

John and Team –

Thanks again for a few extra days and my apologies for missing your initial deadline. I have noted the upcoming review dates and TATs so will be sure to meet those.

## **LHPC Feedback – DxF Governance and Regulatory & Policy Gaps and Opportunities April 18, 2022**

### Governance

- *Key governance functions.* Slide 21 of the presentation acknowledges AG feedback on the governance functions presented at the previous DxF AG meeting. LHPC has the following feedback regarding the role of a governance structure in providing oversight and monitoring compliance (function #5):
  - As referenced on the DxF slides, AB 133 includes the following language around governance “Assess governance structures to help guide policy decisions and general oversight.” Additional discussion and stakeholder feedback is needed to determine what the appropriate scope of oversight to be provided by this new governance structure and, as further detailed below, we believe its scope should remain general.
  - As we and others have mentioned during the AG meetings, the entities that will be subject to the DSA have various state regulators that provide oversight today and we would have concerns with any function which includes duplicative oversight authority, as existing regulators already have authority to provide oversight and monitoring at an entity or contract level.
  - We question the value and feasibility an oversight function that authorizes enforcement and monitoring at the individual DSA level which may include audits, findings, and sanctions. We do not believe it is necessary or practical to have a newly established department or entity monitor thousands of individual DSAs.
- *Governance structure.* Directionally we agree with what was proposed to the DxF AG regarding establishing a Policy Board to oversee implementation of the DxF, with perhaps the hybrid model providing transparency while maintaining an efficient structure to fulfill its functions. However, as mentioned above, there should first be agreement about the functions of such a governance body before committing to a specific structure.

### Regulatory & Policy Gaps and Opportunities

- *Development of a universal release.*
  - We support the development of a universal release, however, the details will be important including where the release is implemented (centralized versus diffuse across many entities) and whether it is honored or adopted by all entities that must sign the DSA.
  - A question on the slide deck asks about the scope of the consent and whether it should include physical, behavioral, and/or social services.

Ideally the universal release would be comprehensive, however, we would call out a significant potential gap is that AB 133 does not include counties as a mandatory entity that must execute the DSA. If counties, namely county behavioral health departments, are not required to execute the DSA and the universal release is only required of entities that must sign the DSA, this will continue to be a major challenge and the impact of a universal release will be limited.

- *Consent management registry.* Again, we support the concept of a consent management solution or registry but where this is managed and ensuring that all entities (plans, providers, etc.) have access to it, otherwise, consent will continue to be held within each entity.

Thanks,  
Linnea