

IL HIE Legal task Force
General PHI Workgroup
November 1, 2011

Attended by Phone

Melissa January, Drinker, Biddle & Reath, LLP
Patricia King, Swedish Covenant Hospital
Marcia Matthias, Southern Illinois Health Care
Valerie Montague, Ungaretti & Harris, LLP
Tracey Salinski, Arnstein & Lehr, LLP

Office of Health Information Technology

Mark Chudzinski, General Counsel
Melissa Tyler, Legal Intern

Patricia King, co-chair of the workgroup, opened the meeting at 11:35 a.m., hosted by OHIT at the State of Illinois J.R. Thompson Center in Chicago, with a telephone conference call-in option. Notice of the meeting and the agenda were posted on the OHIT website and at the Chicago meeting location no later than 48 hours prior to the meeting. Roll was taken and phone attendees confirmed their ability to hear and participate.

On motion duly made and seconded, the minutes of the prior meeting were approved.

Patricia began by giving the group an overview of the work products that other Legal Task Force workgroups prepared for the Executive Committee. She suggested that this group should submit to the Executive Committee the HIE statute spreadsheet it created along with the whitepaper it will create. Patricia explained that the whitepaper will likely contain two parts. For some areas of law, the whitepaper will provide suggestions regarding which way Illinois law should go. For other areas of law, because they are so substantial, the whitepaper will simply summarize the issues.

Mark discussed the approach that the Executive Committee had developed at its meeting the previous week. The Executive Committee decided to leave the policy decision of how the ILHIE should operate to the Authority Board. It determined that it would provide to the Authority the necessary background information for making that policy decision. The Executive Committee decided to create a grid that outlines the three policy options: (1) opt-in consent, (2) opt-out consent, and (3) no consent. With regard to each of these options, the Executive Committee will advise as to what laws and regulations will need to be amended in order to implement this policy.

Patricia stated that the General PHI group should explore the opt-in/opt-out/no consent issue. Additionally, the group decided to would focus on: (1) helpful definitions that other states have used; (2) relationship to HIPPA/harmonizing with HIPPA; and (3) “notice of health information practices.” The group concluded that it would not focus on subpoenas. They decided to address the issue of minors under the HIPPA category. Additionally, the group decided to address the “Swiss cheese record” issue (which allows patients to withhold certain parts of their health records from the HIE) in the opt-out portion of the white paper.

The group next discussed how it would approach writing the whitepaper. It was determined that each member will write up short recommendations on each of the topics, taking into account what they like and do not like from the statute they reviewed. The group also decided that it would recommend a standalone HIE statute (as opposed to amending the various Illinois statues) to the Authority.

Next meeting was set for Tuesday, November 15th at 11:00 a.m. The goal for the next meeting is to have each member submit their paragraphs so that the group can come to a consensus on the issues.

Patricia asked for questions and comments and there were none.

The meeting adjourned at 12:15 a.m.