

Privacy and Security Workgroup

Agenda for Today's Breakout Session

- Overview of Privacy and Security Workgroup
- Review of NY HISPC process to date
- Provide comment on and if possible reach agreement on charter
- Discuss membership requirements
- Discuss scope of work including major changes, consensus on priorities and timelines

Privacy and Security Workgroup

- Overview
- Purpose and Scope
 - Protecting privacy, strengthening security, ensuring affirmative and informed consent and supporting the right of New Yorkers to have greater control over and access to their personal health information are foundational requirements for interoperable HIE
 - Statewide collaboration process requires:
 - Develop -- develop policies to enable HIE
 - Operate -- determine operational and environmental processes to support the policies efficiently and accurately
 - Specify -- specify business requirements and solutions to support policies
 - Enforce -- develop contractual and regulatory framework to enforce policies
 - Contractual framework to enforce policies, including: state-level participation agreements and vendor subcontractor requirements
 - Regulatory framework to enforce policies while allowing market innovation, e.g, RHIO accreditation as governance entities

HISPC Project Focus

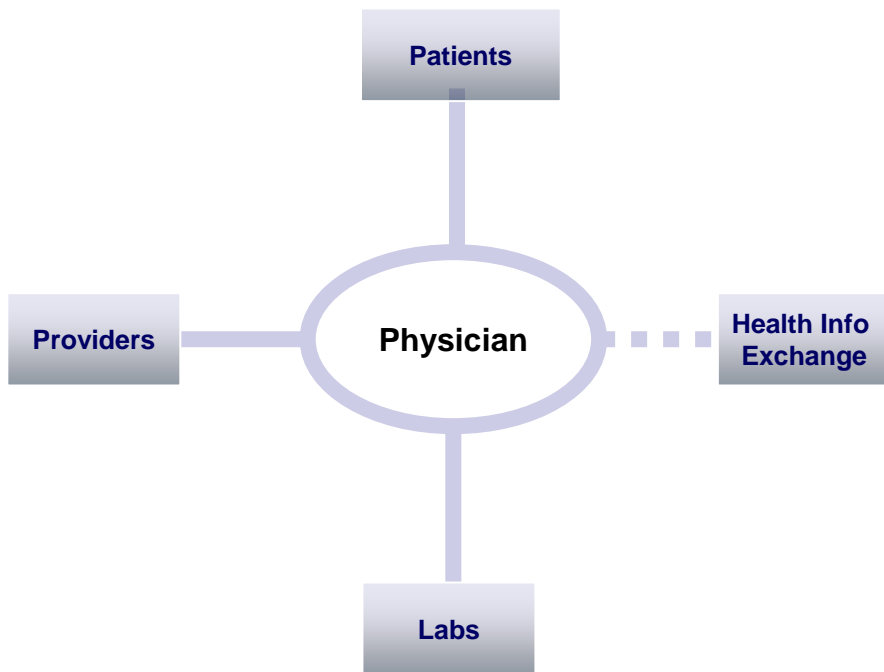
- RHIOs have responsibility for ensuring privacy and security of information collected and exchanged via the Statewide Health Information Network for New York (SHIN-NY)
 - Access and use policies
 - Authentication of identity
 - Authorization for access
 - Consumer and provider identification
 - Transmission security
 - Data integrity
 - Audit trails for clinicians and consumers
 - Administrative and physical security
 - Enforcement and protections

HISPC Project –Access and Use Policies

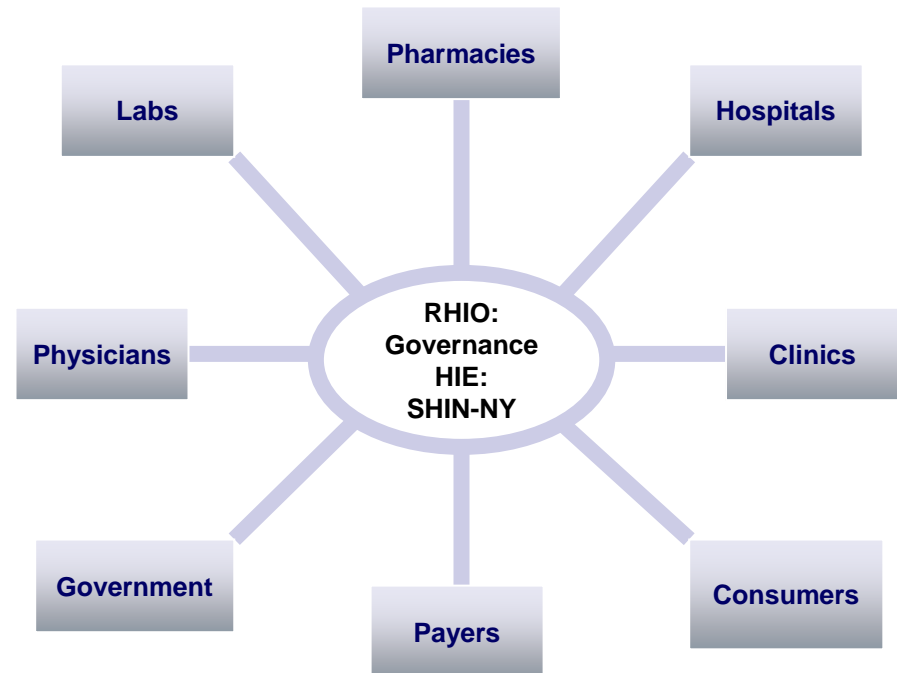
- Advance health information exchange via the SHIN-NY through the development and implementation of a standardized consent process for RHIOs in NYS
 - Ensure that consumer consent is informed and knowing
 - Provide clarity on and ensure consistency in consent process
 - Give RHIOs standing to address patient consent on behalf of physicians, providers and New Yorkers
 - Enable incentives and protections to encourage participation

Health Information Exchange Options

Physician Centric Health Information Exchange ("One to One Exchange")



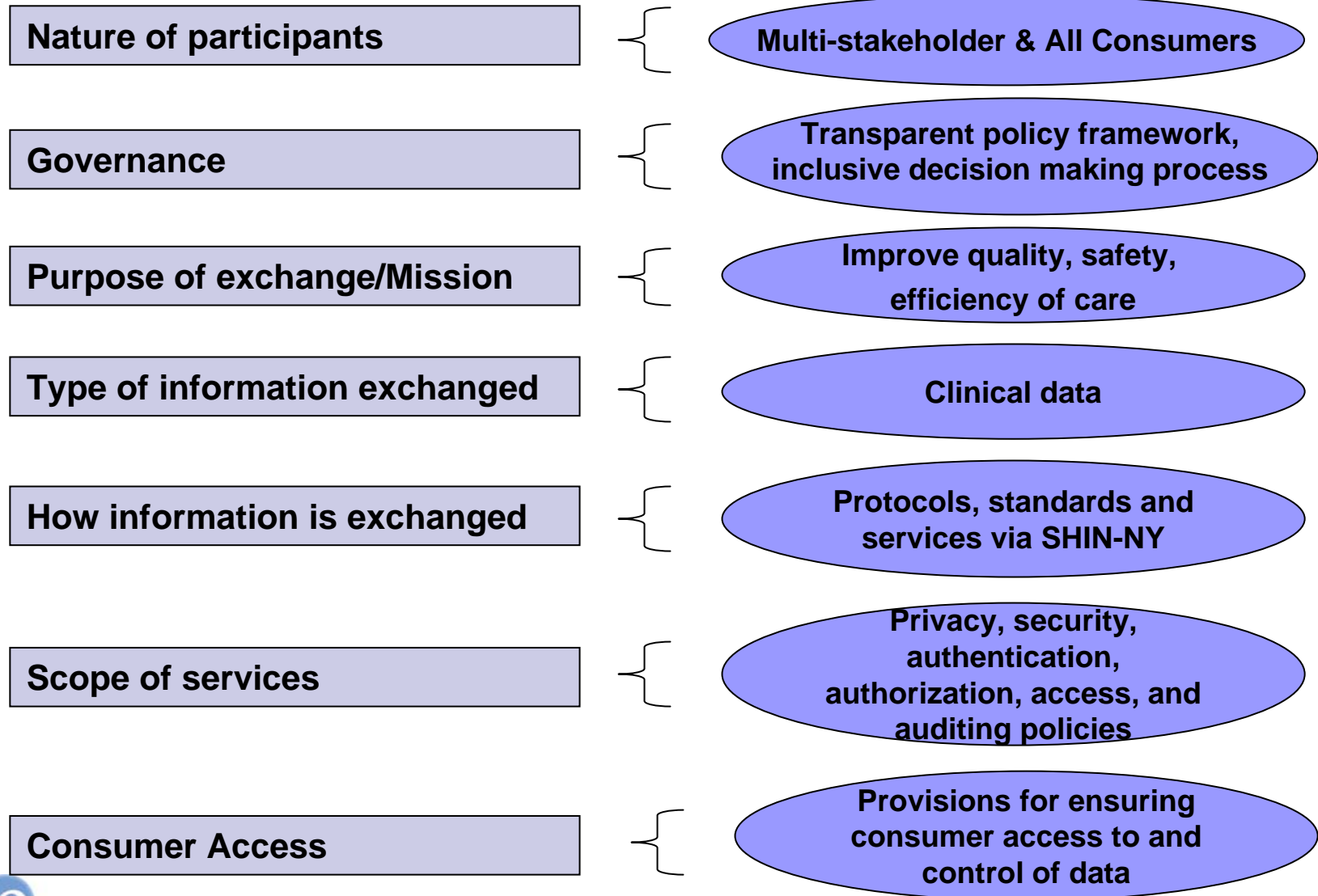
Interoperable Health Information Exchange (RHIO as governance entity)



Note: One-to-one exchange was not covered within this HISPC phase, but will need to be explored separately

Analytic Framework

RHIO – Core Components



RHIO CONSENT STANDARDS: KEY QUESTIONS

Activities: What are the activities with respect to health information exchange we are seeking to govern and support?

Obligations: What are the core obligations of a RHIO governing healthinformation exchange via SHIN-NY with respect to consumer consent?

- Uses of information
- Sensitive information
- Where and at what point consent is obtained
- Standardized consent process
- Durability and revocability
- Consumer engagement
- Audit and transparency

Benefits/Penalties: What are the consequences, including benefits and penalties, of meeting the obligations defined above?

Adoption/Compliance: How and by whom will compliance be enforced?

Key Principles of New Consent Policies and Procedures

Policies and procedures should:

- Promote patient-centered care by facilitating consumer choice and addressing consumer concerns about privacy
- Promote exchange of comprehensive information ensuring clinical effectiveness to improve the quality and efficiency of care
- Minimize burdens on healthcare providers
- Be practical and “implementable” for RHIO participants providing operational flexibility
- Be simple and clear with a concrete rationale
- Foster innovation while ensuring public trust
- Be neutral on technology model

Affirmative and Informed Consent Recommendations

- Any New Yorker has the right not to participate in interoperable HIE enabled by the RHIO
- If a patient grants consent to participate, they have a right to prohibit access to their PHI by provider organizations of their choice
- The patient consent permits provider organization access to PHI for treatment, quality improvement and disease management
- The patient consent permits health plans, employers and other third parties access to PHI for quality improvement and disease management
- Provider organization can then access all PHI, including sensitive information from all providers participating in interoperable HIE
- Patient is informed about all participating providers in the RHIO and how updates to the participant list can be obtained
- Patient gives consent at the provider organization level and allows access to patient's PHI by all authorized individuals in the organization to the extent needed
- Uses are limited to treatment, quality improvement and disease management

Process Going Forward

- Analysis of public comments facilitated through NYeC to address definitions, clarifications and other concerns related to white paper:
 - Research, quality and marketing
 - Provider and consumer views on the implementation of the consent process
 - Payer/plan uses and roles
 - Sensitive health information and sensitive population needs
 - Enforcement and protections
 - Outstanding issues
 - Glossary and definitions
- Fourth public forum on March 10 provided opportunity to discuss key issues provided during the public comment period
- NYeC Board reviewed recommendations on March 13
- Final policy document and standardized consent form will be developed and issued by NYSDOH
- HEAL 5 contracts will include language on consent policy implementation
- Accreditation project exploring regulatory framework regarding other key privacy policies that need to be coupled with consent policy
- Ongoing participation in HISPC process throughout 2008

Next Steps on Consent for this Workgroup

- Issues Requiring Additional Attention Listed in White Paper:
 - Further definition of “one-to-one” health information exchange
 - Develop policy guidance to help ensure protection of consumer interests while facilitating consumer access to and control of their personal health information
 - Consent policies and procedures for use of de-identified data exchanged through RHIOs, focusing on ensuring adequate protections against re-identification
 - Consent policies and procedures relating to minors; and
 - Consent policies and procedures relating to information obtained from federally qualified alcohol and substance abuse facilities
- Operations Guidance to RHIOs Implementing White Paper Provisions

Authentication, Authorization, Access Controls and Auditing (4As)

- Catalogue and Assess Existing Practices
- Develop common statewide policies for 4As
- Determine operational and environmental processes to support 4A policies
- Specify business and technical requirements and solutions to support 4A policies
- Enforce 4A policies through contractual and regulatory framework
 - Common language for participation agreements and vendor subcontracts

PRIVACY AND SECURITY WORKGROUP: STRUCTURE AND MEMBERSHIP

- STRUCTURE
 - SUBGROUPS: ENFORCEMENT AND CONTRACT REQUIREMENTS; ONGOING POLICY DEVELOPMENT; 4 A'S
- MEMBERSHIP