



October 14, 2014

Katherine Ceroalo
NYS Department of Health
Bureau of House Counsel, Regulatory Affairs Unit
Corning Tower Building, Room 2438
Empire State Plaza
Albany, NY 12237

RE: I.D. No. HLT-35-14-00002-P: Statewide Health Information Network for New York (SHIN-NY)

Dear Ms. Ceraolo:

On behalf of LeadingAge New York, I am pleased to provide comments on the proposed addition of Part 300 to Title 10 NYCRR, which would establish the Statewide Health Information Network for New York (SHIN-NY). LeadingAge NY represents nearly 500 not-for-profit and public providers of long-term care supports and services (LTCSS) throughout the state including nursing homes, home care agencies and hospices that may be affected by the proposed regulations.

LeadingAge NY supports the general intent of the proposed regulations, which is to advance health information technology (HIT) adoption and promote the development of a statewide network to enable widespread interoperability among disparate HIT systems. The effective and efficient deployment of HIT and health information exchange (HIE) is fundamental to efforts to achieve the Federal Triple Aim and goals of New York's Medicaid redesign.

However, we are concerned about proposed Section 300.8(a) of the regulations. This provision would require health care facilities as defined in PHL Section 18(1)(c) that are using certified electronic health record technology to, within two years of the effective date of the regulation, connect to the SHIN-NY through a qualified entity and allow bi-directional access to patient information. Nursing homes, home care agencies and hospices are among the provider types that would be subject to this requirement, which can be waived based on unspecified criteria to be established by the Commissioner. According to the regulatory impact statement, the SHIN-NY interface costs for these types of providers would average between \$10,000 and \$75,000.

LTCSS providers have been slower to adopt electronic health records (EHRs) than hospitals, practitioners and clinics due, in large part, to ineligibility for federal meaningful use incentives and limited access to other technology funding programs such as HEAL-NY. According to a recent LeadingAge NY survey, only slightly more than half of our nursing home and home care provider members have partially or fully adopted EHR systems.

Without financial assistance, many LTCSS providers lack the resources to purchase and implement EHRs limiting, among other things, their ability to engage in meaningful HIE. Adding another costly, unfunded mandate to connect to the SHIN-NY within two years would create a further disincentive for LTCSS providers to implement interoperable EHR systems, as many of them simply cannot afford these upfront investments without financial assistance.

Accordingly, we would recommend modifying the proposed regulation as follows:

1. ***Limit the applicability of Section 300.8(a) to only those health care facilities that are eligible for meaningful use incentive payments or that received direct HEAL-NY funding to implement EHR technology;***
2. ***Spell out the criteria for granting waivers under Section 300.8(b) in greater detail so that health care facilities that are potentially affected are in a better position to assess their eligibility for such a waiver and are aware of the specific administrative requirements for pursuing a waiver; and***
3. ***Incorporate a mechanism to provide financial assistance to LTCSS providers and other providers that are ineligible for meaningful use incentive payments to support adoption of EHR systems and connectivity to the SHIN-NY.***

Thank you for the opportunity to provide input. If you have any questions on our input, please do not hesitate to contact us at (518) 867-8383.

Sincerely,



Daniel J. Heim
Executive Vice President