New York eHealth Collaborative Policy Committee Meeting
September 13, 2023
1:30 p.m. – 3:00 p.m.
Meeting Notes

A meeting of the NYeC Policy Committee was held on September 13, 2023. Present via telephone or videoconference were:

Policy Committee Voting Members
Alan Cohen, JASA
Dr. David Cohen, Maimonides
Russell Lusak, Selfhelp Community Services
Taiymoor J. Naqi, Hixny
Dr. Ram Raju, Health Disparities Consultant
Todd Rogow, Healthix
Paul Uhrig, Bassett Health

Ex-Officio
Patti Burandt, HealtheLink (BOC Rep)
Deirdre Depew, NYS DOH
Christie Hall, NYSTEC
Puja Khare, GNYHA
Jim Kirkwood, NYS DOH
Meredith Locke, DOH OHIP
Leilani Prusky, NYSTEC
Chelsea Sack, NYS DOH
Jennifer Unser, NYS DOH
Ken Wieczerza, NYS DOH

Other
Steve Allen, HealtheLink
Elizabeth Amato, HealtheConnections
Arianna Antisin, DOH
Carmen Barber, NYS OMH
Robert Belfort, Manatt
Marlene Bessette, Rochester RHIO
Alison Bianchi, NYeC
Nicole Casey, NYeC
Jessica Chanese, NYSTEC
Rebecca Coyle, NYeC
Alexander Dworkowitz, Manatt
Charlie Feldman, NYeC
Jen Freeman, OPWDD
Hillel Hirshbein, NYS DOH

David Horrocks, NYeC
Don Juron, NYeC
Magdalena Mandzielewska, Healthix
Astrid Marz, NYeC
Dan Porreca, HealtheLink
Liana Prosonic, HealtheConnections
Wendy Saunders, Hinman Straub
Cindy Sutliff, NYeC
Rinzin Wangmo, NYC DOHMH

The meeting was called to order by Dr. Cohen at 1:30 p.m.

I. Welcome and Introductions

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

II. Federal Update

Ms. Bianchi said that two unnamed organizations had applied to become Qualified Health Information Networks (QHINs) under the Trusted Exchange Framework and Common Agreement (TEFCA).

Ms. Bianchi noted that there is a bipartisan federal bill that would establish funding for behavioral health information technology that, if approved, would provide for up to $20 million in annual grants for behavioral providers to purchase health information technology.

Ms. Bianchi said the Office of Inspector General (OIG) had began enforcement of the information blocking rule with respect to health information technology developers and health information exchanges.

Ms. Bianchi outlined the federal regulatory agenda, noting that the HIPAA modification rule is later than scheduled.

III. DOH Update

Mr. Kirkwood said that DOH was still working through negotiations with CMS about the 1115 waiver. He added that he hoped that there would be an approval letter from CMS within the next few weeks.

Mr. Kirkwood also noted that the SHIN-NY regulation was being updated. He said the revised regulation would recognize the state designated entity (SDE), describe statewide services being provided by the SDE, and establish additional standards for data exchange for consistent data across the state, among other items.

Mr. Naqi asked about the timeline for the regulation. Mr. Kirkwood responded that the hope was to have the regulation ready for the November public health planning council meeting, and then the regulation would go out for public comment. He noted that the text of the proposed regulation may be available earlier than these times.

IV. SHIN-NY Strategy

Dr. Cohen welcome Mr. Horrocks to provide a presentation on the strategy for the SHIN-NY. Mr. Horrocks explained that the state was investing in interoperability for two reasons: to address market failures that result in certain necessary services not being provided without state funding, and to address the state's own data needs, such as public health and Medicaid needs.

Mr. Horrocks said the strategy was QE centric, and that QEs would continue to play an important role in the SHIN-NY. He added that that this doesn't mean that the exact same QEs will continue to operate in the exact same locations as they do today.

Mr. Horrocks described several goals for the strategy: first, the SHIN-NY needs to deliver seamless, statewide services; second, it needs to be more efficient, and third, it needs to continue to meet regional needs.

Mr. Horrocks addressed multiple challenges to the strategy. He said the provision of statewide services is not currently a strength of the SHIN-NY, and it is currently difficult to pull data together on a statewide basis. He noted the market is increasingly evolving, observing that 10 years ago the chance of a hospital having access to a patient's medical history was low, but the market is increasingly solving for this problem. He added the current model doesn't create competition, and there are six franchises around the state. He noted that there is also uncertainty with respect to long-term funding.

Mr. Horrocks outlined the workstreams to address the strategic priorities: building statewide interoperability services using modern technology, making changes in the way the state purchases the services that the QEs provide, and providing shared infrastructure for willing QEs. He said the policy committee can help address policy related levers for reform. He said if they do not have consent structured so that data can be shared across the state then it does not matter if technology standards are correct.

Dr. Raju thank Mr. Horrocks for his comments and asked about the role of the SHIN-NY in improving innovation of service delivery. Mr. Horrocks responded that the SHIN-NY supports service delivery reform, but they are in a supportive, not a leadership role. Dr. Raju responded by urging the collection of patient satisfaction data.

V. Telehealth policies

Dr. Cohen returned to the issue of the SHIN-NY telehealth policies. He explained that the proposed language was intended to clarify that an oral recording of consent can qualify as an electronic, and therefore as a written, consent. Ms. Sutliff added that prior discussions had led to

the conclusion that they did not need to make a change to the durability of verbal consents, but that this policy clarification was important.

Mr. Naqi asked if the entire consent would need to be read to an individual if a consent were to qualify as an electronic consent. Mr. Dworkowitz noted that the current policies permit alternative consents, and therefore the text read to a patient does not need to match the written consent word for word. He added that the form would need to contain all the necessary elements of a written consent in order to qualify as an electronic consent.

VI. Statewide Community Consent

Dr. Cohen explained that in the past, the Policy Committee had explored a statewide consent model, but it had not been operationalized. He said they were now moving back towards such a model.

Ms. Sutliff provided a history of the statewide consent model. She said a white paper had addressed the concept, and that stakeholders had been supportive of the change. She said that there was a two-year period of study, which resulted in the conclusion that the model then under consideration was not viable. She said they were now revisiting the original study approach. Ms. Sutliff explained that NYeC had been in discussions with HealtheLink on their community-wide consent form, since that form was a model for the statewide form.

Ms. Sutliff said the goal was to have approval of the new form at the October meeting, and to engage in discussions related to the implementation of the form in early 2024.

Mr. Dworkowitz outlined the different provisions of the form, explained how the form differed from the "all-in" consent model, and discussed how the form was intended to comply with the new version of the Part 2 rule. Ms. Sutliff noted the form had three consent options as compared to the five options on the HealtheLink form based in part on HealtheLink's experiences that the other two options were rarely used.

Mr. Uhrig asked whether the provision referring to national and regional networks was intended to apply to TEFCA only. Mr. Dworkowitz responded that it was not intended to be limited to TEFCA. Mr. Uhrig suggested that the term be better defined on the form.

Mr. Rogow noted that some integrated delivery networks may seek to incorporate the model terms into their forms. Ms. Burandt responded that HealtheLink works with some systems that have incorporated the HealtheLink language into their forms.

Dr. Raju said it appeared to be a sweeping form, and he expressed concern that people would feel obligated to sign out of concern that declining to sign would prevent them from getting the best treatment. Ms. Sutliff thanked Dr. Raju for his comment and noted that the form, if signed, only permits treating providers, social service organizations, and health insurers to access an individual's data. Dr. Raju agreed, but said he was concerned with data breaches with increased

sharing of data. Dr. Cohen responded that the form was only a consent to access, not a consent to upload, and the data was already being stored in the applicable systems.

Mr. Alan Cohen said there is an issue of individuals providing consent multiple times because their consent is not adequately tracked in the system. Mr. Horrocks said this was an important implementation challenge. Mr. Lusak said software used by providers, including social service providers, needs to be able to keep records of consents.

Mr. Naqi said that some providers may be reluctant to effectively collect consents on behalf of rival providers. Mr. Horrocks objecting to consent on this basis was not in the spirit of the SHIN-NY.

Dr. Cohen said they would come back to the Committee with a revied form.

VII. Closing

Dr. Cohen thanked the Committee members and adjourned the meeting. The next meeting is scheduled for October 18, 2023 beginning at 12:00 pm.