

New York eHealth Collaborative Policy Committee Meeting
May 18, 2022
2 p.m. – 3:30 p.m.
Meeting Notes

A meeting of the NYeC Policy Committee was held on May 18, 2022. Present via telephone or videoconference were:

Policy Committee Voting Members

Art Levin, Chair, Center for Medical Consumers
Dr. Lawrence Brown, START Treatment & Recovery Centers
Dr. David Cohen, Maimonides Medical Center
Dr. Ram Raju, Health Disparities Consultant
Steve Allen, HealtheLink
Alan Cohen, JASA

Other Attendees

Judy Mendoza, Rochester RHIO
Liana Prosonic, HealtheConnections
Elizabeth Amato, HealtheConnections
Patricia Burandt, HealtheLink
Dan Porreca, HealtheLink
Todd Rogow, Healthix
James Kirkwood, NYS DOH
Deirdre Depew, NYS DOH
Chelsea Sack, NYS DOH
Michele Warner, NYS DOH
Ken Wiczera, NYS DOH
Dan Schiller, NYS DOH
C.J. Barber, NYS OMH
Tammy Harris, OPWDD
Meg Vijayan, OPWDD
Jeanne Kavanaugh, OPWDD
Leilani Prusky, NYSTEC
David Horrocks, NYeC
Cindy Sutliff, NYeC
Alison Bianchi, NYeC
Don Juron, NYeC
Kathryn Lucia, NYeC
Julia Sisti, NYeC
Sam Roods, NYeC
Bob Belfort, Manatt
Alex Dworkowitz, Manatt

The meeting was called to order by Mr. Levin at 2 p.m.

I. Welcome and Introductions

Ms. Sutliff welcomed the Committee members and provided an overview of the agenda, the meeting materials, and the meeting objectives. The Committee approved the meeting notes from the April meeting.

Ms. Sutliff noted that the NYeC board had approved the Committee's policy recommendations regarding all-in consent. Dr. Brown asked when the public would be informed about the all-in consent changes. Ms. Sutliff answered that meetings would occur in June with other state agencies, which would be followed by an educational campaign.

II. Federal and State Updates

Ms. Bianchi said that there have been developments related to the Trusted Exchange Framework and Common Agreement (TEFCA): several documents had been released for public feedback, including the application for a Qualified Health Information Network (QHIN).

Ms. Bianchi said NYeC was developing comments on the interoperability provisions of the Medicare Hospital IPPS and long-term care IPPS proposed rules. She added that NYeC is also developing comments in response to New York's Medicaid waiver demonstration proposal.

III. DOH Update

Mr. Kirkwood noted the comment period for the New York's Medicaid demonstration ends on May 20th.

Mr. Kirkwood provided background on potential revisions to the SHIN-NY regulation. He said the proposed regulation would require QEs to use an all-in consent form. He said the proposed regulation would also require organizations that have uncertified electronic health record systems to connect to the SHIN-NY, with the revision reflecting a drastic change in the market for electronic health record systems over the past eight years.

IV. Alternative Consent Policies

Ms. Sutliff noted that most QEs currently use a single-provider consent that follows the model consent form. However, she said that there are some alternative consent forms being used, such as consent forms developed by large hospital systems and the 5055 form used by health homes.

Ms. Sutliff said that under the all-in consent model there would be a transition period during which QEs could continue to use their current consent forms, but once that transition period was completed all QEs would be required to use the all-in consent form. Mr. Dworkowitz raised the

question as to whether QEs could continue to accept certain alternative consent forms after the transition period closed as per current policy regarding use of alternative consent forms.

Mr. Dworkowitz described several options for alternative consents after the transition period. He said the strictest option would be that only the all-in consent form would be accepted and all other forms would be prohibited. He added that the policies could also be more flexible, permitting either state-approved forms or forms used in other states.

Mr. Rogow explained that there are national provider networks that have a presence in New York City that aim to use a standardized form across all 50 states, and Healthix has worked to make sure such a form complies with New York State requirements. He said there can be redundancy and inefficiency in the use of multiple consent forms that all permit the same disclosures.

Dr. Raju asked if a hospital in California used a SHIN-NY form, who would be responsible for making sure the form complied with California requirements? Mr. Belfort responded the law of the state where the provider is located governs, and therefore the California provider is responsible for complying with California law even if that provider is treating a patient from New York.

Ms. Prosonic noted many other states are opt-out states and do not require patient consent. Mr. Porreca responded that if a patient has not signed a New York consent form then HealtheLink will not release the patient's data. He added that Part 2 data could be included in the information sent out of state, and such data does require consent.

Dr. Raju asked about the frequency of sending information out of state. Mr. Rogow said it occurs frequently, noting there are a million New Yorkers who reside in Florida for part of the year. He said that when Healthix was connected to the eHealth Exchange there were 75,000 exchanges with the Department of Veteran Affairs every month.

Dr. Brown said he appreciated the needs of residents of other states, but that the Committee needed to develop an approach that best fit the needs of New Yorkers. He said that the Committee should not develop an approach that is too rigid, but they also need an approach that does not create a significant administrative burden.

Ms. Sutliff said they would come back in June with more detailed options.

V. Transmittals to Life and Disability Insurers

Mr. Rogow explained that Healthix was working with data aggregators that collect patient data on behalf of life and disability insurers who are evaluating an individual's application for such insurance. He cited as problematic the SHIN-NY policy requirement that a QE send an email to a patient confirming that the patient provided consent. Mr. Rogow said that in 83% of cases, the life insurance or disability insurance applicant never provides an email address, meaning that Healthix cannot be the source of the patient's information because Healthix cannot send a

confirmation email. He added that in cases where an email is sent to the patient to confirm consent, only one quarter of one percent decline access, indicating that only a very small percentage of people have concerns.

Mr. Rogow said that given this context, Healthix was proposing that the Committee remove the email requirement set forth at Section 1.8.2(f) of the policies.

Dr. Raju noted there is a general reluctance to provide email addresses, and said he was more reluctant to share his email address than he was 10 years ago.

Ms. Sutliff said this provision had been adopted based on an abundance of caution and is just intended to ensure that that patient had provided consent.

Mr. Alan Cohen said he felt that allowing SHIN-NY data to be used for these insurance purposes was a win-win, since it was helping to ensure the sustainability of the SHIN-NY while providing data at the request of patients.

Mr. Rogow noted that the insurers are using a New York State approved form for consent. Mr. Porreca agreed, asking that if the patient has provided consent, then why are the QEs preventing the information from being disclosed?

Dr. Raju said he approved of the policy change. Dr. Brown, Mr. Allen, Mr. Cohen, and Dr. Cohen agreed. Ms. Sutliff said they had consensus to adopt the change.

VI. Closing

Ms. Sutliff said the committee had achieved their goals for the meeting. She said the next meeting would be a longer meeting that would take place on June 16.

Mr. Levin thanked the Committee and adjourned the meeting.