

THINC RHIO, Inc.

Taconic Health Information Network and Community

THINC RHIO Meeting of the Board of Directors
March 04, 2009, 6:30pm-8:30pm

Board Members Present: Mike Duffy, Chair
Dr. Mark Foster
Dr. Gene Heslin
Dr. Paul Kaye
Arthur Levin
Robert Savage

Unable to participate: Joe DeVirgilio, Jr. Arthur Nizza

Non-Board Members Present:

A. John Blair, III; Susan Stuard, Allison Laquidara, Asha Upadhyay

Meeting materials: 1) Meeting Agenda; 2) February 2009 Meeting Minutes, 3) Rim Cothren Resume; 4) THINC Financials; 5) THINC Project Update for March 2009; 6) THINC Committees Update March 2009; 7) Consent Form; 8) Draft Security Breach Policy v4; 9) NYeC Final HIT Stimulus Summary Memo; 10) THINC Confidentiality Policy; 11) THINC Conflict of Interest Policy; 12) Rim Cothren power Presentation; 13) Susan Stuard Presentation.

I. PUBLIC SESSION

A) APPROVAL OF FEBRUARY 4, 2009 MEETING MINUTES

Mike Duffy asked for a motion to approve the minutes of the February 2009 meeting. A motion was made and seconded and the minutes were unanimously approved.

B) HEAL 5: DUE DILIGENCE – RIM COTHREN

Susan Stuard introduced Rim Cothren to the Board, informing them that he would be performing the due diligence activities for the HEAL 5 project. Mr. Cothren is the Vice President of Science and Technology for Cognosonte. His scope of work is to perform a technical assessment of the MedAllies workplan and requirements for establishing the THINC health information exchange for the HEAL 5 SHIN-NY and CIS projects. Mr. Cothren reviewed the timeline of activities for his engagement. He is tentatively slated to present his findings at the THINC Board meeting in May. The cost of this engagement has been budgeted for in the HEAL 5 grant.

C) YEAR TO DATE FINANCIALS UPDATE

Ms. Stuard reviewed the Statement of Revenue and Expenses. Susan asked the Board for a motion to make an adjustment on the P4P grant for \$40,000 for THINC personnel. Dr. Gene Heslin made a motion, to take \$40,000 out of the P4P budget for THINC staffing. The motion was seconded and carried.

The THINC-MedAllies outsourcing agreement amendment states that THINC will hold the asset on the HEAL 5 build. It was suggested that the HEAL5 grant expense line be held as a non-depreciable capital asset as per Section 118 of the IRS tax code. Mike Duffy said that instead of doing this, we should keep it as an expense all year long and capitalize at the end of the year. The Board agreed.

Susan Stuard informed the Board that two bids came in from two outside auditors. One bid was for \$12,000 and another for \$8,000 from Deborah Bailey Brown. A motion was made, seconded and carried to engage Deborah Bailey Brown to perform the THINC audit.

D) THINC PROJECTS UPDATE

Susan Stuard gave an update on the following projects:

- **HEAL 1**

Susan Stuard informed the Board that THINC submitted its quarter 10 report to New York State Department of Health (NYSDOH) requesting credit for 39 implementations and reimbursement for 19 of the 39 implementations. THINC also submitted a full set of installation records for the 19 implementations. THINC has submitted the additional documentation and installation records for quarter eight voucher. THINC is in the process of assembling the quarter nine installation records and the underlying documentation for matching funds. THINC and MedAllies are projecting 95 implementations in quarters eleven and twelve for HealthQuest EHR implementations. With regard to the Hudson River Health Care EHR implementations, the Office of Health Information Technology Transformation has conveyed to the HEAL office that they have reviewed the documentation and do not see any issues. All of the remaining HEAL 1 funds will be drawn from New York State's Medicaid or FSHRP Waiver.

- **CDC HIE – YEAR1**

Susan Stuard reported that this project is in the process of being completed and has been extended to the end of March by NYSDOH. CDC will be issuing the scope of work in March 2009 for the next phase called Option Year 1. The time period for Option Year 1 is March 7, 2009 to August 31, 2009.

- **P4P/Medical Home**

Susan Stuard reported that the NYS DOH project will closeout at the end of the grant term on February 28, 2009. THINC is requesting written financial commitments from health plans regarding their planned incentive payments to physicians for the project. All slots are filled for the medical home component of the project. THINC is in the process of collecting the signed agreements from the physicians.

- **HEAL 5 – SHIN-NY and CIS**

The HEAL 5 project is proceeding on target. THINC submitted the quarter two voucher and report to NYSDOH. THINC has started to work on the required privacy policies with the Privacy and Consumer committee. A security breach policy is in final draft form and work on the authorization policy is beginning.

THINC and MedAllies have scheduled meetings with the Chief Information Officers at the hospitals to review the scope of HEAL 5 project use cases, gather information about their hospital

systems and determine their current capabilities. Blythedale Children's Hospital contacted THINC in regard to their Certificate of Need application (CON) with NYSDOH for a Hospital Information System (HIS). NYSDOH requires that hospitals applying for a CON must work with their local RHIO. In this case, their vendor Meditech would need to work with MedAllies on interoperability with the health information exchange.

E) THINC COMMITTEES REPORT

THINC Privacy and Consumer and Public Health Committees met on February 26, 2009. Susan Stuard gave the following update:

PUBLIC HEALTH COMMITTEE

Susan Stuard gave an update on the HEAL 5 and CDC-HIE grant projects. A presentation of the HVHIE architecture was made to the committee. The committee had a good discussion about the HEAL 5 Public Health use case and the potential difficulties that hospitals may have in providing the CDC-requested minimum data set. THINC began discussions with the local health departments about their data needs. This dialogue will continue at subsequent committee meetings.

PRIVACY and CONSUMER COMMITTEE

The committee reviewed the first draft of the THINC Authorization Policy. The Committee was updated on the privacy requirements in the Federal Stimulus Bill.

F) NEW YORK STATE PRIVACY REQUIREMENTS AND THINC PRIVACY POLICIES

Susan Stuard made a presentation to the Board regarding the New York State requirements for privacy and security for RHIOs.

The Statewide Collaboration Process (SCP) is sponsored by the New York e-Health Collaborative and NYSDOH. The SCP has issued the RHIO Policies and Procedures v.1 with which THINC must comply as part of its HEAL 5 contract. Art Levin said that the THINC Privacy Committee had been on hold in 2007 and 2008 until the SCP requirements were finalized. Susan Stuard informed the Board that they will be asked to review, comment, and ultimately adopt the privacy and security policies for THINC.

The SCP inherited a robust privacy and security project. The Health Information Security and Privacy Collaborative was started in 2005 and was taken over by the SCP in 2008. Hundreds of people provided input on these documents over three years and NYS DOH has deemed the policies compliant with New York State Law. The requirements cannot be changed at this point in time. If they are unworkable in implementation across projects, then the requirements may be revisited.

The RHIO Policies & Procedures v.1 address seven areas: 1) Consent; 2) Access; 3) Authentication; 4) Authorization; 5) Patient Engagement and Access; 6) Audit; 7) Breach

Consent: Affirmative, written, RHIO-specific consent will be required from patients before accessing the exchange. Participants in the exchange must secure this consent from the patient before accessing the exchange. NYSDOH has issued a model RHIO consent form. Consent does not apply to "one-to-one" transactions. Consent is durable but can be revoked. Consent covers all sensitive information (HIV, mental health, drug and substance abuse information). This durable consent can be used for purposes of treatment, quality improvement and care management (aka Level 1 uses). Uses for

payment, research, and marketing require a separate, specific, time-limited consent from patient (aka Level 2 uses).

There is a “Break the glass” provision for emergencies. But the emergency must meet following criteria: in the practitioner’s judgment, an emergency condition exists and an attempt to secure consent would result in delay of treatment; the practitioner determines that information accessible via the exchange may be material to emergency treatment; no denial of consent is on record with the participant organization; the practitioner must attest that all of the foregoing conditions have been satisfied, and the exchange must maintain a record of this access. The exchange must terminate access after the emergency treatment.

There are some issues related to minor consent in regards to NYS law and emancipated minors. The SCP is convening an expert task force to provide more guidance to exchanges on how to manage minor consent.

The consent form must attach a list of data suppliers and instructions how to get an up to date version of the list in the future. The compliance date for consent is June 2009 for applicable exchange transactions. THINC does not operate or fund the current Healthvision portal so MedAllies is not required to comply with this for the existing portal. The new HVHIE v2.0 will need to comply with consent requirements after June 2009.

Dr. Blair said that for medication history lookup consent will be needed from the patient. THINC has to make sure the provider is trained and educated. Dr. Foster asked if there was a time limit on the consent. Susan Stuard said that consent is durable. He asked what if a patient does not give consent? In this case there would be an automatic block so this patient’s information will not be in the HIE. One-to-one transactions do not require consent.

Dr. Heslin asked if THINC will help hospitals through this process and how? Susan Stuard said that THINC’s Privacy and Consumer committee will design the education and training materials which will be shared with the hospitals.

Authorization: RHIO policies and procedures must specify the purposes (e.g., treatment, quality assurance, public health) for which users may access information. The exchange must use role-based access standards (practitioner, administrative, RHIO personnel). The participant organizations must designate someone to assign individuals into access roles. The THINC Privacy Committee is working on this policy in draft form. THINC management is looking at the workflow on assigning individuals into access roles.

Authentication: The RHIO or its participant must authenticate a user’s identity. Level 2 authentication (user id and password) is required to start. RHIOs will be required to adopt Level 3 authentication (use of tokens, biometrics) in the future. There is no time frame specified for Level 3. But any technical solution for Level 3 consistent with NIST SP 800-63 may be used.

Access: Passwords must meet length standards and be changed every 90 days. Access should be blocked after five failed access attempts and the account can be reset by an administrator. The RHIO must set a time period to block accounts after a period of inactivity. End-users must undergo training and certify compliance with RHIO policies and procedures. The RHIO or participant must terminate access within one business day of termination of employment. The RHIO must educate consumers about consent, the exchange and data suppliers. It is recommended that RHIOs consider providing patients with direct access to their data and RHIOs must develop a patient access policy, even if that policy directs consumers back to the participant organization to access data. The RHIO must have a consumer representative on the board and have meaningful involvement of consumers.

THINC staff is looking at it's website as a means to educate patients and will need to develop a robust training program. If a patient relocates and asks for a transfer of records, can the patient revoke access for the previous provider? This has not been determined by the SCP.

Audit: The RHIO must maintain audit logs with the identity of the patient, the authorized user and the participant organization of the user. It must have information about the type of information accessed and the date and time of access. It must also have the source of the information accessed (from what organization), identify any unsuccessful access (log-in) attempts, and the audit logs must be immutable and maintained for six years.

The RHIO must conduct periodic audits of both RHIO and participant organizations use of the exchange. It must check that the applicable consent was on file for an access, the access was for an authorized purpose and the requirements were met for break-the-glass. All participants or a statistically significant subset of participants must be audited on an annual basis. The audit results must be available on RHIO website.

The participants and consumers may request audit logs. The participant organization may receive the name of each authorized user, time and date, and what type of information was accessed. Patients may receive the name of the participant organization through which access occurred, time and date, and type of information accessed.

THINC would need a person to manage the audit process and this could be expensive. There is no timeframe specified on posting audit results to the website. Auditing will be a part of the ongoing operations of THINC management.

Security Breach:

The RHIO shall require its participants to notify the RHIO in the event of an actual or suspected breach that involves the health information exchange. The RHIO must notify affected participants of an actual or suspected breach at the HIE level. The RHIO and/or participant must investigate and identify root cause of breach, mitigate the harmful effects of the breach, notify affected patients, notify required regulatory agencies, and apply sanctions against participant organizations and/or end-users.

The draft Security Breach policy was presented to the Board. The Board agreed to review the document and send their comments to Susan Stuard. Dr. Eugene Heslin said that this is a very important policy.

G) FEDERAL STIMULUS PACKAGE

Susan Stuard gave the following update regarding HIT funds in the Stimulus Package. There is \$2 billion from Health and Human Services to the Office of the National Coordinator (ONC) for grants and contracts. These funds will be granted in late 2009 to 2010. THINC is talking to NYeC and waiting for the Director of the ONC to be appointed to learn more about the specific grant programs. Mike Duffy asked we should put this list together of the things we want to go after such as a model audit package. Dr. Gene Heslin said that we should use a multi-pronged approach to public relations with the media, as to why this stimulus is important for improving the quality of healthcare.

There is \$34 billion dollars for physician and hospital adoption of electronic health records. The statute sets forth a standard for meaningful use for EHRs in order for funding to be received. Meaningful use will be defined by CMS. It will include quality reporting, electronic prescribing and connected use of EHRs which means health information exchange. It was suggested that THINC should try to impact the definitions that come out of CMS.

H) NEW BUSINESS

The Board did not hold an Executive Session due to time constraints. It was agreed to move the agenda item for discussion of Conflict of Interest and Confidentiality Policies to the next Board meeting. The Board members were asked to fill out and sign the policies and send it in to THINC in the meantime. There being no new business, a motion was made, seconded and approved to adjourn the public meeting.