North Carolina Health Information Exchange Authority Advisory Board

Response to NC Session Law 2022-74
An update to the comprehensive report submitted in March 2022

February 20, 2023

In response to the legislative directive in NC Session Law 2022-74, the North Carolina Health Information Exchange Authority (NC HIEA) Advisory Board is submitting this update to the *"Recommendations to Support Enforcement of the Statewide Health Information Exchange Act and a Summary Report on Provider Connectivity and Recent Outreach Efforts"* provided to the Joint Legislative Oversight Committee in March 2022.

As discussed in detail in the previous report, the State has made considerable progress implementing and delivering the North Carolina General Assembly's vision for statewide health information exchange. The HIE Network, now called NC HealthConnex, has seen tremendous growth and is well positioned for continued maturity and widespread adoption. Since January 1, 2022, the NC HIEA grew its connected base of submitting organizations by 48% percent (see Connectivity Update on page 2 for additional information) and was recognized as a finalist in the NC Technology Association's annual awards in the Tech for Good category.

However, for the NC HIEA to remain on a successful trajectory, certain legislative changes are necessary, especially regarding enforcement of the HIE Act and the scope of its mandate. Moreover, the NC HIEA and its Advisory Board agree that continuous improvement of participating health care organizations' experience with NC HealthConnex, patient education on access to and use of patient health information, and defense against cybersecurity incidents should remain among the highest priorities.

The recommendations described in the March 2022 report are a product of significant efforts across multiple stakeholder groups with a variety of critical constituencies. From this process, strong support by stakeholders has been voiced for legislative action to create an enforcement and compliance framework. Draft legislation to address these recommendations is attached.

In early 2022, three recommendations were submitted by the NC HIEA Advisory Board. The first two recommendations seek the establishment of clear enforcement articles for the HIE Act and the revision of "mandatory" and "voluntary" status under the Act for certain providers. These proposals recognize that an enforcement framework is critical to the success of the HIE Act and that, at the same time, the scope of providers and entities subject to mandatory connection and data submission requirements should be adjusted.

Justification of these adjustments were covered in detail in the original submission. The third recommendation proposed that two seats be added to the Advisory Board: one to be filled by a State-funded payer and the other to be filled by a representative from a provider-led accountable care organization. Adding broader perspective to the Advisory Board will enable the NC HIEA to effectively support provider participants and payers working collaboratively in their pursuit and implementation of value-based care.

In summary, our goals have not changed. The NC HIEA Advisory Board urges legislative action that will create certainty for the provider community, protect patients and their access to care, develop a compliance program that minimizes the cost to the State and that does not impose excessive burden on providers, maintain the NC HIEA's momentum in

building statewide connectivity, and expand the utilization of valuable NC HealthConnex services.

We remain available to advise and support the NC HIEA and the General Assembly as the State seeks to fulfill the promise and potential of the HIE Act to deliver better health outcomes for North Carolina patients.

Respectfully submitted on behalf of the NC HIEA Advisory Board,

Dr. William G. Way, Chair

NC HealthConnex Connectivity Update

Background:

Per the HIE Act, providers of state-funded health care services are currently required to connect to the HIE network and share data as a condition of receiving state funds, with the exceptions of those designated as voluntary in N.C. Gen. Stat. § 90-414.4.(e) and of ambulatory surgical centers pursuant to an exemption implemented in N.C. Session Law 2021-26. The State's focus on individual providers and entities across all practice areas, coupled with the condition-of-payment statutory provision, makes the HIE Act one of the most extensive connectivity mandates among HIEs in the United States.[1]

As currently written, the HIE mandate requires subject "entities," including individual providers, to connect to NC HealthConnex and submit the required data as a "condition of receiving state funds."

Potentially enforcing the HIE Act against individual providers subject to the mandate does not align with the reality that organizations—not individual practitioners—maintain patient health records and connect to the HIE. This mismatch renders HIE Act enforcement challenging for two reasons:

i. Provider employment/affiliation arrangements are dynamic, and there is no single source of truth tying individual providers to the EHR systems they use to store patient data (see Assessing Individual-Level Connectivity Without an Existing Source of Truth), rendering consistent, accurate enforcement improbable and unnecessarily costly; and

ii. Individual health care providers stand to be penalized for EHR-related business decisions potentially outside their expertise or control.

What's more, as noted in the Connectivity Analysis of the March 2022 report, the effort to produce the connectivity report was the first of its kind ever undertaken. Previously, no single list of individual providers and health care entities subject to the HIE Act existed, nor did individual-to-organization affiliation information related to governance of electronic patient health records.

For further context:

- The NC HIEA builds interfaces with EHRs that are almost universally managed by organizations, or entities, rather than by individual providers. The reality of health information technology today is that organizations, both large and small—and not individual providers—maintain the EHRs that connect to NC HealthConnex. Thus, typically, an individual provider's employer(s)/organization(s) contracts with the NC HIEA, connects to NC HealthConnex, and shares patient data on the individual provider's behalf.
- NC DHB and the State Health Plan both manage dynamic provider rosters and individual-to-organization affiliation information for billing purposes. These lists were used as a starting point in the analysis because they offered the best available affiliation information for large-

[1] In the marketplace, most HIEs are independent non-profits and not enabled by statute. A handful are state-owned (Alabama, Florida, Maryland, Kentucky, and New Jersey, among others), and fewer have legislation requiring connectivity (either generally or for specific uses/users). Massachusetts requires connection by specified entities, CRISP in Maryland requires use of CRISP to register for and access the MD Prescription Drug Monitoring Program, and New Jersey requires participation in its HIE for anyone receiving charity care funding.

scale analytics. However, billing relationships do not always mirror the relationship between an individual provider and the entity or entities that maintain the EHR containing the individual provider's patient records, which is the pertinent relationship for determining HIE connectivity and, thus, HIE Act compliance status. Furthermore, claims are paid at the individual level, whereas connection to NC HealthConnex is performed at the facility level.

- Some state-funded health care programs (e.g., grant-funded programs through the N.C. Office of Rural Health and adult corrections) exist outside the NC DHB and State Health Plan and do not have readily available provider rosters.
- Employment arrangements and organizational affiliations change over time, and this information is not always reported to or updated with payers or licensing boards. The dynamic nature of clinician employment and the absence of data on those relationships further complicate the question of HIE Act compliance at an individual level. For example, a physician may work for a connected organization in 2022 but move to (or provide some care at) an unconnected organization in 2023.

For these reasons, pairing individual providers with their connected and/or unconnected organization(s) is administratively burdensome, expensive, and imperfect. The analysis could not be automated and required manual resolution of data to create and apply business rules to associate individual health care providers with related entities. Note: Replication or future automation of this analysis would be administratively burdensome and require significant expenditure of state funds.

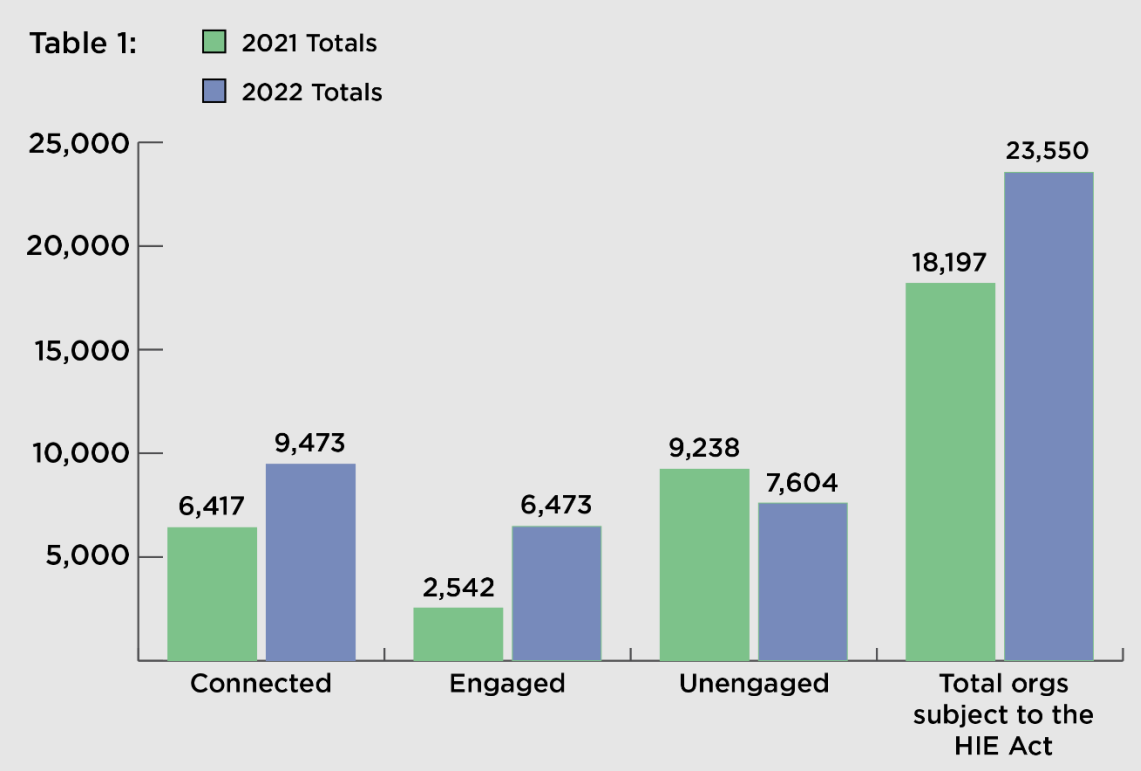
As a result of these well-documented challenges, the NC HIEA and its Advisory Board made the decision to limit the connectivity update in this submission to organizations subject to the HIE Act that can be identified by an organizational NPI (national provider identifier). Individual providers identified by individual NPI were out of scope for this update.

Provider Connection Status:

Connected organizations are those that have completed the technical connection process to NC HealthConnex.

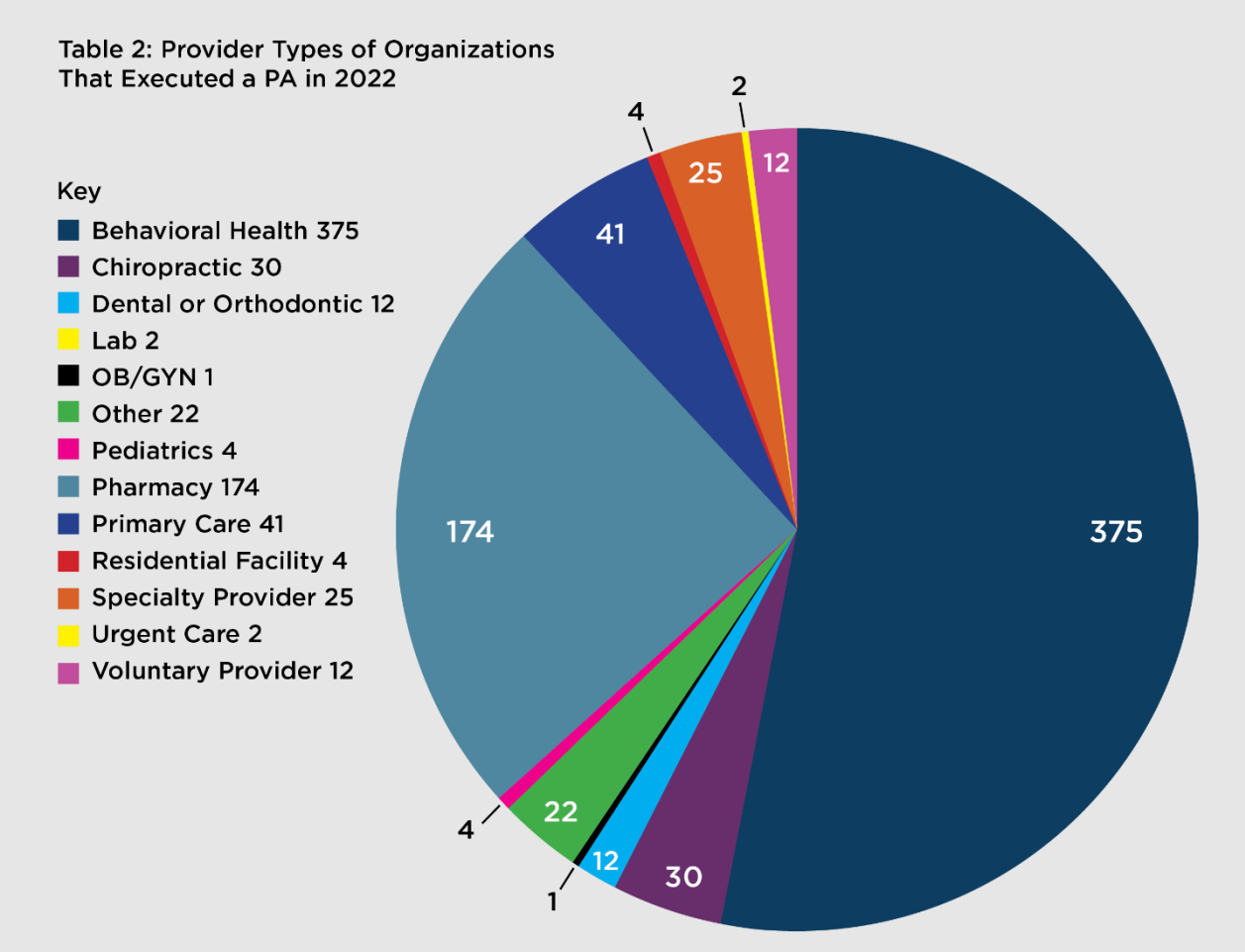
Engaged organizations are those that have executed a Data Sharing Agreement or Participation Agreement with the NC HIEA and have been added to the onboarding queue. *Note: the onboarding queue is significant. It is projected to take an additional four to five years to complete all connections as currently required by state law.*

Unengaged organizations are those have not completed the initial governance “good faith” effort to connect.



As evidenced in Table 1, the NC HIEA has seen positive movement for “Connected,” “Engaged” and “Unengaged” categories. Connected organizations grew by 48% percent or 3,056 facilities. This growth can be attributed to both “net new” data connections and increases in health system growth where practices affiliated with a health system are added to an existing data feed.

Additionally, the number of engaged organizations grew in the last 12 months. Between February 14 and March 7, 2022, approximately 28,395 letters and emails were distributed to unconnected and unengaged individuals and entities subject to the State Health Information Exchange Act. Since that time, the NC HIEA outreach team completed 97 trainings, 16 webinars, and 11 conference presentations educating providers about the requirements for connectivity, the benefits of the health information exchange, and the use of value-added features of NC HealthConnex. Also, over the 2022 calendar year, the NC HIEA provider relations team executed 665 Participation Agreements representing an additional 2,120 facilities. As illustrated in Table 2 below, the NC HIEA has advanced engagement significantly among behavioral health and pharmacy providers in the last year.



Finally, the NC HIEA produced a video promoting NC HealthConnex that has been shared with participating health care providers and stakeholders via NCDIT social media channels and the NC HIEA website.

By the Numbers:

Summary of Organization Connectivity as of November 2021:

- 18,197 organizational entities found to be subject to the requirement to connect and submit data.
    - 35% (6,417) organizations were connected,
    - 14% (2,542) organizations were under contract and engaged with the NC HIEA with connections in process, and
    - 51% (9,238) organizations remained unengaged with the NC HIEA.

Summary of Organization Connectivity as of November 2022:

- 23,550 entities found to be subject to the requirement to connect and submit data.[2]
  - 40% (9,473) organizations were connected
  - 27% (6,473) organizations were under contract and engaged with the NC HIEA with connections in process, and
  - 32% (7,604) organizations remained unengaged with the NC HIEA.

Looking Ahead:

With additional funding provided by the NCGA in NC Session Law 2022-74, the NC HIEA has added resources to its data connections and outreach teams to continue building technical integrations between provider organization EMR/EHRs as well as provide critical education and training to providers on requirements and benefits of participation. However, additional funding will be needed to maintain this level of resourcing for the next four to five years to maintain connectivity momentum and build out the statewide data sharing infrastructure.

As stated previously, another important component to maintaining connectivity momentum is legislative action to name an agency to lead enforcement of the HIE Act and development of a compliance and enforcement framework. Without such action, provider engagement may stall.

The NC HIEA and its Advisory Board assert that with increased funding levels between now and 2028 and the establishment of a formal compliance and enforcement framework, the State will realize its vision of connected communities of care statewide via a centralized health information sharing network that will aid in the improvement of quality of care provided and the patient experience as well as contribute to lowering the total cost of care provided.

[2] The number of organizations that are required to connect and submit data increased from 18,197 to 23,550 based on additional "connected" and "engaged" NPI data housed within the NC HIEA's participant onboarding system.