

7/17/2012 Panel #

A. PATIENT CONSENT POLICY DECISION TREEE

1. Pt. **Choice** re: provider use of HIE (to disclose/push or to query/pull) **Panel #1**
- a status quo/ no change: **Panel #1**
 TPO exception: no pt. consent required for treatment, payment or healthcare operations
 pt. consent required for special PHI (see section B)
 mental health;
 substance abuse;
 HIV/AIDs;
 genetic testing;
 public health reporting (mandatory except immunization registry opt-out)
- b Pt. provided full choice (pt. control over all PHI data, other than mandatory reports)
 for PHI data custodian to disclose/push to a recipient
 for PHI data recipient to query/pull from a custodian
- c Pt. provided modified choice (pt. control over all PHI data, other than disclosure for treatment)
 TPO exception/ no consent limited to "Treatment" only
2. **Effect** of Pt. choice on HIE collection of PHI (no redisclosure v. no collection) **Panel #1**
- a HIE can receive PHI data, but it cannot be disclosed further without patient consent
 a1 except for mandatory reporting, e.g. public health
 a2 except for emergency medical treatment ("break-the-glass")
 b HIE cannot receive PHI data
3. Form of exercising Pt. choice **Panel #1**
- a **opt-out:** pt consent implied, unless pt expressly revokes
 b **opt-in:** pt consent not implied; pt must expressly agree to HIE
4. Manner of collecting Pt. choice **Panel #5**
- a1 oral
 a2 written
5. Manner of informing Pt. of choice ("**meaningful choice**") **Panel #5**
- a status quo/ no change: Notice of Privacy Practices; website disclosure
 b Provider to "discuss" Pt. choice
6. **Granularity** of Pt. choice **Panel #2**
- a pt. choice applies to entire pt. record (no granular sequestration); "all-in or all-out"
 b pt. given choice (granular sequestration):
 b1 specific categories of PHI data (e.g. HIV/AIDS test data)
 b2 specific recipients of PHI data (e.g. podiatrist)
 b3 specific sources/custodians of PHI data (e.g. data at substance abuse facility)
 b4 specific purposes of PHI data use (e.g. medical research)
7. **duration** of consent **Panel #5**

7/17/2012 Panel #

- a unlimited
- b time limited

8. **revocation** of consent

Panel #5

- a non-revocable
- b. revocable

9. pt. consent **status**: application/verification

- a1 consent custodian represents that appropriate consent in hand
- a2 status pt. consent/copy transmitted with PHI data
- a3 pt. consent forwarded by custodian to central registry

10. **reconciliation** of conflicting pt. consents

- a last in time governs
- b more specific governs over more general
- c each consent applies only to data generated by consent holder

B. SPECIALLY-PROTECTED PHI POLICY DECISION TREE1. **mental health** PHI data

Panel #3

- a exclude from ILHIE
- b transmit through ILHIE with patient consent
 - c status quo/no change
 - d change IL law
 - d1 seek statutory amendment
 - d2 adopt Authority clarifying regulations

2. **substance abuse** PHI data

Panel #3

- a exclude from ILHIE
- b transmit through ILHIE with patient consent
 - c status quo/no change
 - d change IL law
 - d1 seek statutory amendment
 - d2 adopt Authority clarifying regulations

3. **HIV/AIDs** PHI data

Panel #3

- a exclude from ILHIE
- b transmit through ILHIE with patient consent
 - c status quo/no change
 - d change IL law
 - d1 seek statutory amendment
 - d2 adopt Authority clarifying regulations

4. **genetic testing** PHI data

Panel #3

- a exclude from ILHIE
- b transmit through ILHIE with patient consent

7/17/2012 Panel #

- c status quo/no change
- d change IL law
 - d1 seek statutory amendment
 - d2 adopt Authority clarifying regulations

5. immunization registry opt-out**Panel #3**

- a exclude from ILHIE
- b transmit through ILHIE with patient consent
 - c status quo/no change
 - d change IL law
 - d1 seek statutory amendment
 - d2 adopt Authority clarifying regulations

C. ILHIE TECHNICAL OPERATIONS DECISION TREE**1. Pt. access to data at HIE****Panel #6**

- a HIE refers pt. to data custodians holding pt. PHI; each custodian exercises discretion over PHI it holds
- b on behalf of pt., HIE queries each data custodians holding pt. PHI; each custodian exercises discretion over PHI it holds
HIE aggregates and applies discretionary decisions of data custodians, and provides pt. access to PHI data
- c HIE creates own panel of clinicians to exercise discretion re: release of PHI data to pt.

2. Pt. correction of data through HIE**Panel #6**

- a HIE refers pt. to data custodians holding pt. PHI; each custodian exercises discretion over PHI it holds
- b on behalf of pt., HIE queries each data custodians holding pt. PHI; each custodian exercises discretion over PHI it holds, corrects PHI data in its custody
- c HIE creates own panel of clinicians to exercise discretion re: correction of PHI data
 - c1 HIE demands correction of PHI data at custodian source
 - c2 HIE appends special notice regarding suspect PHI data
 - c3 HIE implements special procedures to address medical identity theft

3. HIE verification of treatment relationship for PHI data requests for treatment

- a adopted: ILIHIE directed to implement
- b At discretion of ILHIE
- c rejected

4. Master Patient Index: Unique Patient Identifier issued by ILHIE**Panel #6**

- a adopted: ILIHIE directed to implement
- b At discretion of ILHIE
- c Prohibited

5. Master Patient Index: Accuracy Standard imposed by ILHIE on sub-State HIEs**Panel #6**

- a adopted: ILIHIE directed to implement
- b At discretion of ILHIE
- c Prohibited

7/17/2012 Panel #
Panel #6

6. **User Authentication:** 2-factor

- a adopted: ILHIE directed to implement
- b At discretion of ILHIE
- c rejected

7. **Security Compliance Standards:** imposed by ILHIE on sub-State HIEs

- a adopted: ILHIE directed to implement
- b At discretion of ILHIE
- c rejected

Panel #7

D. ILHIE BUSINESS OPERATIONS DECISION TREE

1. **Permitted uses** of HIE

Panel #1

- a treatment only
- b full TPO (treatment, payment, healthcare operations)
- c full TPO plus research
- d all purposes (including sale of data)
- e by specific user
 - e1 payers
 - e2 law enforcement
 - e3 civil litigation

2. **Restrictions on permitted uses** of HIE

Panel #1

- a1 limit disclosures to "minimum necessary"
- a2 limits on law enforcement access
- a3 limits on civil litigation access
- a4 limits on payer access

3. Mechanisms to foster **public trust** in HIE

Panel #4

- a1 enforcement monitoring
 - 1 breach reporting to HIE
 - a11 by breached entities
 - a12 by public whistleblowers
 - 2 real time network monitoring
 - 3 field audits
 - a1 HIE audits of users
 - a2 third party audits of users
 - a3 user self-certification of audit
- a2 enforcement strategies
 - 1 HIE appoints Chief Privacy Officer
 - 2 HIE coordinates gov't enforcement
 - 3 increased IL penalties for breach/non-compliance
- a3 breach mitigation strategies
- a4 education of public