Health Information Technology Oversight Council Stakeholder Webinar

Friday, April 30, 2010

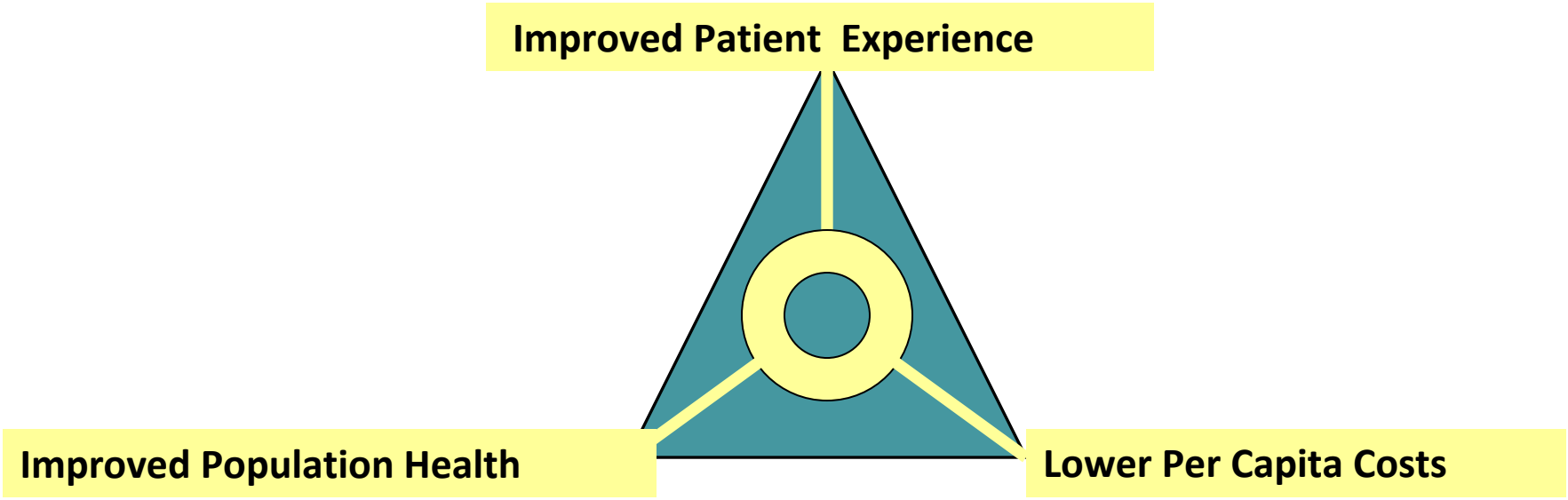
Legal and Policy/Business and Operations/Finance

Meeting Agenda

2:00 pm Review Agenda and Webinar Details
2:05 pm Where We Are Today- Governance and Technology/Phasing
2:15 pm Schedule for next few months, including opportunities for input
2:20 pm Legal and Policy overview and Q&A
2:40 pm Business and Operations/Finance overview and Q&A
2:50 pm Next Steps

Please take a moment to complete the Exit Survey when you leave the webinar.

Oregon Health Authority Triple Aim Goal



1. Improve the lifelong health of all Oregonians
2. Increase the quality, reliability, and availability of care for all Oregonians
3. Lower or contain the cost of care so it is affordable to everyone

HIE Value Propositions – Examples

Stakeholder	Value
Consumers	Reduced cost of care due to duplicative tests Improved efficiency and safety of care due to information sharing between providers and institutions Better care and quality of health and life
Employers	Reduced costs and productivity loss related to avoided services Improved continuity of care reduces longer-term health care costs
Health Plans	Savings from services avoided due to information available at the time of service
Hospitals	Access to prior medical history data from other sources Savings on uncompensated care related to unnecessary or avoidable services
Providers	Access to prior medical history data from other sources Achieve meaningful use and maximize incentive payments Improved efficiency of care due to information sharing between providers and institutions Better care and care coordination and chronic disease management
Public Health	Improved reporting rates and alerting Improved care coordination and immunization rates will improve population health

Phasing and HIE Domains

Domain	Phase 1	Phase 2	Phase 3
Governance	Adoption of policies, requirements, standards and agreements - Statewide standards and/or certifying body could be HITOC in some form	Non-profit entity created in conjunction with financial sustainability plan and legislative approval, to act as central contracting agency, with small-scale operations	Non-profit develops larger operations to support HIE, if needed
Technology	Selection and Adoption of Standards and requirements, including strategies for meeting the needs of underserved areas	Implementation and operation of centralized services, as necessary	Operation of HIE services to cover gaps and underserved areas, if needed
Legal & Policy	HITOC develops and implements Accountability & Oversight Program	To be determined in Phase 1	Undetermined
Business Architecture and Operations	Run certification program for local HIOs, designs common technology-based services	Operation of common technology and technical support services	Additional services, as necessary

May – August Schedule Highlights

1. **HITOC to review Workgroup Input on Legal & Policy/Business & Operations**: May 6
2. **Privacy & Security Forum**: May 25
3. **HITOC Review Draft HIE Plan:** June 3
4. **HITOC Release Draft HIE Plan for Review:** June 17
5. **Stakeholder Feedback Meetings:** late-June to mid-July
6. **HITOC Finalize HIE Plan:** August 5
7. **Statewide HIE Strategic and Operational Plans Due to ONC:** August 31, 2010

LEGAL AND POLICY OVERVIEW
ACCOUNTABILITY AND OVERSIGHT

Key Components and Terms

Component 1: *Standards and Requirements for HIOs*

- "Standards": Nationally developed and recognized standards
- "Requirements": State developed and state specific; requirements go beyond baseline standards

Component 2: *Validation*

- Methods for ensuring HIO compliance with Standards and Requirements
- Can include attestation, contractual agreements, audit, certification, accreditation, and state oversight/regulation (or any mix of these)
- "Certification" vs. "Accreditation"

Component 3: *Enforcement*

- Methods for addressing non-compliance

National Trends

1. Federal accountability and enforcement trends: ARRA's impact on HIPAA

2. National HIO accreditation trends: EHNAC

ARRA's Impact on HIPAA

1. Applies some of the HIPAA rules directly to business associates and other non-HIPAA covered entities for electronic HIE

2. Non-covered entities, such as local HIOs, are now required to have business associate agreements with covered entities

3. Authorizes increased civil monetary penalties for HIPAA violations: cap on individual violations raised from $100 to $50,000; cap on total year raised from $25,000 to $1.5 million

4. Further defines which actions constitute a breach (including some inadvertent disclosures)

5. Requires an accounting of disclosures to a patient upon request

6. Grants authority to state attorneys general to enforce HIPAA

EHNAC Accreditation

1. Currently, the only national HIO accrediting body; expected to be the, or one of the, ONC-designated accrediting body
2. 5 categories of criteria:
    1. Privacy and Confidentiality
    2. Technical Performance
    3. Business Practices
    4. Resources
    5. Security
3. Still developing key aspects of its HIO accrediting criteria, including its Privacy and Security criteria
4. We can expect EHNAC criteria to continue to evolve along with other national standards

Oregon's Plan

- **In order to ensure…**
  - Safeguards and consistency across Oregon HIE efforts
  - The public interest is met
  - Meaningful use is facilitated by HIOs
- **Components for Phase 1:**
  1. *Standards and Requirements*: Adopt EHNAC criteria and any other nationally-developed standards and federal requirements; HITOC will develop any additional state-specific requirements if necessary
  2. *Validation:* HITOC will develop and implement a validation program, which will include an HIO accreditation program
  3. *Enforcement:* Rely on state and federal law; HITOC will develop additional enforcement rules and mechanisms if necessary

Key Components for Phase 2

As we gather more information about the experiences of other states, the ONC's requirements, and the evolution of federal law and national standards, we can move forward during Phase 1 in further determining the following for implementation in Phase 2:

1. **Adequate criteria for accreditation**

2. **The most appropriate system for HIO accreditation**

3. **Appropriate privacy and security enforcement mechanisms**

LEGAL AND POLICY OVERVIEW CONSENT

Scope

1. The scope of the discussion is limited to the use and disclosure of **clinical information (protected health information, or PHI)**, for the purposes of **treatment, payment, and health care operations.**

2. **HIPAA:**

   The Privacy Rule permits covered entities (i.e. medical providers, health plans) to use and disclose PHI without written patient authorization for purposes related to treatment, payment, and health care operations. On the other hand, HIPAA permits, but does not require, a covered entity to seek patient *consent for uses and disclosures of PHI for those purposes, but does not explicitly define consent or specify the necessary content of a consent form or the process by which an entity should obtain consent.**

Source: ONC White Paper on Consent

Consent Options & Definitions

Policy	Description
No Consent	Health information of patients is automatically included—patients cannot opt out
Opt Out	Default is for health information of patients to be included automatically, but the patient can opt-out completely
Opt Out with exceptions	Default is for health information of patients to be included, but the patient can opt out completely or allow only select data to be included
Opt In	Default is that no patient health information is included; patients must actively express consent to be included, but if they do so then their information must be all in or all out
Opt In with restrictions	Default is that no patient health information is made available, but the patient may allow a subset of select data to be included

Benefits and Limitations

	Key Benefits	Key Limitations
No Consent	Maximizes availability of PHI for HIE goals; minimizes administrative burden	No accommodation of individual preference; does not build trust
Opt Out	Provides patient choice/control; Rapidly achieves higher levels of participation- more data available for HIE goals; decreases administrative burden	Requires action on the part of patients to deny consent
Opt In	Allows for explicit, affirmative consent for participation	Requires intensive outreach efforts; lower levels of participation; increases administrative time/resources
All in or All out	Procedurally simpler to implement	No granularity of patient preference; may discourage participation by those w/SPHI
With Restrictions or Exceptions	Provides for more patient control; builds patient willingness/trust in participating in HIE	Procedurally and technologically complex to implement; full clinical data may not be available for care

North Carolina HISPC Analysis

Goals	No Choice	Opt Out	Opt In	Opt Out w/ Exceptions	Opt In w/ Restrictions
High Quality of Care	5	3-4	2	3-4	1
Provider Business Impact	5	4	3	2	1
Confidence in HIE	1	4-5	4-5	2-3	2-3
Liability and Laws	1	2-3	2-3	4	5
Total rating:	12	13-16	11-13	11-13	9-10

1= worst rating, 5= best rating

Other States

State	Consent Policy
New Mexico	Opt In
Rhode Island	Opt In w/restrictions (granularity by provider)
Massachusetts	Opt In
New York	Opt In (except for one-to-one exchanges)
Maryland	Opt Out
Pennsylvania	Opt Out for general PHI; Opt In for sensitive PHI
New Hampshire	Opt Out
Maine	Opt Out
Tennessee	Opt Out
Minnesota	Opt Out of RLS (w/exceptions- by provider); Opt In to query
Delaware	No consent for lab data, etc.; Opt Out of the query function
Indiana	No consent
Wisconsin	No consent

Opt Out with Exceptions

A. Opt Out for General PHI:

- Excludes Specially Protected Health Information (SPHI) from HIE, at least for Phase 1
- Would include an Opt In option for inclusion of any or all SPHI
- An examination of state laws that define SPHI would be conducted during Phase 1, in line with Oregon's HISPC recommendations, to determine the appropriateness of the protections and the feasibility of implementing these protections in an electronic environment, with the possibility of legislative changes during later phases

B. Medical Emergency:

- If a patient opts out, will his or her PHI will be available for medical emergency?

C. Operations:

- Opt Out forms (for General PHI), Opt In forms (for SPHI), and information on the process and implications of each, are made available at a patient's first visit to provider, and also available online
- If a patient opts out, any query for their records is returned as a null query (the existence or location of their records will not be confirmed or provided)

Input to HITOC Based on:

1. The ONC analysis;
2. North Carolina's HISPC analysis;
3. The trend among other states' HIE planning and existing operations;
4. The general value of HIE to key stakeholders and overall;
5. The OHA's Triple Aim

BUSINESS AND OPERATIONS OVERVIEW

Business and Operations Overview

- Phase 1
  - HITOC – expanding its current role to include certification and accreditation oversight of local HIOs
  - Could serve as central contracting agency
  - Could provide technical assistance services
- Phase 2 and beyond, as necessary and financially feasible
  - Non-profit organization with board representation from public and private sectors
    - Must be balanced such that no one market segment is “over” represented
  - Sustainable long-term financing model for operations
    - Could be criteria for awarding contract to existing non-profit organization
    - Could be criteria for establishing new non-profit organization
  - Staffed to support Technology, Technical Support, and pseudo-local HIO services

Statewide HIO - Potential Services Offering – Phases 1 and 2

- Certification/accreditation – state or non-profit
  - Standards being defined at the national level
  - Other states have done significant work in this area that we can leverage
  - Technology and operational certifications have become commonplace in other industries
- Possible Technology-based Services
  - Master Provider Index
    - Broad-based appeal with recognized value to institutions and providers
  - Patient/Record Lookup Service
    - Key for effective intra/interstate HIE with recognized value
  - Reference implementation of HIO-to-HIO connection
  - Support for quality and public health reporting
- Technical Support Services for Local HIOs
  - Coordination with other initiatives, i.e. Workforce Development, REC, training
  - Support for connecting to local and/or statewide HIO (resources or $$$)
  - Legal toolset for HIOs
- Gaps fulfillment
  - Pseudo-local HIO for providers and institutions not served by local HIOs

Process definition and requirements gathering can occur during "lag" time between plan submission and approval

Business and Operations - Phase 3

- Additional services as necessary
- Opportunistic revenue development

HIE Savings Analysis – Purpose

- To estimate the potential achievable savings associated with widespread Oregon HIE use
  - Break down more recent national estimates of the impact of HIE
  - Match relevant savings estimates based on Oregon data by what is
    - Reasonable based on HIE successes to date
    - Applicable to planned HIE services
    - Achievable to the likely participating stakeholders

- Assist the Oregon HIE planning process in understanding the potential range of financial impact of HIE
  - Inform the business planning processes to assure that the development work currently being contemplated will lead to a sustainable business plan

Range of Potential Annual Savings

Range of Potential Savings for Oregon HIE	Low Estimate	Mid Estimate	High Estimate
Avoidable Ambulatory Services (Lab, Rad. & Visits: Smith)	$42.0 M	$42.0 M	$9.9 M (Visits only)
Avoidable ER Services (Lab, Rad. & Admits: Smith)	$13.7 M	$1.7 M (Admits only)	$1.7 M (Admits only)
Avoidable Outpatient Imaging Studies (CITL)			$44.3 M
Avoidable Outpatient Laboratory Tests (RAND)			$34.8 M
Emergency Room Savings (Overhage)		$22.0 M	
Potential Avoidable Service Savings	***$55.7 M***	***$65.7 M***	***$90.7 M***
Productivity Opportunities (Smith)	***$33.3 M***	***$33.3 M***	***$33.3 M***
Total Potential Savings	**$89.1 M**	**$99.1 M**	**$124.0 M**

Note: CITL and RAND did not differentiate between outpatient tests performed in the ER or other ambulatory settings. To avoid double counting our high estimate does not include other potential ER savings that may be attributed to other avoided tests and procedures.

Study Conclusions

- Applying the national studies provides a range of potential opportunities for widespread HIE adoption Oregon
  - Oregon population and statistics drive the savings figures
  - A potential range of savings offers an opportunity to make reasonable business decisions
- Savings figures reported here likely under-report total savings associated with HIE functionality
  - ER savings reported in our high estimates only include outpatient lab and imaging from CITL and RAND and do not reflect the impact on other avoided services
  - A number of potential savings areas are not included here including availability of medication lists, reductions in ADEs, reductions in medical errors, and public health monitoring, surveillance, and prevention that may substantially increase potential savings associated with HIE
- Potential savings associated with widespread HIE use are significant enough to make a compelling argument for HIE investments by all healthcare stakeholders

Oregon HIE Costs – Phase 2 – Context

- Separate Non-profit organization
- Certification and accreditation program for all HIOs
- Core Technology Services to Facilitate HIE
  - Statewide directory of providers and institutions
  - Trust services for HIO-to HIO information exchange
- Potential Technology Services to Improve HIE
  - Query service for providers and HIOs to locate patient records (RLS)
  - Service to facilitate exchange of public health and quality data from providers and HIOs to the State

Oregon HIE Cost Assumptions

- Small central staff
  - Oversight
  - Outreach and liaison
  - Basic central operations support & coordination
- Contract with qualified firms for HIE data center operations
  - Technology licenses
  - Connectivity
  - Technical Support and Call Center Operations
- Participating organizations cover costs on their end
  - Connectivity and gateways
  - Staffing
  - Training
  - Work flow integration

HIE Financing Issues – traditional

- Financing start-up
- Sustainable operations financing
- Value propositions
  - Improved continuity & quality
  - Reduced services: health plans & patients
  - Improved efficiencies
  - Competing on quality, EHRs, services
- Misalignment of costs and benefits

HIE Financing Challenges – NEW

- Health reform: Oregon 2009 Legislation
- Health reform: Federal will happen, but impacts are unknown
- ARRA-driven changes
  - EHRs, certified, HIE, quality metrics, …
  - Incentive payments
  - State HIT & HIE plans
  - Expected state HIE roles (state or SDE)
  - Regional Extension Centers

ARRA Funding Opportunities

- HIE Cooperative Agreements to States: focus on state HIE planning & implementation
- REC funding: focus on EHR adoption & meaningful use in small practices, rural & underserved
- HRSA funding to FQHCs, RHCs
- Other grant opportunities: Workforce, Beacon
- Incentive Payments: Leveraging possibility
- Medicaid 90/10: Possible mechanism

Financing – Other States

	Bond or Special Purpose Funds	Subscriber Fees	Provider Fees	Grants or Donations	Payor Assessment	State Levies	User Transaction Fees	Initial Connection Fee
California	X	X	X					
Colorado		X	X	X				
Minnesota		X	X		X		X	
Missouri			X		X	X		X
New Jersey	X			X		X		
New Mexico		X			X		X	
Pennsylvania		X					X	
South Carolina		X		X				
Tennessee		X	X		X		X	
Vermont		X	X			X	X	

Financing Options

- ARRA HIE funds
  - Insufficient for long-term sustainability
  - How best to maximize
- Medicaid APD 90% FF /10% other
- Stakeholder financing
  - Health plans (commercial, FCHPs, Medicaid-FFS)
  - Employers, purchasers
  - Hospitals, physicians, practices
- What mix/balance?

Financing Options

- Start-up Financing
  - ARRA financing
  - Appropriations, debt financing
  - Foundations, grants
- Operations Financing
  - Subscriptions (local HIOs, plans, hospitals, practices)
  - Service - transaction fees
  - Claims assessment

Next Steps – Business Operations/Finance

- HITOC will receive Business and Operation Input and Financing Presentation on May 6
- Many decisions about financing options and budgets can't be made until decisions are made during Phase 1 about the Services that will be provided
- A minimum and maximum range for Start-Up and Operational Budgets will be included in the draft plan
- Financing Plan due to ONC in February, 2011

Opportunities to Provide Input

- Fill out exit survey today
- Attend Privacy & Security Forum, May 25, 9 – 11 am, Oregon Convention Center, Register on HITOC website
- Attend Community Meetings in late June/early July (will be posted on HITOC website)
- Email your comments to HITOC.info@state.or.us

Thank you for your participation

If you need additional information, have questions, or want to provide input:

HITOC.Info@state.or.us

503-373-7859 (Joan Lockwood)

Resources: HITOC website

http://www.oregon.gov/OHPPR/HITOC/index.shtml