

THINC, Inc.

Taconic Health Information Network and Community

*Privacy and Consumer Affairs Committee Meeting
October 22, 2009 11:00AM-12:00Noon*

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

Committee Members Present:

Arthur Levin, Committee Chair, Norma Johnson, Lucy Pitaro, Helen Pfister

Non-Committee Members Present:

A. John Blair, III MD, Meghann Hardesty, Dianne Koval, Allison Laquidara, Holly Miller, Susan Stuard

I. APPROVAL OF SEPTEMBER 2009 MEETING MINUTES

The motion was made, seconded to approve the meeting minutes for the September 2009 meeting.

II. REVIEW OF FINAL DRAFT PATIENT CONSENT POLICY

The Committee agreed to change the language in section five of the Consent Policy to suggest that if a participant becomes aware that a minor has been emancipated, the participant must seek to obtain consent from that emancipated minor for transactions on the THINC exchange requiring consent. If a participant does not have knowledge that a minor is emancipated, the participant may rely on a consent previously granted by the parent or legal guardian.

As discussed by the committee and according to New York State Law a minor has the ability to consent to certain types of health services such as, family planning, HIV testing, mental health or substance abuse treatment. Due to the technical limitation to reasonably parse health related information related to minor consent from other information about the minor and due to New York State law, THINC and its participants will not be able to exchange information about minors between the ages of eleven and eighteen.

III. AUDIT POLICY DISCUSSION

Meghann Hardesty reviewed the first draft of the Audit Policy with the Committee. The purpose of the Audit Policy is to safeguard the privacy and security of protected health information (PHI) and establish a means to record and examine how, when, and by whom the information flowing through the health information exchange is accessed. THINC will maintain audit logs that document all access of patients' PHI and conduct periodic audits to ensure information is only accessed in accordance with THINC's policies and procedures and applicable laws. Additionally, THINC can provide audit log information to its participants so that they may monitor their own access of PHI via the exchange as well as provide audit log information to patients so that they may monitor how their PHI is accessed.

- **Maintenance of Audit Logs**

THINC will maintain audit logs that document all access of PHI, these logs are immutable and will be maintained for a period of at least six years from the date on which the information was accessed. Minimally the audit logs will include, the identity of the patient whose PHI was accessed, the identity of the authorized user accessing the PHI, the identity of the participant with which such authorized user is affiliated, the type of transaction attempted and whether or not the transaction was successful. The group agreed to edit the

language in section 1f and clarify “any unsuccessful log-in attempts” to include PHI that was accessed via the portal.

- **Periodic Audits**

THINC shall audit or require its participants to audit and confirm affirmative consents are on file for patients whose PHI is accessed via the health information exchange, confirm authorized users who access PHI via the health information exchange do so for authorized purposes, and that appropriate requirements were met where PHI was accessed through the Break the Glass function. THINC will conduct audits on an annual basis. In performing annual audits THINC will review the transactions to ensure participants of varying transaction volume and organization type are included. If an audit is conducted by a participant organization, the participant organization will be required to report its results to THINC in a format to be determined by THINC. The committee agreed to edit language in this section to include the term “representative sample” when referring to auditing multiple organizations of varying size.

- **Participant Access to Audit Logs**

Upon request, THINC shall provide a participant organization with information regarding any patient of the participant organization whose PHI was accessed via the health information exchange. That information will include the name of each authorized user who accessed such patient’s PHI in the last six years, the time and date of such access, the type of transaction attempted, and whether or not the transaction was successful. The participant organization is only entitled to receive audit log information if the patient has provided affirmative consent for that participant organization to access his or her PHI.

- **Patient Access to Audit Information**

Upon patient request, a participant organization must provide to its patient, the name of each authorized user who accessed such patient’s PHI in the last six years, the time and date of each access, the type of transaction attempted and whether or not the transaction was successful. In response to a patient’s request for information, THINC shall provide this information to the participating organization promptly so the participant organization may respond to the patient. THINC’s website will provide information regarding the availability of such information and how that information may be obtained. The group agreed that THINC would not be responding directly to patient requests for audit information, but instead would provide the necessary information to the participating organization.

- **Public Availability of Audits**

The results of periodic audits will be available on the THINC website. The report will include any major findings and steps taken by THINC to address such findings. Individual participant organizations will not be identified in the report of audit results on the THINC website.

A second draft of the audit policy will be distributed to the committee for review and discussion regarding the authentication policy will begin at the November 19 meeting. The meeting was adjourned at 12:15pm.