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ACHIEVING ELECTRONIC CONNECTIVITY IN HEALTHCARE

Summary of Organizational and
Governance Recommendations

Working Group on Financial, Organizational,
and Legal Sustainability of Health Information

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Summary of Organizational and Governance Recommendations

Physicians and hospitals are not adopting clinical information technology at a rapid rate due to the poor financial case, difficult modifications of clinical workflow and decision-making processes, perceived legal barriers to sharing information among disparate organizations and limited capacity of health care organizations to organize regionally: factors that make a risky implementation even riskier. The promise of EHRs and other clinical information technology remains, however, as studies demonstrate that they can advance the quality and efficiency of care, resulting in reduced medical errors, reduced utilization, improved ability to manage chronic disease, improved longevity and health status, among other potential benefits.

Recent studies have shown that in order to provide a majority of the benefit, clinical applications must interconnect to provide interoperability of patient information. In order for patient information from multiple sources to interconnect, health care organizations must work together to share information. Health systems, providers, payors and consumers are engaged in community-level health information sharing projects in several states today. These health information sharing arrangements vary in scope, formality and expected results but represent a growing trend nationwide. While local experiments continue to progress, the federal government is evaluating the feasibility of developing a National Health Information Infrastructure to enable interoperability of information. Should an infrastructure be developed for wide-scale adoption, the question arises as to whether the health care industry is organized appropriately and sufficiently prepared to sustainably adopt an infrastructure and related clinical information technology applications to share information.

From February through July 2004, within the framework of Phase II of Connecting for Health, the **Working Group on Financial, Organizational and Legal Sustainability of Health Information Exchange** performed an analysis of the legal and organizational issues and barriers to health information exchange as well as a high-level qualitative financial analysis of health care IT application adoption. The Working Group focused on health information exchange for the ambulatory care physician practice. The goal of the analysis was to clarify and improve the understanding of barriers and opportunities to achieving sustainable adoption of health information technology and information exchange for the purchaser/implementer of a specific type of clinical information system application. Furthermore, we hoped to identify starting points and near-term opportunities for physician practices and inpatient providers to adopt health care information technology with the goal of health information exchange subject to privacy and security protections.

The 9 members of the Working Group represented health care informatics researchers, physicians, health system executives and legal professionals. The Working Group also created an External Review Panel to review their results consisting of experts on the topic from a variety of perspectives and representatives specifically from employers, health plans, vendors and the federal government. There is a dearth of data and a strong experience base to draw out legal and organizational issues resulting from health information exchange among health care organizations. Working Group and staff conducted literature reviews, interviewed industry experts, developed a framework and utilized the expertise of the Working Group to develop the framework and analyses during a series of conference calls, in-person meetings and sub-group working sessions.

Preliminary Recommendations

Effectively addressing organizational and governance issues is critical to ensuring that the technical infrastructure adoption can be sustained to enable information sharing on a local, regional and national basis. Information sharing would be done subject to the architecture for the linkage of health records, discussed separately in the recommendations of the Linking of Records Working Group of Connecting for Health. That architecture uses a “network of networks” approach where holders of records would control the criteria for when records would be shared. Academic research and initial evaluation of health care information sharing demonstration projects reveal that establishing clear vision, organizational principles and governance structures within and across organizations are critical steps to ensure a sustainable implementation. Developing an information sharing infrastructure and relationships will be challenging in even the most mature markets, thus organizations should place a high priority on readiness assessment to determine whether there is a reasonable prospect of regional success in achieving comprehensive interoperability subject to privacy and security safeguards. Further, the approach to information sharing will be different depending upon the competitiveness of the market, the geographical characteristics and the extent of health care IT adoption, among other factors. There remains a lot to be learned about the most successful ways to achieve sustainability and the most appropriate roles and responsibilities among health care entities and government organizations.

To encourage the government to enable organizational and governance progress as well as the industry to move forward and begin to develop the tools necessary to successfully sustain infrastructure and clinical IT application adoption, we make the following four organizational and governance recommendations as starting points:

Findings

- 1. Communities should assess their readiness for local and regional data sharing by conducting a rigorous review of the technical, clinical, organizational, community commitment and leadership, all critical success factors in building and managing a local health information infrastructure.**
- 2. Communities will require a source of activation to catalyze or enforce convening of a health information exchange infrastructure.**
- 3. Most management and legal issues faced by communities and individuals in establishing a health information infrastructure, consistent with effective security and privacy protections, can be addressed in the context of existing law and through use of contracts.**
- 4. As health information exchange implementations mature, significant issues that are currently poorly understood may require policy and regulatory changes to enable sustainable adoption.**

- 1. Communities should assess their readiness for local and regional data sharing by conducting a rigorous review of the technical, clinical, organizational, community commitment and leadership, all critical success factors in building and managing a local health information infrastructure.**
 - To get started, regions contemplating establishment of a health information exchange should conduct an organizational and technical diagnostic of community readiness for data sharing including the following:

- **Strength of the business case** for adoption and collaboration
- **Ability to achieve community-wide participation**
- **Stakeholder willingness to commit** to addressing the financial, technical, clinical, management, organizational, public, and consumer needs and concerns related to establishing a local or regional health information infrastructure
- The number, complexity and **nature of market and regulatory barriers** to establishment of the local or regional health information infrastructure and form a near-term and long-term policy action plan from this
- **Willingness and ability to develop a strategic plan** identifying the critical mass and incremental starting points necessary for proof of concept
- Communities developing health information exchanges must address critical success factors including the following:
 - **Leadership:** Leadership among physicians and other clinical leaders is mandatory to achieve successful health information adoption and information exchange. Strong and continuous leadership by clinicians who, as individuals or representatives of provider organizations, accept the responsibility for change management and motivation of clinicians critical to success.
 - **Activation:** An objective, well-respected, authoritative source will be needed to convene the community and begin the discussions and activities needed to address legal issues, establish governance mechanisms and determine the business case and develop approaches that address the range of stakeholder needs.
 - **Vision:** Establishing a strong vision is critical to maintaining focus and momentum and helps prevent potential derailment from individual organization or proprietary priorities.
 - **Governance and management:** An inclusive structure with commitment by key leaders will be necessary to develop and manage the appropriate governance mechanism. Governance must establish clear responsibilities and processes for executing organizational and community plans.
 - **Technical interoperability:** Organizations must understand and incorporate the technical standards requirements for interoperability in order to achieve on-going sustainability.
 - **Practice transformation activities:** Clear definition of the functional requirements and resulting workflow changes is essential to enable sustainable adoption. Important components include organizational restructuring, resource allocations, clear work plans and training.
 - **Training:** Adequate overall and targeted training and resources are essential to enable sustainable adoption. Successful adoption must have the appropriate support infrastructure necessary to manage the timeframe required to initiate and complete the entire transformation and adoption of the health information exchange infrastructure.

2. Communities will require a source of activation to catalyze or enforce convening of

a health information exchange infrastructure. This source will be needed to convene the community and begin the discussions and activities needed to address legal issues, establish governance mechanisms and determine business case.

- The “convener” should be a **neutral facilitator**, a role that could be played by a government entity or, **depending greatly upon market dynamics**, a number of different industry members:
 - Major provider
 - Major payer
 - Business coalition
 - Major employer
 - Existing collaborative
 - State government
 - Unrelated third-party
 - Large providers have a natural clinical technology adoption advantage due to their infrastructure and business arrangement with physicians that could be a strategic advantage in driving the majority of the market toward health information exchange. Given the adoption challenges of small and medium-sized practices, it may make sense to focus adoption strategies on larger providers in the near-term to drive critical mass in the market.
 - Depending upon the degree to which communities identify a natural convener, the Federal government could take steps to encourage greater convening of communities including the following:
 - Provide grants to facilitate community planning for health information exchange.
 - Require state governments to develop an assessment of health information exchange activity readiness in their state and plans to encourage that development. This requirement could be linked to Federal monies for Medicaid.
 - Work with accrediting agencies to include health information exchange plan development as a component of the accrediting process.
- 3. Most of the management and legal issues faced by communities and individuals in establishing a health information infrastructure, consistent with privacy and security protections, can be addressed in the context of existing law and through the use of contracts.**
- The legal analysis reveals several measures and steps that health care purchasers and implementers will need to take to achieve more legal and management sustainability of information sharing. Our analyses provide a framework of areas that will require legal and contractual attention by communities.
 - Existing law and regulations can be leveraged, by organizations entering into information sharing relationships, to provide ample protection of private property, assert privacy rights, share information among multiple organizations, and provide protection from professional liability and medical malpractice.
 - Organizations and individuals can utilize several types of vehicles to mitigate risk such as corporate law, contracts, licenses, use agreements, service level agreements, syndication and other agreements.
- 4. As health information exchange implementations mature, significant issues that are currently poorly understood may require policy and regulatory changes to enable sustainable adoption.**

- With the changing nature of medical practice and new liabilities or duties arising from the use of electronic health records, possible areas for research and broad policy consideration could include the security and privacy, medical liability and practice transformation issues:
 - **Security and Privacy**
 - Framework for the incremental development of local, regional, and national health information exchange that respects local ownership and control, and provides the technical requirements to support robust security and privacy.
 - Robust security and privacy regime for interoperable regional and national health information system
 - **Model professional liability and medical malpractice laws**
 - Reflect changing nature of medical practice in a connected world. Policy-based actions will be needed to appropriately define physician and clinician liability and negligence in the use of widely interoperable electronic health records for medical decision-making.
 - **Practice transformation**
 - Assess changes in medical practice and the relationships between stakeholders that are likely to result from the transformative nature of high degrees of IT adoption and use and regional and national interoperability.
- While policy recommendations may be premature and research inconclusive given the current stage of maturation, these issues are important for on-going examination related to health information exchange.

To ensure sustainability and continued progress at the local level, investments will be needed. A wide range of activities, education and information will be necessary including rigorous financial analysis to support the incentive structure, implementation methodologies for small practices, change management approaches and implications, draft policies and procedures for information sharing, case studies, product certifications and comparisons with user surveys and feedback, collaborative forums to continually refine practice implications and directories or brokering services for technical assistance to individuals and practices. Investments like these will create experience and work products that can be broadly shared across communities and support physicians in achieving improved healthcare through clinical IT application adoption as well as interoperability among other key health care providers.

Working Group on Financial, Legal and Organizational Sustainability of Health Information Exchange

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* David Brailer initially chaired this Working Group. However, when HHS Secretary Thompson appointed him the United States' first Health Information Technology Coordinator on May 6, 2004, he was obliged to resign as chair. Leadership of the group was graciously assumed by John Glaser.

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Connecting for Health is an unprecedented collaborative of over 100 public and private stakeholders designed to address the barriers to electronic connectivity in healthcare. It is operated by the Markle Foundation and receives additional support from The Robert Wood Johnson Foundation. Connecting for Health is committed to accelerating actions on a national basis to tackle the technical, financial and policy challenges of bringing healthcare into the information age. Connecting for Health has demonstrated that blending together the knowledge and experience of the public and private sectors can provide a formula for progress, not paralysis. Early in its inception, Connecting for Health convened a remarkable group of government, industry and healthcare leaders that led the national debate on electronic clinical data standards. The group drove consensus on the adoption of an initial set of standards, developed case studies on privacy and security and helped define the electronic personal health record.

For more information, see www.connectingforhealth.org.