

THINC RHIO, Inc.

Taconic Health Information Network and Community

Privacy and Consumer Affairs Committee Meeting

January 22, 2009 11:00am – 12:00pm

A meeting of the Privacy and Consumer Committee of the THINC RHIO, Inc. (THINC), a New York not-for-profit corporation (the “Corporation”), was held on January 22, 2009.

Committee members present: Art Levin, Paul Kaye, Steve Sarg, Norma Johnson, Roxanne Parrella, Rehan Ahmad.

Non-Committee members present: Susan Stuard, John Blair III, Dianne Koval, Helen Pfister, Asha Upadhyay, Allison Laquidara.

Not present: Tim Cleary, Lucy Pitaro.

I. APPROVAL OF DECEMBER 2008 MEETING MINUTES

A motion was made, seconded to approve the December 2008 meeting minutes.

II. INTRODUCTION OF NEW COMMITTEE MEMBERS

The Committee welcomed its new committee members; Lucy Pitaro, Roxanne Parrella, Rehan Ahmad. Sue Wilson resigned from the privacy committee due to personal issues.

III. UPDATE ON REGULATORY ISSUES

The Mass Code 201 17.00: As discussed, this regulation sets minimum standards to be met in connection with the protection of personal information in both paper and electronic records. This pertains to anyone who owns, licenses, stores or maintains personal information about a resident of the Commonwealth of Massachusetts. The code, however, does not address the issue of how this affects the information that is obtained or exchanged through a RHIO in another state. It was agreed upon by the committee that further research into the state and jurisdictional laws would be necessary. The committee also felt that it best to sort through the areas of concern within New York State’s Statewide Collaborative Process before development of the THINC policy.

OCR HIE Guidance: As discussed, New York State privacy laws are more restrictive than the Office for Civil Rights (OCR) guidance. The OCR guidance relies on the business associate agreement (BAA) to bind the RHIO to HIPAA requirements. New York State (NYS) requires RHIOs to meet many, HIPAA covered entity requirements, making THINC responsible for our own compliance with privacy requirements even absent a BAA. The OCR and NYS encourage patient access via the RHIO. It was the committees’ recommendation to stay away from the area of patient access due to a lack of clarity on how to implement regulations and to revisit this topic at a later time.

IV. SECURITY BREACH POLICY

The second draft of the policy was submitted to the committee for review. Major additions were site of breach (which side of the interface the breach occurred) and unintended access (unintentional breach/re-disclosure of patient information). It was recommended by the committee to address the issue of the site of breach, stating in the policy that THINC is responsible for the data use within the exchange itself and its workforce. Upon investigation if it is discovered that the breach occurred at a participating organization, then that organization is responsible for its own systems and workforce. The committee will look at possibilities and consequences for posting information on the THINC website about when a

breach occurred and what action was taken by THINC or a participant organization. It was suggested to do a survey of the participants to see if and how this will impact their decision to join the Hudson Valley Health Information Exchange (HVHIE). It was agreed that THINC should provide its contact information if someone should have an inquiry about breaches or possible breaches. It was suggested that this policy be taken to the THINC Board asking for feedback from the Board and then bring these suggestions back to the next committee meeting. It was suggested to put examples with the policy if applicable. All of THINC's policies need to be cross-walked before finalization. THINC policies will be posted on the website once approved by the committee and adopted by the Board.

V. AUTHORIZATION

As discussed, authorization is the process of determining whether an individual within an organization has the right to access Protected Health Information (PHI). Authorization is role based with the person's job function taken into consideration as well as the relationship to the patient. NYS has set forth six role based access categories for RHIOs to utilize (minimally). The participants are then responsible to designate the individuals within their organization who will be authorized to access information, as well as assigning those individuals to the appropriate categories. A particular area of concern noted by the committee was the credentialing processes. It was mentioned that MedAllies' contracts with participants state that the participant must make true and accurate statements about credentialing users to access PHI. Susan Stuard will put this into policy as a straw man for discussion. The 4A's discussion from the Statewide Collaborative Process can help inform further discussion on this topic. It was agreed that authorization would be presented as a policy, in first draft, for the committee's review at the next meeting.

There being no further topics for discussion, the meeting was adjourned at 12noon.