

Update on the Ohio Health Information Partnership HIE and Patient Consent Issue

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Last month, the AMCNO Board of Directors along with 8 healthcare institutions in Northern Ohio submitted comments to the Ohio Health Information Partnership (OHIP) regarding the proposed patient consent policies for the OHIP health information exchange. (See the article in the May/June issue of the *Northern Ohio Physician* for a full discussion of the AMCNO's comments to OHIP). A major focus of the comments was OHIP's proposed interpretation of Ohio law concerning patient consent. OHIP has posited that Ohio law requires express patient consent before physicians and other healthcare providers are permitted to exchange health information with each other for treatment purposes. The comments also addressed OHIP's proposed "opt-in" model for patient consent. The AMCNO objected to OHIP's interpretation of Ohio patient consent laws and identified a number of problems with the "opt-in" model, both from a legal and practical standpoint.

Since submitting the comments, OHIP has been busy. For starters, OHIP finalized and announced its selection of MediCity as the technology provider for the health information exchange, which will be known as CliniSync. The Privacy and Policy Committee of OHIP held several follow-up meetings to address the issue of patient consent and the patient consent model for CliniSync. Representatives of the health care community in Northern Ohio participated in all meetings. During these meetings, the comment letter from Northern Ohio received considerable attention.

OHIP ultimately decided to step away from taking a public position that current Ohio law mandates written patient authorization before physicians can share health information for treatment purposes. The comment letter from Northern Ohio played a critical role in OHIP's decision. Nevertheless, OHIP appears to be heavily leaning towards adopting an "opt-in" patient consent model for CliniSync. Even though OHIP's preference

for an "opt-in" model is based on policy (not its view of Ohio law), the "opt-in" model is somewhat inconsistent with current practice in Northern Ohio.

In the comment letter and as representatives from Northern Ohio discussed in the OHIP follow-up meetings, many physicians and health care providers in Northern Ohio do not routinely obtain written patient authorization to share health information for treatment purposes. During a recent follow-up meeting, the Privacy and Policy Committee received indication from other health care providers in the state that disclosures for treatment purposes occur without express patient consent. Adopting a consent model for CliniSync that is inconsistent with this practice would create significant participation barriers for physicians and health care providers in Northern Ohio. One hospital estimated that it would take a year to implement the original proposal and 100% compliance could not be assured.

At press time, OHIP had requested a roundtable meeting in Northern Ohio during which OHIP representatives would like to discuss data-sharing practices and other thoughts on CliniSync with the AMCNO, local physicians and health care institutions.

Hopefully, OHIP will remain receptive to further comments from Northern Ohio physicians and health care providers regarding the form and frequency of patient consent so that workable, cohesive solutions can be implemented for the State of Ohio. ■

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