

**North Carolina Health Information Exchange Authority  
Advisory Board Meeting**

**MEETING MINUTES**

**Date:** June 16, 2022

**Time:** 2:00 p.m. – 4:27 p.m.

**Location:** Virtual

**Attendees:**

Dr. Harriett Burns

Dr. Cardra Burns (Sec. Kinsley designee)

Christie Burris (NC HIEA Exec. Director)

Carol Burroughs (GDAC Director)

Dr. Neal Chawla

Timothy Ferreira

Donette Herring (Vice Chair)

Dee Jones

Secretary James A. Weaver

Dr. Richard Pro

Eric Snider (NCDIT Legal Counsel, NC HIEA)

Carolyn Spence

Dr. Donald Spencer

Dr. William G. Way (Chair)

**2:00 p.m.**

**Welcome and Call to Order**

**All Members & NC HIEA Staff**

Meeting called to order by Chairman Way at 2:02 p.m.

**Housekeeping Items**

**Chairman Way**

Chairman Way reviewed the draft meeting minutes from the March 21, 2022, meeting. Carolyn Spence moved to approve the draft minutes; Dr. Neal Chawla seconded the motion, which passed unanimously.

Chairman Way next welcomed Rob Main, State Chief Risk Officer; Cherie Givens, State Privacy Officer; Jennifer Reginelli, SAS Director of Governance, Risk and Compliance; and Lulu Bashar, SAS Chief Privacy Officer to provide a security and privacy briefing.

**2:05 p.m. Security and Privacy Briefing**

**Guest Speakers**

Rob Main shared information on DIT priorities about cybersecurity and risk management. Cherie Givens shared information about the foundation of NCDIT's privacy program.

Jennifer Reginelli and Lulu Bashar shared an overview about SAS's security and privacy standards.

Vice Chair Herring expressed appreciation for the presentation and suggested a separate session where Advisory Board members can explore specific strategies being taken to protect patient data in the HIE.

Chairman Way asked if House Bill 813 is meant to disincentivize ransom attacks, and whether employee vacancies in government, healthcare, and IT sectors compromise efforts made at the state level?

Rob Main confirmed the intent of House Bill 813 is to disincentivize ransomware attacks against entities in North Carolina. Main also clarified that position vacancies are a combination of public/private sector cybersecurity positions and that, conceivably, workforce vacancies could lead to gaps in security. Main assured that vacancies have not decreased the states' posture pertaining to cybersecurity risk management and highlighted the Cyber Pathways Initiative. This initiative utilizes a multi-pronged approach to make public service in cybersecurity and IT attractive to graduating high school students and military veterans transitioning of active duty.

Chairman Way commented that as the HIE data grows there will be more requests for use of the data resulting in the need for more sophisticated governance on the part of the HIEA. He highlighted the need for Cherie Givens, State Privacy Officer, and her staff to be involved to support the integrity, security, and appropriate access and use of shared information.

Cherie Givens confirmed support.

Dee Jones asked if there is an opportunity for members to opt out of having their data flow through the HIE? Can providers strip out member data from passing to the HIE? What happens if there is a breach of data from a member that has opted out?

Christie Burris confirmed that state law allows for patients to opt out of having their data shared through the NC HIEA.

Eric Snider stated that breach and liability are fact-dependent issues. The statute states that the HIEA is generally responsible for honoring a patient's decision to opt out of having her patient shared and for maintaining a system that allows an individual to rescind that opt out. The Statewide Health Information Exchange Act also explicitly allows for public health use of suppressed "opt out" data.

Vice Chair Herring asked who is responsible for notifying the patients whose HIE data has been breached?

Snider replied that applicable law and NC HIEA governance requirements dictate notification requirements. The HIEA standard agreement in paragraph 14 highlights breach notification requirements with respect to participants and submitters and covers federal HIPAA security regulations as well as security breaches that certify under NC state law. Answering the question precisely is difficult because the nature of the breach can be determinative.

Tim Ferreira reminded the group that when participants are selecting to opt out, the form explains that the data is still submitted to the NC HIEA -- just not shared.

Anna Szamosi, Deputy General Counsel, NCDIT clarified that statutory immunity under state law may be available to covered entities and their business associates that in good faith submit data through, access, use, disclose, or rely upon data submitted through the HIE Network shall not be subject to criminal prosecution or

civil liability for damages caused by such submission, access, use, disclosure, or reliance. See N.C. Gen. Stat. 90-414.12(b).

Dee Jones asked if there is a breach does the HIE have to send out the notification? Anna Szamosi answered that it would depend on the circumstances, but the participation agreement lists a collaborative approach.

Eric Snider directed the board to look at the NC HIEA's Full Participation Agreements. Clause, one obligates the parties to cooperate; provisions concerning breach are located in or around section 14. .

**3:25 p.m. BREAK**

Chairman Way introduced Christie Burriss to provide an NC HIEA, privacy and security, operations and legislative update.

**3:45 p.m. NC HIEA Update**

**Christie Burriss, NC HIEA**

Burriss identified and described some of the HIEA statutory requirements, contractual governance, policies, roles, and other areas where privacy and security best practices are applied.

Vice Chair Herring asked for use cases, is there a defined strategy for data management? Will the HIE help support data analysis or just extracting data sets and sending them outside the HIE?

Burriss confirmed nothing has been defined, but there is strong preference to keep data within the HIE and develop dashboards.

Vice Chair Herring asked that Cherie Givens be involved in discussion around data management and governance strategies for approved secondary uses.

Chairman Way suggested that the Use Case Workgroup lead by Dr. Rick Pro be the appropriate venue to begin the comprehensive governance discussion.

Dr. Pro noted that as we take this conversation forward and define guidelines and policies for secondary uses of data we want to ensure at a minimum, that any data extraction be certified as compliant with HIPAA standards for de-identification.

Dee Jones thanked Christie Burriss for partnership in getting legislative language put forward.

Chairman Way asked how does a provider block data from flowing to meet 42 CFR Part 2 or minor opt out requirements?

Burriss clarified that for minor opt out the data still flows from the minors visit to the HIE. That data is held in a separate environment until an encounter opt out is received by the treating physician. The opted-out data stays in that environment and the rest of the data flows to the HIE. Burriss reminded the group that there are educational materials on Minor Opt Out. For 42 CFR Part 2 data, the HIEA follows SAMSA regulations,

which requires patient consent for sharing. The HIEA requires Part 2 providers to work with their technology vendors to make sure that Part 2 data are not get sent to the HIE.

Eric Snider mentioned that the NC HIEA's governance agreements prohibit participants and submitters from providing 42 CFR Part 2 information to the State through the NC HIEA.

Vice Chair Herring suggested that as the HIEA launches its data quality program, it shares with the Board for recommendations to improve data quality.

Burris noted that the HIEA will provide a deep dive presentation to the Board on data quality.

**4:25 p.m. New Business** **Chairman Way**

The next regularly scheduled Advisory Board meeting will be held on September 15, 2022, at 2:00 p.m.

**4:27 p.m. Adjourn** **Chairman Way**

Chairman Way sought a motion to adjourn the meeting at 4:27 p.m. Vice Chair Herring made the motion, with a second by Carolyn Spence. The motion passed unanimously.

*Christie Burris*

11/07/2022