

# **NC HIE Council Policy Development Committee**

**NCHICA  
Research Triangle Park, NC  
January 28, 2009**

## AGENDA

<u>Start</u>	<u>Topic</u>	<u>Discussion Leader</u>
11:00	Welcome and Introductions	Dave Dillehunt Kris-Shae McCall
11:10	HISPC Project Consent Collaborative Policy Issues	Trish Markus
11:25	DRAFT Inter Organizational Agreement (IOA) and Production Data Use and Reciprocal Support Agreement (DURSA)	Holt Anderson / Andrew Weniger
11:45	Working Lunch	All
12:00	LabCorp Inter Organizational Agmt	John Doyle
12:15	Work session to define Policy Development contributions to 2009	All
1:00	Adjourn	

# North Carolina Consent Policy Collaborative Status and Plans

Linda Attarian, MPH, Esq.  
Trish Markus, Esq.

# NC's Consent Policy Options Analysis

- Purpose: To analyze the consumer's role in permitting use and disclosure of his or her health information: currently, what is this role, and what should it be when health information is exchanged through an electronic health information exchange network?

# NC's Consent Policy Options Analysis

- Process:
  - Looked at five possible consent options for consumers in North Carolina
  - No permission (consent is mandatory)
  - Opt In (assumes refusal of consent; consumer given choice to consent)
  - Opt In w/Restrictions (assumes refusal of consent; consumer given choice to consent for some but not all exchanges)
  - Opt Out (assumes consent; consumer given choice to refuse consent)
  - Opt Out w/Exceptions (assumes consent; consumer given choice to refuse consent for some but not all exchanges)

# NC's Consent Policy Options Analysis

- Evaluated each consent option in five scenarios:
  - Lab Results
  - Outpatient Care Coordination
  - Reportable Disease
  - Minor Seeking STD Testing
  - Substance Abuse Consultation

# NC's Consent Policy Options Analysis

- Explored how different consent options would affect
  - Quality of care provided
  - Business impact (including cost) on providers
  - Confidence in HIE
  - Liability of providers
- Created summary of findings and summary of pros and cons of each consent option in the various scenarios

# NC's Consent Policy Options Analysis

- Findings – As amount of Consumer Consent:
  - Decreases, amount of consumer participation in HIE decreases **unless w/ significant consumer and provider education**
  - Increases, amount of provider concern about quality and quantity of data increases
  - Decreases, amount of time and money required to educate and change current processes decreases
  - Increases, greater consumer trust in HIE and less provider confidence in HIE
  - Increases, lesser liability for violation of consent laws and possibly lesser malpractice liability

# NC's Consent Policy Options Analysis

- Limitations of analysis:
  - Assumption was that PHRs were not part of the information exchange process
  - Small group of NC stakeholders participated in the analysis
  - Certain types of health information either must be or may not be disclosed without consent

# NC's Consent Policy Options Analysis

- Lessons learned:
  - In a networked health care environment, consent to release information may need to be **informed** consent in order to encourage use of and trust in the technology
  - Greater enforcement of privacy and security laws is needed to provide confidence to both consumers and providers
  - Electronic exchange of health information requires commitment to privacy principles

# NC's Consent Policy Options Analysis

- Next Steps
  - Receive and review combined summary of interstate consent findings of CA, IL, and OH
  - Receive and review responses to Consent Policies Feedback form from the NC HIE Council –Policy Development Committee, the LWG, and the NC Consumer Advisory Council, and incorporate responses into final report and National Meeting presentations
  - Meeting with NC HIE Council - Policy Development Committee to finalize input on intrastate and interstate consent issues

# Questions/Comments?

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# LabCorp Master Agreement walkthrough

John Doyle, Esq.  
LabCorp

# Inter Organization Agreement (IOA) and Data Use and Reciprocal Support Agreement (DURSA)

Holt Anderson  
Andrew Weniger



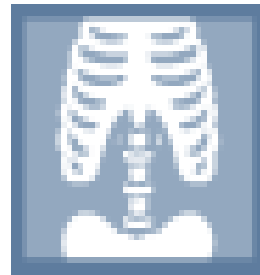
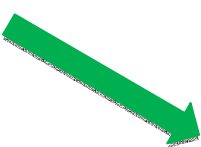
Department of Health & Human Services  
Office of the National Coordinator for  
Health Information Technology

# The Relationship between DURSA and the IOA

# IOA Enables Exchange Within a Community

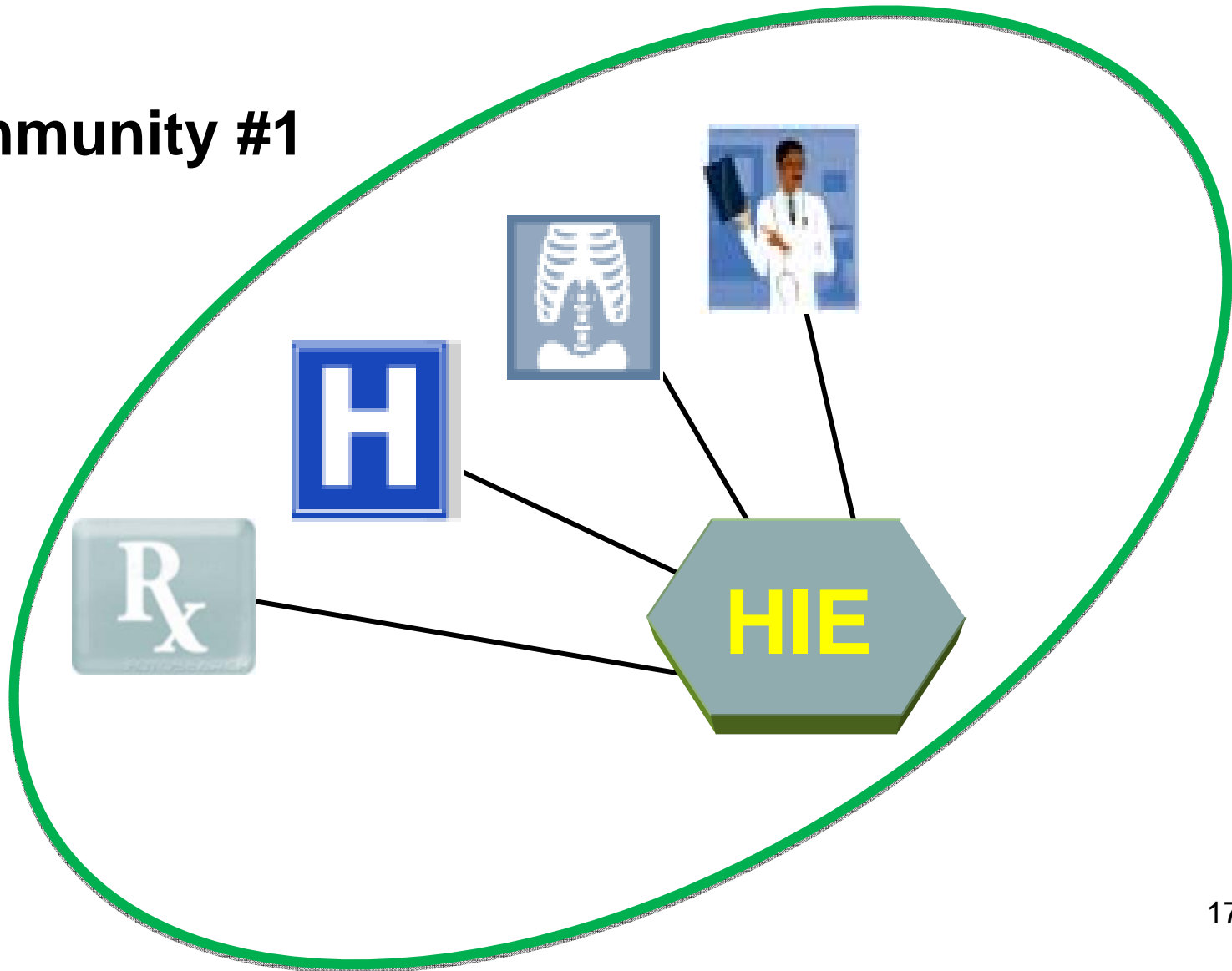
Community #1

IOA



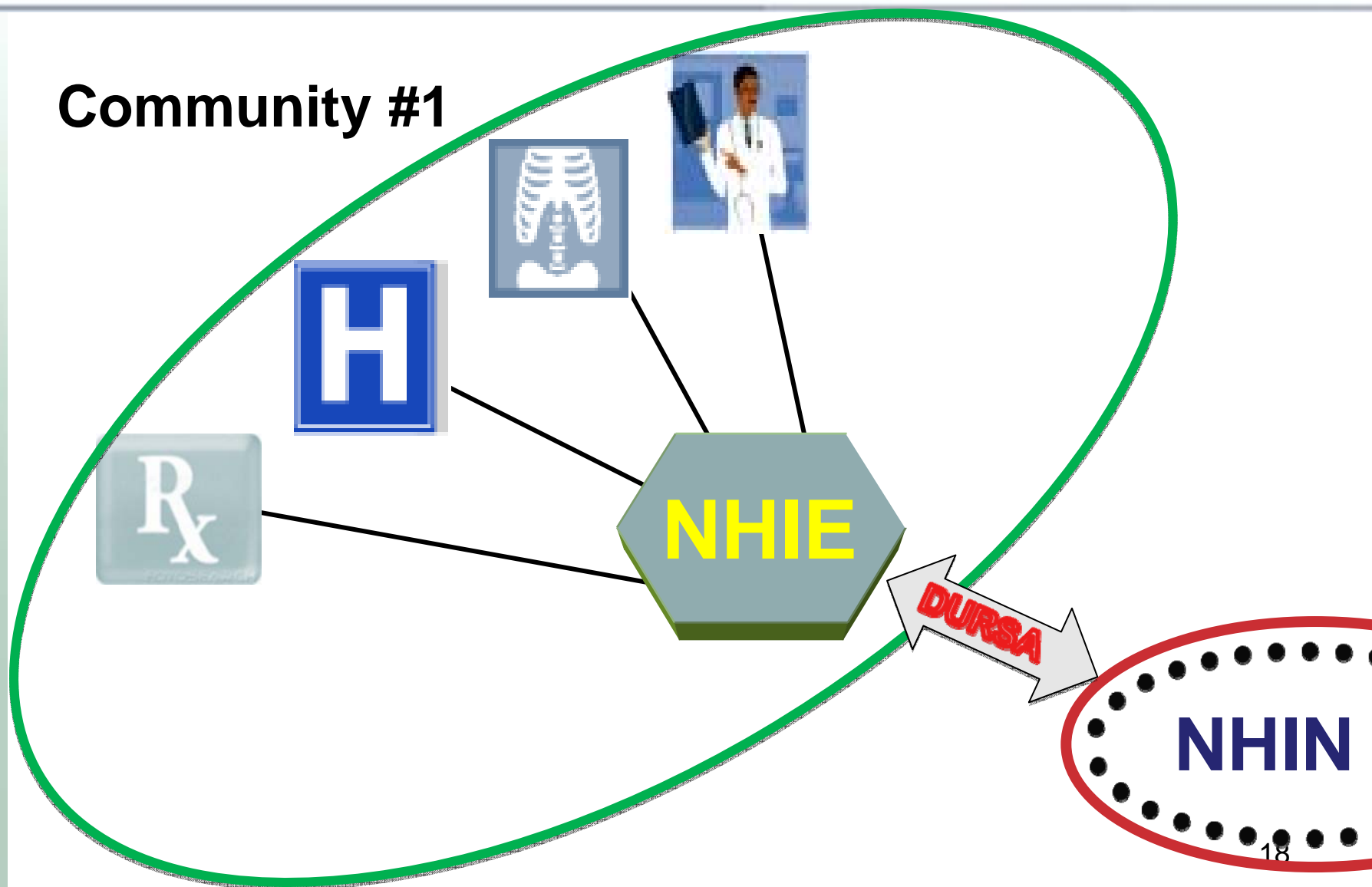
# A Community may create a Community HIE “Utility”

## Community #1



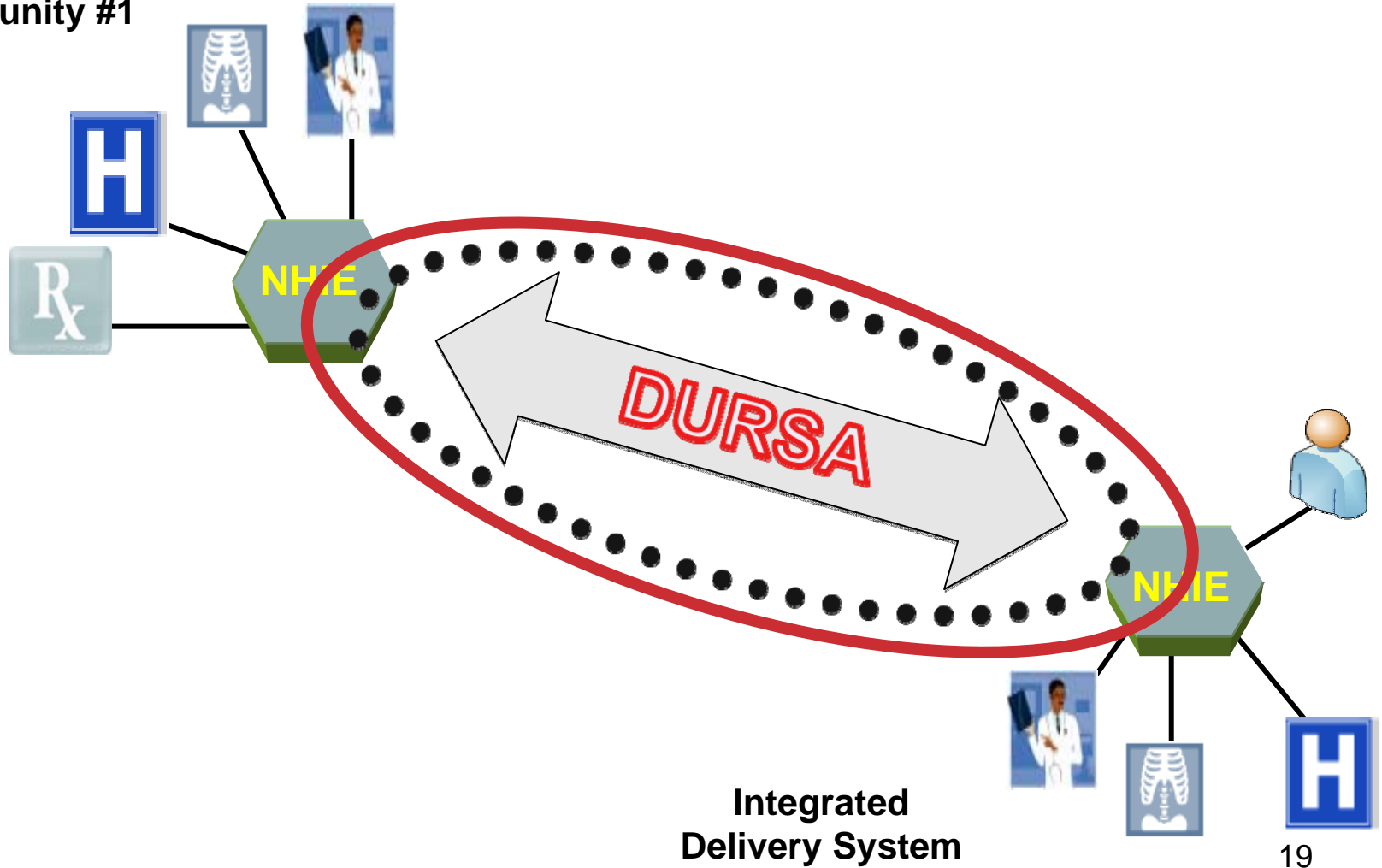
A Community may choose to qualify their HIE to connect to the NHIN as an NHIN-HIE or “NHIE”

Community #1

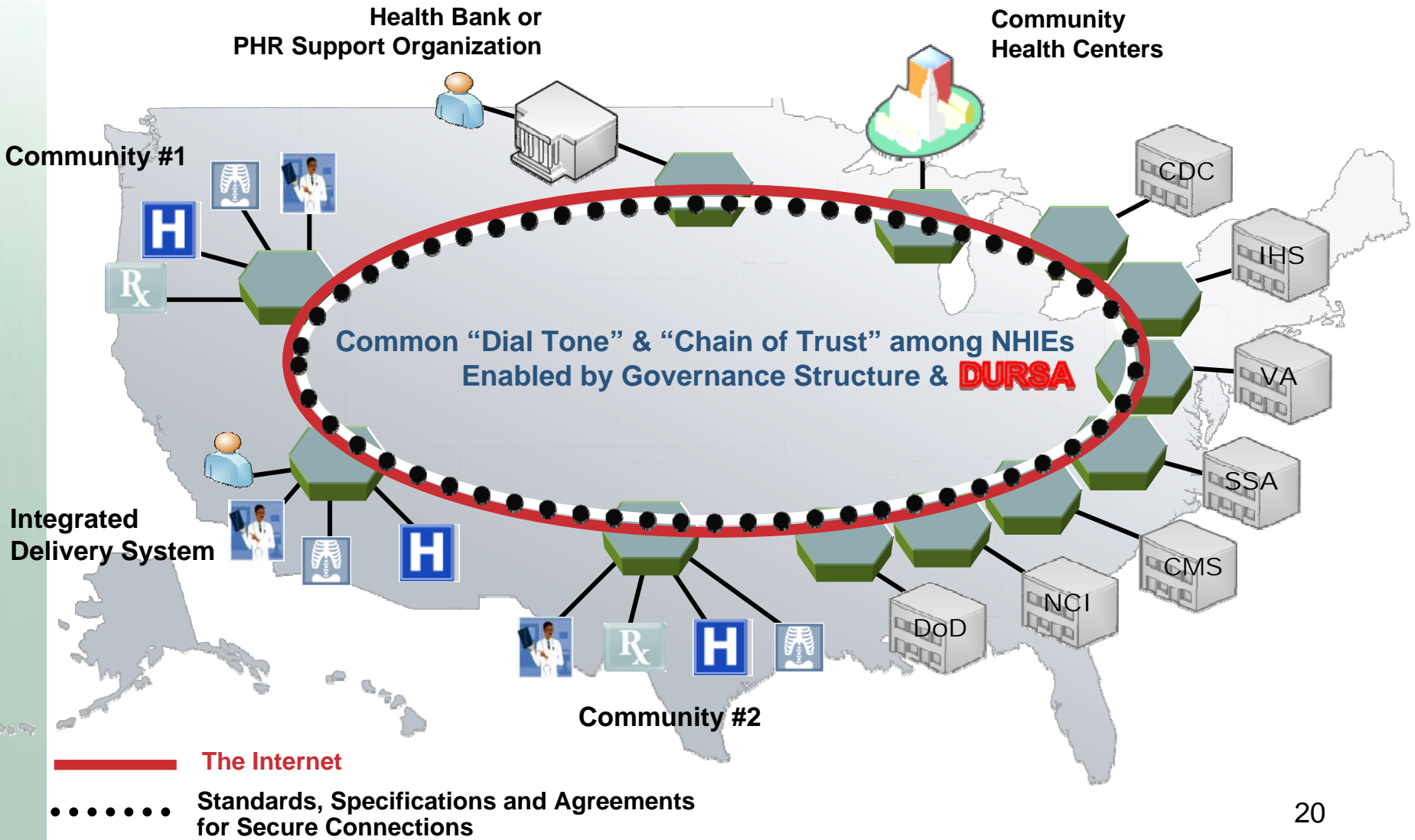


# DURSA Enables Exchange Among NHIes via the NHIN

Community #1



# NHIN “Network of Networks”



# IOA and DURSA

- Next Steps
  - Continue to refine Production DURSA
  - IOA public –public used on CDC project in Charlotte (NC/SC)
  - IOA private-private
  - HISPC final report and March 4-6 meeting Bethesda
  - IOA public-private needed

# American Recovery & Reinvestment Act – HITECH

- House - \$20 billion
  - \$2 billion for ONC
  - \$18 billion incentives through Medicare & Medicaid
- Senate - \$23 billion
  - Senate Finance Committee
    - \$18 billion
    - ONC Expanded Scope
    - Incentives through Medicare and Medicaid
  - Senate Appropriations Committee
    - \$5 billion for HIT

# Draft Stimulus & Policy

- American Recovery & Reinvestment Act – HITECH
  - HIT Policy & Standards Committees created
  - Bus. Associates subject to civil/criminal penalties
    - HIPAA violations
  - Breach notification requirements expanded
    - Immediate and Annual HHS notification
    - Notify media if over 500 individuals
    - Non-covered entities (PHR vendors) subject to notification rqmts
  - If requested, cash transactions must be kept from health plan
  - TPO audit trail must be disclosed if requested
  - Limited (minimum) data set required – Sec 4405
    - Most HIEs not prepared for this

## Upcoming Meetings

- **February 25**      **11:00 a.m.**      **NCHICA Offices**
- **March 25**      **11:00 a.m.**      **NCHICA Offices**
- **April 22**      **11:00 a.m.**      **NCHICA Offices**