

**Health Information Technology Exchange of Connecticut  
Legal and Policy Committee  
September 20, 2011**

**Meeting minutes**

**Present:** Lori Reed Fourquet, Jill Kentfield, Mark Laudenberg (phone), Marianne Horn, Ellen Andrews (phone), Brenda Kelly, Denese Sterling, Moses Vargas (phone)

Brenda Kelly chaired the meeting

Mark Laudenberg, seconded by Ellen Andrews made a motion to approve the minutes of August 29, 2011 and September 6, 2011. Motion carried unanimously.

Discussion took place regarding the review and development of the Health Information Exchange policies. Lori Reed –Fourquet shared the public comment she received regarding the policies. Mark Laudenberg stated that some physicians will not participate in the health information exchange due to fear of breach of health information.

Brenda Kelly spoke about the Special Populations committee working on educational materials for patients regarding the health information exchange and their ability to opt-out.

The first public comment was informing patients of their rights regarding the Opt-Out policy. Discussion took place regarding the opt-out policy. There are 2 options for consumers to opt-out written into the policy. Consumers can opt out of the health information exchange completely or they can opt out of the HIE but allow for the emergency room physician to view their file.

Mark Laudenberg spoke about the Attorney General's privacy taskforce whose goal is to ensure patients have an understanding of the opt-out policy and to make it is as easily as possible to opt-out.

Discussion took place regarding the 2<sup>nd</sup> public comment regarding auto filtering of and access to sensitive information. The commenter asked how the Health information exchange will be able to block sensitive information when based on test results and certain medications it can be assumed the consumer falls under the sensitive information category. Lori identified the section of the consent policy where sensitive data is defined. Currently, when a physician works with a paper file they are required to flag the sensitive information. When using the electronic file the provider can flag the record as sensitive by using codes from a drop down box which will automatically reflect in the system.

Brenda Kelly recommended adding in the following information into the provider agreement:  
“The subscriber will agree that they will mark data as sensitive according to the policy. If their system does not permit marking the data as sensitive, they may negotiate a process on a case

by case basis that requires they include a problem list or results of procedures identifying sensitive data using a code from a pre-defined value set.” The provider will need to verify their EMR will support the code from the value set and transformation services may mark data on their behalf. Brenda Kelly will discuss the tagging of sensitive information with the Special Populations committee. The affinity domain policy includes a list of SNOWMED codes for mental health and substance abuse providers and HIV status that can be used as the value set. Also practice settings for mental health and substance abuse that submit information into the health information exchange will be marked as sensitive. If a provider is using an OPT-In procedure in their practice and wants to continue to do so, a provision has been made in the health information exchange.

Discussion took place regarding obtaining of consent for sensitive data for substance abuse, psychiatric treatment and HIV status. Current state law is more restrictive than HIPAA and provisions may need to be made to obtain permission from the patient each time information is exchanged. If so, current policy will need revising as it only mandates seeking permission from a patient for the exchanging of sensitive data every 2 years. The Legal and Policy Committee recommends Jennifer provide a legal review of the statutes that pertain to sensitive information and whichever is strictest use the same standard across the board. Also make sure this will be supported by federal law and look at best practices from other states.

The Federal law regarding the exchange of substance abuse information is 42CR 2.31 which requires consent to include the name and title of the individual and the name and title of the person who will be reviewing the information.

Based on State and Federal law it might be best to segregate the exchange of substance abuse information from the HIE. HIV status and mental health information can be easily managed with 2 year permission. Lori will speak to Jennifer.

Adjourn at 10:05 AM

Discussion took place regarding using the information for commercial and research purposes. The Special Populations committee identified the importance of using the information for research purposes. At this time, none of the exchange information will be used for commercial or research purposes.

Next meeting: October 4, 2011 8:30 AM – 10:00 AM will take place at DOIT and also use Go to meeting.

The meeting adjourned at 10:00 am.

