

HISPC-Illinois

The Public-Private Partnership Moves Forward on Privacy and Security



HISPC Legal Workgroup Meeting
Wednesday, December 5, 2007 9:00-11:00AM

In attendance:

**Brian Annulis, Katten Muchin Rosenman LLP
Elissa Bassler, Illinois Public Health Institute (project team)
Rob Connor, Illinois Department of Human Services
*Jeff Johnson, Illinois Dept. of Public Health (project team)
Kathy Karsten, Illinois Public Health Institute (project team)
**Laura Martin, Katten Muchin Rosenman LLP
Michael Murer, Murer Consultants, Inc.
Maria Pekar, Loyola University Health System
Doug Polk, Illinois Hospital Association
Joel Shoolin, Family Practice Medicine
*Marilyn Thomas, Illinois Dept. of Public Health (project team)
*Moderators
**Legal Contractors

The meeting was convened by Marilyn Thomas at 9:00AM. The documents were reviewed by Brian Annulis, who commented on the material revised and/or removed from previous versions. Regarding the notice of privacy practices, Jeff Johnson talked about the 'shadow vault' concept and its potential application to the HIE. A member talked about potential liability issues and whether the documents should address the housing/storage of data, given the lack of clarity on the architecture of the HIE and the wish to keep the documents relevant in the future. The group agreed to accept the notice of privacy practices insert document as presented in the meeting.

Elissa Bassler then discussed the proposed dissemination plan with the group. She asked members to contribute to those who should receive the documents. A member asked if the plan was an internal or external document; Bassler said it was meant for the steering committee, and it was to be used as a guide if dissemination does go forward. Thomas added that the funders had also asked for this deliverable, and that the plan depends on funding and how the HIE develops in the coming year. A member added that many other hospitals could be included on the list; Bassler asked for contributions to be sent to IPHI. The member also asked about home health agencies, rehabilitation centers, ambulatory surgery centers, diagnostic testing and other facilities not included on the list, and urged the group to think about other categories to add to the list of distribution sources. Another member suggested the Illinois Health Lawyers Association, university health law programs and the Illinois State Bar Association health law section. A member raised a concern about lawyers being included in the same list as doctors; Thomas and others clarified that the packet might be best presented as two different packets with separate explanations to different groups. Another member added that lawyers' groups should be informed that the forms have

already been through a legal review, to avoid unnecessary time spent on reconsidering them. It was specified that lawyers and providers would not have access to the same database.

The secondary group of packet recipients was then discussed. Bassler thought insurers in particular might be a strong advocate for the HIE, but acknowledged that the list and the information presented to them needed further development. Thomas said lawyer groups might fit best in the secondary group. Other members did not suggest any other types of organizations for the secondary stakeholder group. Thomas added that consumer education might be a consideration further down the line, as she thought the current plan focused on physicians and other similar sources. A member wondered if approaching consumer groups might invite undue liability or concern; Thomas acknowledged this, but added that other states have begun marketing the concept to build a 'comfort level' of what to expect in the HIE and the process. Bassler agreed that this approach would help surmount potential barriers by a lack of understanding about the HIE. There was also discussion about public relations, media management and getting the 'right' word out and a consumer education plan; Thomas said this might constitute a next step for the project, and thought a scan of other states' approaches might help. She also suggested that the aspect of consumer education be included in the plan as something to be addressed. Johnson noted, however, that ongoing funding would be driven more by collaborative work rather than individual state plans. He suggested a two-part approach with a model for expanded funding, and a basic, low-cost plan to major sources only. Another member also suggested developing a brochure with general FAQs (possibly developed with consumer focus groups). Thomas noted that the group should e-mail further comments or suggestions to Elissa, and Bassler said the plan would be rewritten to reflect the discussion above.

The discussion returned to the three consent forms. Annulis talked about the consent for protected health information. A member noted some concerns about softening language, which she felt might incur potential liability (i.e., when is consent not required?). Annulis then talked about the authorization for research and the form utilization guidelines. A member suggested including unresolved issues (i.e., data storage) that the group has discussed throughout their meetings. Other members agreed, and thought it should be included in the form of a disclaimer at the end of the document. Johnson then talked about collaborative work in this area, particularly in fostering use of the HIE and forms and assessment processes. A member came up with a list of questions based on group discussions and sent them to the group for consideration. The new version of the form utilization guidelines and revised plan will be sent in time for the steering committee to consider; Thomas will work with Annulis and Martin on further language for the disclaimer, including a note that the documents are not to be considered 'legal advice'.

Thomas noted her appreciation for the group's work, as well as Annulis and Martin and the rest of the project team. She then convened the meeting at 10:30AM.