



July 27, 2012

Krysta Heaney, MPH
Policy Analyst
Illinois Office of Health Information Technology
Office of the Governor
100 W. Randolph, Suite 2-201
Chicago, IL 60601

Attn: IL-HIE Authority, Data Security and Privacy Committee

Ms. Heaney:

Thank you for sharing the announcement of the public testimony solicitation regarding health information exchange and the responsibilities of health care providers and facilities to ensure the privacy and security of their patients' data. The 51 critical access hospitals in Illinois continue to devote significant resources to the implementation of electronic health records and other forms of health information technology to ensure the accuracy and thoroughness of patient information, and to develop the ability to make that information available to other providers of care when authorized to do so by patients. Protection of patient privacy is critically important to ensuring patients, and their health care providers, develop the level of trust necessary to enable health IT to achieve its potential to improve individuals' and population health status as well health care system efficiency and effectiveness.

The critical access hospitals have implemented the necessary security management processes and conducted risk analysis assessments, developed necessary policies to ensure privacy of patient health information, developed appropriate business associates documentation, and developed processes to provide patients access to their health information in a timely manner. The changes to the HIPAA Privacy Rule underway now as a result of the HITECH Act require a level of modification of existing policies and procedures that far exceeds the level of effort already expended over a period of many years. Critical access hospitals will, of necessity, meet the new requirements. However, the timeline, the level of effort and its disruptive effect on operations workflow, plus the ongoing implementation of health IT will place enormous burdens on an already limited number of staff.

Hospitals are revising and developing new policies to meet the HIPAA requirements and are experiencing the need to increase the number of policies two- and three-fold. Development of new policies requires a significantly greater amount of research and preparation than does revision of existing policies. Critical access hospitals and other small providers or facilities do not have the financial ability nor the workforce availability to increase staff to address these added requirements. Delays in revisions of existing policies or in development of new policies can increase the exposure of the facility or provider to enforcement penalties from CMS or the Office of Civil Rights.

Ensuring patient access to their health care data and providing information about who has accessed their information require new internal approaches and policies and will require extensive interaction with the EHR vendors to enable the hospitals to meet these new regulations. EHR vendors are struggling to help their clients achieve Stage 1 meaningful use requirements while also preparing for the new requirements of Stage 2 meaningful use. The EHR vendors are experiencing limited financial resources and a limited pool of experienced and competent workers, similar to their hospital and health care professional clients. Again, the hospitals and providers and vendors all seek the same HIPAA Privacy Rule implementation outcomes and all experience similar challenges with the timeline.

The ability to easily modify patient consent to share information, and achievement of the enhanced sophistication of the EHR software to enable exclusion of data related to selected diagnoses and services will develop as vendors modify and enhance their software's capabilities. Workarounds are less likely to be developed by smaller facilities due to the limited availability of staff and time that can be devoted to creating temporary software modifications.

We expect that the security compliance standards for health information exchange to be used in Illinois will meet the requirements of the Office of the National Coordinator for Health Information Technology and the Office of Civil Rights, at a minimum. All facilities and providers participating in an HIE, whether local, regional or statewide will be required to meet the requirements. Patients will demand no less.

Compliance with the expanded requirements of the HIPAA Privacy Rule will be achieved by all critical access hospitals in Illinois. The limited availability of financial and personnel resources, and the delayed ability of some EHR vendors to meet the service needs of their clients will be the most significant barriers to meeting the requirements and determining the timeline within which the requirements are met.

Thank you for the opportunity to provide these comments on the impact of the HIPAA Privacy Rule modifications and to again express the intention of the critical access hospital community to fulfill all health data privacy and security expectations of the patients they serve.

Sincerely,

A handwritten signature in blue ink that reads "Pat Schou". The signature is fluid and cursive, with the first name "Pat" being more prominent.

Pat Schou, Executive Director
pschou@icahn.org