coming here.

2. Scope and Access

Chapter 6 of the draft - "Technical Infrastructure" - lists the minimum types of health information to be exchanged (p. 38). Included in this is "claims and eligibility data," which suggests that insurers will have to input this information into the system.

In talking with Phil Magistro, however, we understand the claims and eligibility data envisioned in the draft is already being supplied under HIPAA and other federal laws and therefore will not impose a new reporting requirement for insurers. We'd like that clarified as the draft moves forward, especially with whether this holds true for all medical claims and eligibility data, whether from health insurers or long-term care or auto or workers compensation insurers paying medical claims. We'd also recommend the draft clarify possible treatment of self-insured health plans and government plans in this area.

The draft seems to exclusively focus on health information derived from health insurers - but many types of insurers get and provide health information as part of the claims process and when determining eligibility. We also understand that workers compensation insurers are exempt from the reporting standards provided under HIPAA.

We recognize this is a draft, and this is the first real opportunity your team has had to work with the full insurance community (and advisory council). Clarification of the insurers covered may answer the question of whether this imposes new or impractical reporting requirements, as well as a better sense of the completeness of the data base that will be contained in the electronic health record.

We also recommend allowing insurers, not just treating providers, to have access to the system envisioned by PHIX, at least if there are no federal legal impediments. This will allow for more efficient claims handling and utilization review, to the benefit of policyholders, patients and providers.

3. Assessment on Insurers

We understand the argument that a statewide system of shared electronic medical records represents the wave of the future and could ultimately lead to lower costs for insurers.

The reality isn't quite that simple: The real need is for an integrated and complete multi-state system, which seems to be the national direction. That will take years, if not generations, but of course the journey has to start for it to be completed. And it has to be funded even before it produces any savings - hence the purpose of the federal stimulus dollars.

We are troubled, however, by the draft's proposed funding source of an assessment on insurers.

First, we're not sure what defines an insurer. Does that mean only commercial health insurers, or the Blues, both of which combine to form a relatively small portion of the health care payer system in Pennsylvania (roughly 20%-25%)? Or does it apply to all insurers paying medical claims, to government programs like Medicaid and Medicare (and insurers in those programs), and to self-funded groups?

Second, we're not sure what defines a medical claim. Assuming the focus is on claims paid by health insurers, does a "claim" refer to payments made under a major medical policy or something else? For example, health insurers have affiliated companies providing coverage for any number of health related issues - vision, dental, disability, etc. Do claims made under these policies fall under the definition of medical claim?

Third, we believe the only fair (and practical) way to fund this program - both as a start-up and an ongoing program - is through a truly broad assessment base: If everyone is the beneficiary, everyone should be paying. That's why we have a General Fund. Of course, given the restricted access to the envisioned data base - treating providers - an alternative means may be an assessment on them; that may help ensure their cooperation, too.

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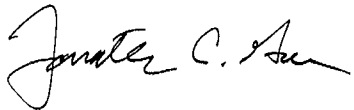
We recognize this is ultimately a legislative decision. To that end, it may be best (and most credible) for this report to simply estimate the projected costs and note possible funding options.

We are also concerned with the process employed in developing this draft. The PHIX Advisory Council did not have the chance to review the draft prior to its publication and wasn't consulted in its formation. Further, the intention to submit a final plan to the federal government as early as next month does not provide a realistic timeframe in which to incorporate many of the comments we expect you will receive on the draft plan.

While we understand the desire to obtain federal grant money, we believe the enormity of establishing a statewide health information exchange warrants a more deliberative and consensus-driven approach, and these comments (and our participation through the Advisory Council) are offered in that spirit.

We look forward to continued work on this.

Sincerely,



Jonathan C. Greer

C: Honorable Donald C. White, Majority Chairman
Honorable Michael J. Stack, Minority Chairman
Senate Banking and Insurance Committee

Honorable Anthony M. DeLuca, Majority Chairman
Honorable Nicholas A. Micozzie, Minority Chairman
House Insurance Committee

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