

Connecticut Health Information Technology and Exchange Advisory Committee
Legal and Policy Subcommittee
June 15, 2010
Minutes

Attendance: Lisa Boyle, Marianne Horn, Moses Vargas, Helen George, Marcia Petrillo, Mark Laudenberg, Phyllis Hyman, Michelle DeBarge, Charlie Covin (via phone) and Kate Gedney (DPH intern)

- I. Discussion of upcoming meetings
 - HITE: June 21, 2010
 - HITE (public only): June 23, 2010, 5-7pm at the LOB
- II. Approval of minutes from last meeting
- III. Discussion of Heightened Confidentiality State Laws
 - i. Some of the state confidentiality laws are written poorly
 - ii. Discussion of how lawyers often need to consider whether there is a “bona fide” purpose for disclosure
 - Discussion of options on how to deal with such state laws
 - i. Potential for changing the laws
 - ii. Use an Opt-in model
 - iii. Obtain an AG opinion
 1. Go with current recommendation model
 2. Go on the presumption that it is okay because it is customary to disclose to BAs
 - iv. Use an Opt-out with Exceptions Model
 1. Discussion of whether physicians would buy-in
- IV. General Discussion of Consent Model
 - Considered whether it is worth collecting some information and knowing that all information is not collected
 - Obtaining public’s input regarding use and disclosure
 - Patients’ right to opt-in or opt-out
 - Discussion of how providers are currently using and disclosing protected health information
 - Need for obtaining a signed acknowledgement of information regarding HIE
 - Importance of having all information stored in HIE
 - i. Having information readily available
 - ii. Public policy purposes
 - iii. Robustness of HIE
 - iv. De-identify and aggregate for research
 - “Break the Glass” approach and how to reconcile with state sensitive information laws

- Discussion of information that passes through HIE vs. info that is stored in the HIE
- V. Discussion of exceptions to state confidentiality laws
- Mental health records would be easy to tag because they are tied to a mental health provider
 - HIV information is harder to tag because many providers handle HIV information (not just tied to one type of health care provider)
 - Need to look at laws regarding treatment of minors and determine if certain laws provide heightened confidentiality
 - Need to look at nursing home laws (i.e. federal OBRA laws)
 - Federal substance abuse laws allow disclosure to qualified service organization
- VI. Things to revise in consent model recommendation:
- Discussion of HIE servers
 - i. Clarify that there would be two (2) servers - one with a code and one with the master patient index
 - Footnotes for some of the technical issues and legal hurdles
 - i. Nursing homes, labs, pharmacies, etc.
 - Discussion of HIE liability and risk