

**IL HIE Legal Task Force
Substance Abuse Workgroup
March 2, 2011
Meeting Notes**

<u>In-person Attendees:</u>	<u>Office of Health Information Technology</u>
Renée Popovits, Popovits & Robinson, P.C.	Mark Chudzinski
John Raden, Sequest Technologies	Pamela M. Dones
Bill Connors, Sequest Technologies	
Theodora Binion-Taylor, Illinois Department of Human Services, Division of Alcoholism and Substance Abuse	
<u>Attended by Phone:</u>	
Sarah Howe, Illinois Alcohol and Drug Dependency Association	
Allen Sandusky, South Suburban Council on Alcohol and Substance Abuse	
Rick Nance, Illinois Department of Human Services, Division of Alcoholism and Substance Abuse	
Harrison White, Gateway Foundation	
Amy Tarr, Illinois Department of Human Services	
Jay Readey, Chicago Lawyers' Committee for Civil Rights Under Law	
Jessica Schneider, Chicago Lawyers' Committee for Civil Rights Under Law	

1. Welcome and Introductions

Renée Popovits, Co-chair of the Substance Abuse Workgroup, opened the meeting at 2:05pm. The meeting was held at the State of Illinois J.R. Thompson Center in Downtown Chicago with a telephone conference call-in number.

Mark Chudzinski, General Counsel of the Illinois Office of Health Information Technology (OHIT) noted that notice of this meeting and its 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 the ability of those attending by telephone to hear and participate was confirmed.

2. Approval of Minutes from January 18, 2011

Ms. Popovits asked the participants if there were comments on the minutes of the last meeting. There were none. A motion to approve the minutes was proposed and another member seconded it. The motion was approved unanimously by the participants.

3. Addiction and Treatment in Illinois

Sarah Howe gave an update on the current status of substance abuse issues in the State of Illinois. She noted that since Friday, February 24, all non-Medicaid State funding for substance abuse treatments have been eliminated. Providers of these services can expect to learn how much money they will receive from the State by March 15.

Ms. Howe also explained that Representative Sara Feigenholtz introduced a bill, HB106, which calls for the elimination of the funding cuts. She also noted that the focus of the stakeholders is to keep the budget intact and to try to convince the General Assembly to retain as much of the funds as possible for Fiscal Year 2012. More information on the topic will be posted as it becomes available on the Illinois Alcoholism and Drug Dependence Association website (www.IADDA.org).

Members discussed how the spending cuts will affect Illinois Department of Human Services, Division of Alcoholism and Substance Abuse (DASA) Rule 2030 (Awards and Monitoring of Funds) and Rule 2090 (Sub-acute Alcoholism and Substance Abuse Treatment Services).

Ms. Popovits noted that in a recent DASA meeting she attended, the agency discussed innovations to current services but that these innovations did not include a web portal to which providers' electronic health record systems (EHRs) could connect with. A member said that some providers have expressed concern about investing in interconnecting systems while the agencies are not considering interconnectivity features for their services.

The Co-chair asked Mr. Chudzinski if OHIT has jurisdiction over how State agencies are managing health information. He explained to the workgroup that by 2015 all State agencies have to secure compatibility with the Illinois Health Information Exchange Authority (IL HIE). However, while OHIT organizes the IL HIE infrastructure, duplicate system will continue to exist.

4. Emergency Room Exception

Ms. Popovits informed participants that a member of the workgroup met with an experienced emergency physician to hear his recommendations for a possible Emergency Room Exception ("Break-the-Glass") legislation. The recommendations included:

- If the patient's full medical record is not available, the EHR system should let the provider know that not all of the patient's medical information is being disclosed to him or her.

- The term “medical emergency” should be defined more broadly than the definition found in the Emergency Medical Treatment and Active Labor Act (EMTALA); a provider needs access to information in order to determine if it is critical.
- For treatment purposes, it is also important for a provider to obtain a medical problems list.
- To maximize patient safety, it is better to err in favor of disclosure.
- Red flag alerts should tell the provider that a drug interaction may occur between the drug he or she intends to prescribe and another medication that the patient is taking and has opted not to disclose to that provider.
- The Emergency Room Exception should also be extended to urgent care and birthing facilities; and enable a provider’s general staff as well as emergency room physicians to access the record.

It was noted that if an emergency exception is invoked, the information disclosed could be re-disclosed without legal limitations and could also be subject to subpoenas.

A member noted that the use of Personal Health Records (PHRs) has not received enough attention and that neither has the issue of the possibility of a patient expunging information from the medical record.

5. Pharmacy Issues

Mr. Nance said that he will present a report at the next meeting.

6. Consent Issues

Mr. Raden briefly explained what the Rochester Regional Health Information Organization (Rochester RHIO) is, how it is organized, and how it manages consent agreements.

Ms. Popovits asked Mr. Chudzinski if he knows of any States that have a well developed behavioral health HIE. He replied that New York, Delaware, Rhode Island, Utah, Nevada, and New Mexico have well developed HIEs, but other than Nebraska, he is unaware of specific organizations focused on the exchange of behavioral health and/or substance abuse information. He understands that the Indianapolis HIE in particular excluded behavioral health information because of the complications presented by patient consent laws that do not allow inclusion of this type of information.

7. Mental Health and Developmental Disabilities Act Bill

Mr. Chudzinski noted the introduction of SB 1234, a bill to amend the Mental Health and Developmental Disabilities Act. He noted that last year the Senate did not approve a similar bill. He advised that modifications to the bill are under consideration to broaden its applicability beyond the disclosure of just pharmacological records to all patient records, and to allow entities that possess information covered by the Act to disclose

demographic information to the IL HIE for purposes of populating the Master Patient Index and the Record Locator Service.

The Co-chair pointed out that there may be an exception in the Metal Health Confidentiality Act that addresses Mr. Chudzinski 'S concern. She asked the workgroup members to look into the matter and to comment on the subject as soon as possible.

8. Tasks for Next Meeting

The members were requested to review and comment on the draft #1 (January 17, 2011) "Substance Abuse Legal Workgroup Analysis Worksheet" that was previously circulated.

9. Other Issues/Suggestions by Committee Members

Mr. Chudzinski commended the workgroup for their diligence and commitment to the Legal Task Force.

10. Other Business/Public Comment

There were no public comments in response to the invitation by the Co-chair.

11. Next Meeting Date

The next meeting will be held on April 14, 2011 from 2-3:30 p.m. in the same locations.

The meeting adjourned at 3:25 p.m.