

New York eHealth Collaborative Policy Committee Meeting
June 7, 2023
12:00 p.m. – 1:30 p.m.
Meeting Notes

A meeting of the NYeC Policy Committee was held on June 7, 2023. Present via telephone or videoconference were:

Policy Committee Voting Members

Chuck Bell, Advocacy-Consumer Reports
Dr. Lawrence Brown, Weill Cornell Medical College
Alan Cohen, JASA
Dr. David Cohen, Maimonides (Chair)
Russell Lusak, Selfhelp Community Services
Taiymoor J. Naqi, Hixny
Todd Rogow, Healthix
Dr. Sabina Lim, Mount Sinai Health System
Louann Villani, RN, Clinical Informatics Consultant

Ex-Officio:

Carmen Barber, OMH
Patti Burandt, HealthLink (BOC Rep)
Deirdre Depew, NYS DOH
Daniel P. Hallenbeck, DOH OHIP
Puja Khare, GNYHA
Jim Kirkwood, NYS DOH
Meredith Locke, DOH OHIP
Leilani Prusky, NYSTEC
Chelsea Sack, DOH
Jennifer Unser, DOH
Rinzin Wangmo, NYC DOHMH
Ken Wiczerza, NYS DOH

Other:

Steve Allen, HealthLink
Allison Behan, OPWDD
Bob Belfort, Manatt
Marlene Bessette, Rochester RHIO
Nicole Casey, NYeC
Jessica Chanese, NYSTEC
Rebecca Coyle, NYeC
Alexander Dworkowitz, Manatt
Charlie Feldman, NYeC
Jen Freeman, OPWDD
David Horrocks, NYeC
Donald Juron, NYeC

Kathryn Lucia, NYeC
Isaac Lutz, NYSTEC
Magdalena Mandzilewska, Healthix
Liana Prosonic, HealthConnections
Sam Roods, NYeC
Wendy Saunders, Hinman Straub
Nance Shatzkin, Bronx RHIO
Julia Sisti, NYeC
Jen Spencer, Rochester RHIO
Cindy Sutliff, NYeC

The meeting was called to order by Dr. Cohen at 12 p.m.

I. Welcome and Introductions

Dr. Cohen welcomed the Committee members and described the agenda for the meeting. The Committee approved the meeting minutes from the prior meeting.

II. Federal and State Updates

Mr. Roods provided updates on the Trusted Exchange Framework and Common Agreement (TEFCA). He noted MedAllies is the seventh organization approved for testing and onboarding as a Qualified Health Information Network (QHIN), but added that no QHINs are currently active. He said that Epic recently announced that 23 major hospital systems are planning participation in its QHIN, including Mount Sinai, NYU Langone, and Weill Cornell.

Mr. Roods provided an overview of recently proposed federal rules related to privacy and information sharing.

III. DOH Update

Mr. Kirkwood said that DOH was patiently waiting for the conclusion of negotiations with CMS about the 1115 waiver.

Mr. Kirkwood said the state legislative session is coming to a close. He noted that public health surveillance activity was included as a SHIN-NY budget item.

IV. Access to SHIN-NY Data by Third-Party Applications

Dr. Cohen introduced the subject of third-party applications, noting that patients are increasingly seeking access to data through such apps. Mr. Dworkowitz provided background on policies of other health information exchanges (HIEs) related to third-party apps. He noted that some HIEs do not share data with patients at all; in contrast, others do share data with patients and are

making efforts to share data with patient apps, but typically do not have detailed policies in place governing the process.

Mr. Roods explained that the Carin Alliance had recently presented at the HIMSS conference on digital identity proofing. He said that it was a challenge in that patients cannot easily access or aggregate their own information because they need a trusted identity with each health care provider they use. He explained that a proposed solution was to have individuals voluntarily digitally ID proof themselves once and use that digital credential with multiple providers and data sources.

Mr. Dworkowitz asked if the SHIN-NY policies needed to be more prescriptive as to how QEs respond to requests for third-party apps. Mr. Lusak asked how common it is for QEs to receive data requests from patients. QEs responded that the number varied, with one QE receiving about 15 requests a month and another receiving 20 requests over the course of the year.

Mr. Alan Cohen said the New York State Excelsior Pass could be a model for giving consumers access to their data, although he questioned whether it was in the purview of the Policy Committee to make recommendations to the state as to the development of apps.

Dr. Brown said there are two sides to the coin. He said there is a benefit in providing more patient access to data, but he is concerned about the impact on vulnerable populations. He asked if there has been any data collected on the use of the Excelsior Pass by different populations.

Mr. Lusak said if the Committee was going to take steps to push more data to apps then it needs to take steps to protect confidentiality. Ms. Villani agreed, saying parameters are needed around verification.

Mr. Rogow said the cost of identity proofing is a challenge to Healthix. He said that identity proofing had to be done manually, sometimes through video. He added that Hixny and some other QEs sometimes rely on providers to engage in identity proofing.

Ms. Shatzkin said working through Cures Gateway gives an assurance that IAL2 level identity proofing is being used by an app. Mr. Bell said that consumer use of problematic third-party apps is a reputational risk to the SHIN-NY. He said that much information is communicated to individuals in fine print and consumers need to be better warned of the dangers of certain apps. Mr. Belfort said he agreed there was no structure to evaluate these apps, but said as a lawyer he is concerned about the SHIN-NY evaluating apps, and that a safer course is to rely on the certifications of other bodies.

Mr. Naqi asked why the current policies are deemed insufficient. Mr. Dworkowitz responded that the current policy only addresses requests directly from patients, not requests that are received from the apps themselves.

Ms. Sutliff said they would continue discussions on this issue.

V. Telehealth Policies

Dr. Cohen reminded the Committee that they had previously discussed potential reforms to the policy permitting telehealth providers to access data based on verbal consent. Mr. Dworkowitz described different options for reform, including allowing indefinite persistence of verbal consent, shifting to an electronic signature model, and allowing access based on verbal consent for only a short time period, such as for 72 hours.

Mr. Lusak said he preferred the electronic signature option. Mr. Bell said that electronic signatures are great when practical, but because of the digital divide there are many patients who do not have access to technology that allows them to sign documents electronically. Therefore, Mr. Bell recommended that verbal consent be permitted in cases where an electronic signature is not feasible.

Mr. Rogow said the operational challenge for verbal consent is that it needs to be documented somewhere, and that audits show that oftentimes that documentation is lacking. Ms. Shatzkin agreed that documentation can be a challenge. She suggested that a 72-hour period may not be an appropriate time period, and that access should be tied to an encounter, not the number of hours.

Mr. Lusak asked if there was a mechanism to revoke verbal consent. Mr. Dworkowitz said there is such a mechanism, but revocation will not be necessary if access may only occur during the initial encounter.

Dr. Cohen said the Committee appeared to be agreeing on a hybrid between the electronic signature and time limited model. Ms. Sutliff said a policy will be formulated and they would come back to the Committee the next meeting for a final review and approval.

VI. Closing

Dr. Cohen thanked the Committee members and adjourned the meeting. The next meeting is scheduled for July 19, 2023 beginning at 1:30 pm.