

Connecticut Health Information Technology and Exchange Advisory Committee
Legal and Policy Subcommittee
June 9, 2010
Minutes

Attendance: Lisa Boyle, Marianne Horn, Mark Laudenberger, Marcia Petrillo (phone), Phyllis Hyman, John Lynch, Charles Covin, Mike Varney, Moses Vargas, Lori Reed-Fourquet, Kathleen Gedney.

I. Opening Remarks: This meeting will focus on the Consent Options document.

- This document is not the final word on consent. The goal is to present a high level of the model. Many other issues will need to be addressed and the Options need to be ratified by the Advisory Committee.
- Revised document will be sent to the contractor (Gartner) developing the statewide HITE Strategic Plan.
- The Consent Options recommendation will be presented to the entire HITE AC at the June 21, 2010 meeting.
- Public input will be solicited at June 10 meeting at CHA and at June 23 meeting at the Legislative Office Building, 5-7 p.m.

II. Approval of Minutes from last meeting: Minutes were approved.

III. Legal Review: Discussion of Consent Options draft

- Helen George raised several concerns with the recommended model and indicated that she opposed an “opt-out” model. Most of the other states in our region have adopted an opt-in model. She thinks there will be a public outcry to the model being recommended by the subcommittee. Helen suggested that “market studies” be removed as a purpose of use on page 2 and this will be done. She was also concerned that “break-the-glass” isn’t addressed. Lisa Boyle indicated that it is covered under heightened scrutiny discussion. Finally, Helen was concerned that it is the obligation of the provider to ID PHI that is subject to heightened scrutiny. Discussion followed about emerging standards in this area and that it is currently the providers’ obligation to flag sensitive data, although the new piece is adding a HIE.
- There was discussion about what is meant by the “opt-out” model label. It really is a misnomer because in the Consent Options recommended model, all data in the CCD document will flow into the HIE. A better label would be something like, “presumptive inclusion with right to control dissemination under law”. Disclosure of generic PHI back out of the HIE will happen without consent for TPO, subject to any specific disclosure restrictions and sensitive PHI will require an authorization. References to opt-in and opt-out will be removed and the final sentence in the introductory paragraph will be revised to reflect this discussion.
- The first sentence in 1. under Recommendations section should be changed to delete “All” and to add “from all participating providers for all patients.”
- Change “Special” PHI to “Sensitive” PHI throughout.
- Add “except as required by law” to the third bullet in 2. under Recommendations.
- John Lynch described the CT HIE model using a schematic.
- Bottom-line is that the recommended model follows existing practice under HIPAA and other state and federal laws. The key will be education of both providers and patients.

IV. Things to do for next meeting:

- Lisa Boyle will revise draft Consent Options document, which will be sent to Gartner for inclusion in the draft Strategic Plan.
- Charlie Covin will put together a draft power point presentation based on the Consent Options for the June 21 HITE AC meeting.
- **Next meeting is Tuesday, June 15 at 2p.m., at DOIT, room 7046.**