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Division of Health Care Financing and Policy
Notice of Public Workshop to Solicit Public Comments for the Nevada Administrative
Code Regarding the Health Information Exchange (HIE)

Public Workshop June 9, 2016

Minutes

Date and Time of Meeting: June 9, 2016 at 10:10 AM

Name of Organization: State of Nevada, Department of Health and Human Services, Division of Health Care Financing and Policy (DHCFFP)

Place of Meeting: Division of Health Care Financing and Policy
1100 East William St.
2nd Floor Conference Room
Carson City, Nevada 89701

Place of Video Conference: Division of Health Care Financing and Policy
1210 South Valley View Blvd.
Suite 104
Las Vegas, Nevada 89102

Teleconference: (877) 402-9753

Access Code: 7316372

Attendees

In Carson City, NV

Davor Milicevic, DHCFFP

Lynne Foster, DHCFFP

Joan Hall, NRHP
Joanna Jacob, Ferrari Public Affairs
Dena Schmidt, DHHS

Deborah Huber, Health Insight
Chris Bosse, Renown Health
Doug Harvey, Nevada Hospital Association

In Las Vegas, NV

James Overland, Nevada Chiro Association Katie Ryan, St. Rose Dignity Health

Teleconference

TJ Dahna, Amerigroup Virginia Beach
Laurie Squartsoff, DOI
Kim Everett, DOI

Karen Salensetta, DPBH
Eric Maddox, HealthHIENevada
Pamela Novestad, Banner Churchill Medical
Center

Introduction:

Ms. Lynne Foster, Chief of Division Compliance, Division of Health Care Financing and Policy (DHCFP), opened the Public Workshop introducing herself and Mr. Davor Milicevic, HIT Project Manager.

Ms. Foster – The notice for this public hearing was published on May 12, 2016 in accordance with the Nevada Revised Statute 223B.061.

Ms. Foster opened the workshop by stating that the purpose is to allow interested persons to meet informally with agency staff to adjust the proposed Nevada Administrative Code.

Mr. Milicevic gave the presentation on Health Information Exchange (HIE).

1. Presentation of proposed changes to the Nevada Administrative Code regarding the Health Information Exchange.

a. Under existing law, the Director of the Department of Health and Human Services is required to establish a statewide health information exchange system and a governing entity for the system. SB48, enacted in the 78th Legislative Session, eliminated the requirement that the Director establish a statewide health information exchange system (HIE), and requires the Director to establish a regulation for health information exchanges. This proposed regulation prescribes the requirements for a statewide health information exchange.

b. Public Comment Regarding Subject Matter

Ms. Ryan (Director of Communications and Public Policy Dignity Health St. Rose Dominican) submitted a letter from Jana Aagaard (Senior Counsel for Health Information Privacy) regarding their concerns. Ms. Ryan will work together with

some of the primary people to provide a list of recommendations that address their concerns.

Ms. Jacob stated that she was here on behalf of McKesson Specialty Health and the US Oncology Network. They have 13 cancer treatment sites in southern Nevada. The intent is to make sure the Health Information Exchange (HIE) is very effective in the state and that they support these regulations. Ms. Jacob went on to reference page 4, section 2, subsection 7, that the HIE not only be operational 99% of the time, but accessible by providers that often. McKesson and US Oncology Network also commented on the language in section 5, subsection f. They want to be consistent with the Board of Pharmacy regulations governing electronic prescriptions. McKesson and US Oncology Network wanted to delete the whole subsection but Ms. Jacob suggested somehow modifying it to reflect that it is just maintaining current medication information.

Ms. Huber agreed that the HIE does not create prescriptions, although there is a functionality that is an ordered gateway that can allow the ordering with electronic health records then it's transmitted through the HIE.

Ms. Bosse would not like to see regulations put in place that would preclude the use of that going forward.

Ms. Hall is concerned that this version has minimalized the certification of the HIE and the process that the Director went through. She feels that certification, especially federal certification, should be recognized.

Mr. Milicevic stated that the January 19, 2016 version referenced existing laws and the Legislative Counsel Bureau recommended removal as it was unnecessary.

Ms. Schmidt asked if it was duplicative of what was in Nevada Revised Statutes (NRS)?

Mr. Milicevic responded that it was duplicative of HIPAA and HITECH Act.

Ms. Hall stated that there's a national certification process so that HIEs can be nationally certified, and it seems that it is ignored in this document.

Ms. Huber commented that it was in the October 13, 2015 version in section 11. Health Insight would like to see the individual standards met or that the HIE could be certified by a third party.

Ms. Jacob wanted to clarify that Ms. Huber is proposing that it would be meeting the state's standards or a federally recommended standard.

Ms. Huber agreed with that statement.

Ms. Schmidt added that the HIE is a new, ever-changing technology, that it is important for the state to look towards the national standards. Her concern is that

the state doesn't have the expertise in this technology to define a standard that is being done at the national level.

Ms. Bosse appreciated the prior comments. Her sense is that in the short term, meeting the national standards will be what everyone is looking towards. She wants to make sure that they, as a group, have a regulation set in place that the Director can circumvent or not have that certification count as the state certification.

Ms. Hall requested that any further updates to the document be done in redline.

Ms. Huber wanted to look at section 10, page 12, referring to a breach. "The Health Information Exchange (HIE) shall notify the patient of the breach." This statement gives the wrong impression. She clarified that it is not the HIE that notifies the patient, it's the covered entity. The HIE has no relationship with the patient.

Ms. Foster questioned that if the exchange is a business associate of the covered entity and the breach was their fault, it would be incumbent upon the exchange to do the notification.

Ms. Huber clarified that it would be the business associates duty to notify the patient.

Ms. Foster further questioned that if the covered entities business associate addendum with the exchange could obligate the exchange to notification.

Ms. Huber replied that it could but doesn't.

Ms. Schmidt asked if the language should be changed from "the exchange shall" to maybe "have a process" to ensure proper notification is in place.

Ms. Foster agreed that it is incorrect to say "notify the patient." She stated that it is too specific of language. But the language shouldn't be too loose because it might sound like the exchange has to be a part of breach notification.

Ms. Bosse thought the piece related more to if the health information exchange recognizes that there has been a breach, they will make sure that the covered entity is aware and can notify the patient. It doesn't have to be the HIE's fault, just that maybe they know about it and it is their responsibility to notify the covered entity so the covered entity can communicate the breach.

Ms. Schmidt wanted to clarify in section 10, the first sentence, should read "if the exchange becomes aware of a breach of confidentiality, they must ensure the patient is notified in a manner in accordance with these rules." Agreement all around.

Ms. Bosse wanted to know if they could set a timeframe for adding comments to the draft. She suggested 30 days.

Ms. Foster suggested July 7, 2016 and it was agreed upon.

Mr. Milicevic wanted to know who will communicate the changes to the DHCFP.

Ms. Huber replied that Health Insight could do that.

Ms. Ryan was in agreement.

Ms. Foster offered a word document for changes rather than a PDF to work from. There was agreement all around.

2. Adjournment

There were no further comments and Ms. Foster adjourned the public workshop at 10:40 AM.

**An Audio (CD) version of this meeting is available through the DHCFP Administration office. For more detailed information on any of the handouts, submittals, testimony and or comments please contact Ellen Felsing at Ellen.Felsing@dncfp.nv.gov or (775) 684-3684 with any questions.*