

**New York eHealth Collaborative Policy Committee Meeting**  
**Sept. 18, 2024**  
**2:00 p.m. – 3:30 p.m.**  
**Meeting Notes**

A meeting of the NYeC Policy Committee was held on September 18, 2024. Present via telephone or videoconference were:

*Policy Committee Voting Members:*

Dr. David Cohen, Maimonides Health Center (Chair)  
Elizabeth Amato, HealtheConnections  
Kate Beck, Healthfirst  
David Finkelstein, RiverSpring Living  
Dr. Sabina Lim, MD, Mount Sinai Health System  
Russell Lusak, Selfhelp Community Services  
Paul Pettit, Orleans County Health Department  
Dr. Ram Raju, Health Disparities Consultant  
Todd Rogow, Healthix  
Paul Uhrig, Bassett Health  
Louann Villani, Harbor Health ACO

*Ex-Officio Members:*

Jillian Annunziata, OHIP (Medicaid)  
Gladys Crawford, NYS DOH OHSQA  
Samantha Delia, OASAS  
Deirdre Depew, NYS DOH OHSQA  
Molly Finnerty, OMH PSYCKES  
Jonathan Karmel, NYS DOH OHSQA  
Jim Kirkwood, NYS DOH (Medicaid)  
Chelsea Sack, NYS DOH OHSQA  
Meg Vijayan, OPWDD  
Rinzin Wangmo, NYCDOHMH  
Ken Wiczerza, NYS DOH OHSQA

*Other:*

Marlene Bessette, Rochester RHIO  
Michael Bossert, HealtheLink  
Robert Cothren, A Cuning Plan  
Vivienne Destefano, Healthix  
Alexander Dworkowitz, Manatt  
Nicholas Elcock, NYCDOHMH  
Charlie Feldman, NYeC  
Alexandra Fitz, NYeC  
Jen Freeman, RD, CDN, OPWDD  
Christie Hall, NYSTEC  
David Horrocks, NYeC  
Don Juron, NYeC

Magdalena Mandziewska, Healthix  
Astrid Marz, NYeC  
Kristen McLaughlin, OMH  
Kory Mertz, PointClickCare  
Kathryn Miller, Bronx RHIO  
Liana Prosonic, HealtheConnections  
Leilani Prusky, NYSTEC  
Sam Roods, NYeC  
Elisa Sacco, NYSTEC  
Cindy Sutliff, NYeC  
Nichole Sweeney, CRISP  
Kaylee White, NYeC

The meeting was called to order by Dr. Cohen at 2:00 p.m.

## **I. Welcome and Introductions**

Dr. Cohen welcomed the Committee members and reviewed the agenda. Dr. Cohen asked for approval of the minutes from the July 2024 meeting, and the meeting minutes were approved.

## **II. Federal Update**

Mr. Roods informed the Committee that the Office of the National Coordinator for Health Information Technology has been renamed the Assistant Secretary for Technology Policy and Office of the National Coordinator for Health Information Technology (ASTP/ONC). He explained that the agency has been charged with developing AI policy and strategy.

Mr. Roods said with respect to TEFCA, multiple new standard operating procedures (SOPs) had been issued over the summer, including one addressing the public health exchange purpose.

Mr. Roods said that the long-awaited HTI-2 proposed rule has been published, with a number of interesting items. He noted that the rule included new certification criteria for public health and a number of new information blocking exceptions. He explained that one of those new exceptions related to a new exception for protecting care, which is intended to align with the HIPAA reproductive health rule.

## **III. DOH Update**

Ms. Depew said now that the amended SHIN-NY regulations have been issued, DOH is engaging with NYeC to implement those regulatory changes. She said the goal was to align with national partners while maintaining New York State requirements.

## **IV. Reproductive Health Data Discussion**

Dr. Cohen introduced two guest speakers to address the exchange of reproductive health data: Robert Cothren, a California-based private health information exchange consultant, and Nichole Sweeney, chief privacy officer and general counsel of CRISP.

Mr. Cothren thanked the Committee for the invitation to speak. He described AB 352, legislation that was enacted in California the prior year, which calls for safeguarding abortion, abortion-related, and gender-affirming care information. He said that determining what information falls into these categories is a difficult problem. He said that procedure codes corresponding to these areas have been developed, and the overwhelming consensus was to address the coded information first. However, he said addressing information in notes was more of a challenge. He added that it should not be left up to each electronic health record vendor to develop its own rules, and instead a common set of business rules is needed.

Mr. Rogow asked if there was any discussion about health information exchanges not obtaining these categories of data. Mr. Cothren responded this issue did not come up in the discussions. He added that the law posed a challenge for large health systems that are located both inside and outside of California.

Dr. Raju said segregating gender-affirming care data can lead to stigma, as what has occurred with behavioral health information. Ms. Sutliff said this had occurred with respect to HIV data. Dr. Cohen said there was not only an issue with stigma, but an issue of criminalization of certain care.

Ms. Beck asked if there was any talk of filtering demographic data related to gender assigned at birth. Mr. Cothren responded that this was not part of the discussion.

Ms. Sweeney then presented on reproductive health data in Maryland. She said the central problem from the patient perspective is the criminalization of data. She noted that reproductive health data can appear in many places, as data about a person's last menstrual period can be collected during a dentist appointment. She expressed concern that for people born with a uterus, all of their data could be considered reproductive health data, and a law requiring blocking of such data could require all data to be blocked.

Ms. Sweeney said if the concern is data on elective termination of pregnancies then that should be the focus. She said Maryland's approach was not to specify a list of codes subject to segmentation in legislation, but to provide flexibility as to what needs to be segregated.

Ms. Sweeney emphasized that consumers need to understand what data is and is not protected. She noted that the Maryland Department of Health had recently published a list of reproductive health codes. She noted that Maryland had chosen to regulate health information exchanges and electronic health record vendors but not providers.

Mr. Finkelstein asked how the inadvertent sharing of information can be prevented, such as a laboratory test that reveals pregnancy status. Ms. Sweeney answered that there are many conversations about how to handle edge cases, and that Maryland is starting from the center out rather than from the margins in.

Ms. Sutliff said she liked the concept of applying the law to electronic health record vendors, and she asked about the reaction of those vendors to the law. Ms. Sweeney responded that the vendors initially said they could not segment any data, but they were able to do so. She added that vendors often question whether they need to do this and whether shield laws are sufficient.

Following Ms. Sweeney's presentation, Mr. Dworkowitz explained that the Texas Attorney General had filed litigation against the HIPAA reproductive health data rule, saying that the federal government lacked the statutory authority to issue the rule. He said that regardless of what people thought of the merits of the complaint, it had a good chance of success, given that it was being filed in a friendly court.

## **V. Statewide Collaboration Process**

Ms. Fitz discussed the changes to the statewide collaboration process. She noted that the Statewide Common Participation Agreement was out for public comment, and the comment period would closed on October 18<sup>th</sup>. Ms. Fitz provided an overview of the proposed new governance process, describing the new Technical Advisory Committee and the Statewide Data Use Committee. She said the Business and Operations Committee would be replaced by the SHIN-NY leaders workgroup.

Dr. Cohen that the next few meetings would review potential revisions to the policies to address some of these changes.

## **VI. Closing**

Ms. Sutliff noted that the October 16<sup>th</sup> meeting may be rescheduled to another date. Dr. Cohen thanked the Committee members and adjourned the meeting.