

New York eHealth Collaborative Policy Committee Meeting
March 19, 2021
2 p.m. – 4 p.m.
Meeting Notes

A meeting of the NYeC Policy Committee was held on March 19, 2021. Present via telephone or videoconference were:

Policy Committee Voting Members

Art Levin, Center for Medical Consumers, Chair of Policy Committee
Nance Shatzkin, Bronx RHIO
Steve Allen, HealthLink
Taiymoor Naqi, Hixny
Dr. Raul Vazquez, Urban Family Practice
Dr. Tom Mahoney, Common Ground Health
Dr. John-Paul Mead, Cayuga Medical Associates
Dr. Glenn Martin, Queens Health Network
Chuck Bell, Consumer Reports
Alan Cohen, JASA

Other Attendees

Amy Warner, Rochester RHIO
Karen Romano, HealtheConnections
Todd Rogow, Healthix
Jonathan Karmel, NYS DOH
James Kirkwood, NYS DOH
Deirdre Depew, NYS DOH
Dan Schiller, NYS DOH
Carmen Barber, NYS OMH
Tammy Harris, OPWDD
Laurie Pferr, Office for the Aging
Puja Khare, GNYHA
Linda Adamson, NYSTEC
Jill Eisenstein, BOC Representative
Val Grey, NYeC
Cindy Sutliff, NYeC
Zoe Barber, NYeC
Alexandra Fitz Blais, NYeC
Nate Donnelly, NYeC
Sam Roods, NYeC
Bob Belfort, Manatt
Alex Dworkowitz, Manatt

The meeting was called to order by Mr. Levin at 2 p.m.

I. Welcome and Introductions

Mr. Levin welcomed the Committee members and provided an overview of the meeting materials. Mr. Levin told the Committee that they could request any necessary changes to the prior meeting's minutes.

II. DOH Update

Mr. Kirkwood explained DOH was supporting contract tracing throughout the state. On the vaccine side, DOH had released immunization data to the QEs for the QEs to share with providers. Mr. Kirkwood noted that an electronic vaccine passport was in development, but the SHIN-NY would not have a role in regards to such a passport.

III. Executive Director Update

Ms. Grey noted that the federal stimulus package did include state and local relief, although there was still a budget gap that the state legislature was looking to fill. She said both houses had included SHIN-NY funding in their bills, although federal funding is a little uncertain. She added that the legislature is looking to adopt more policy-oriented proposals outside of the budget process, so the privacy proposal in the executive budget have dropped from the legislatures' bills.

Ms. Grey said the comment deadline for the HIPAA proposed rule had been extended and NYeC was using the time to finalize comments.

IV. General Business Items

Ms. Sutliff described the focus of the two workgroups: one for patient engagement and access and the other for OMH access to SHIN-NY data. She said they were hoping to have no more than two workgroup meetings each, with the first meetings in April.

Ms. Shatzkin asked if the patient engagement workgroup would address information blocking requirements. Ms. Sutliff responded that they have already made progress on information blocking questions with the addition of the updated provision on patient access to their information. Additional revisions to Section 5 will mainly focus on modernizing this section in keeping with the current federal focus on patient engagement and access.

V. Working Session

Break-the-Glass Exception and Emergency Medical Technician (EMT) Providers

Mr. Dworkowitz outlined two potential changes to the SHIN-NY policies to support EMT access to SHIN-NY data. First, the definition of "advanced emergency medical technician" would be changed to "emergency medical technician" to support the ability of basic EMTs to access SHIN-NY data. Second, the policies would clarify that a provider could "break the glass" outside the hospital, such as when accessing SHIN-NY information from an ambulance.

Ms. Eisenstein said the changes addressed the concerns that were brought to the Policy Committee, and although the changes seem minor they would make a significant difference.

Mr. Allen noted that Section 1.2.4(f) still referred to participants providing notice to patients about break-the-glass access in emergency rooms, but there is no equivalent provision for ambulances. Dr. Martin said he thought the same rule should apply to ambulances: that patients should be informed that someone looked at their medical record without consent. He added that this notification could be sent at a later time, such as with the bill. Ms. Sutliff said they could revise the language of Section 1.2.4(f) to address this issue.

Death Investigators

Mr. Dworkowitz explained that the policies had been revised to permit disclosures to death investigators without patient consent, but only if the death investigator was a licensed physician or nurse practitioner. However, some Committee members expressed concern that this exception was not broad enough, since it did not allow individuals acting under the supervision of a licensed physician or nurse practitioner to access SHIN-NY data. Mr. Dworkowitz said the proposal would revise the language to allow for this to occur.

Ms. Shatzkin and Mr. Rogow said the proposed language addressed their concerns. Hearing no objections, Ms. Sutliff said they would treat the proposed language as final and send it to the NYeC board for approval.

VI. Community-Based Organizations (CBOs) and the SHIN-NY

Ms. Sutliff said it was helpful to get Committee members thoughts on issues related to CBO disclosures given the HIPAA proposed rule addressing such disclosures.

Mr. Dworkowitz observed that the Office of Civil Rights (OCR) could limit disclosures without consent to CBOs that provide “health related” services. Mr. Cohen said this distinction could make a big difference, and there was a real challenge in making hard and fast rules regarding what qualifies as a CBO. Dr. Martin said his daughter works at the Intrepid Museum which provides programming for individuals with autism and Alzheimer’s, and the museum views itself as a CBO and may be interested in SHIN-NY information. Dr. Martin said he was concerned about unfettered access to a stranger’s medical record, and he was also concerned about trying to define a CBO.

Ms. Shatzkin said QEs’ contracts with CBOs would play a very important role. Mr. Naqi agreed, saying QEs need to establish a degree of oversight over CBOs and this is very manageable for the QEs.

Ms. Shatzkin said being able to alert a housing provider that an individual was admitted to an emergency room is a valuable service. Dr. Martin agreed, but said he expected it to be done with the consent of the patient.

Mr. Dworkowitz said that OCR could permit disclosure to a CBO without consent only if a practitioner had a belief that doing so would further the practitioner's treatment of the individual. Dr. Martin said he did not see the value of such a rule, in that any physician would be happy to assert that having food to eat and a place to live is important to health. Mr. Cohen questioned who would have time for such a certification. He added that these disclosures can be made with consent, but there is a burden to obtaining consent.

Mr. Kirkwood said it is important to base the policies off specific use cases when it comes to CBOs. Dr. Vazquez said there could be a DSRIP 2.0 under which CBO access to data will be extremely important.

Mr. Rogow said Healthix is supposed to enroll many CBOS such as libraries that lack a direct health care connection. Mr. Rogow expressed concern about meeting performance goals given this category of CBOs.

Ms. Sutliff said they can continue to discuss the role of CBOs, and once the final rule is published they will be in a better position to determine what the guiding principles should be.

VII. Closing

Mr. Levin thanked the Committee and adjourned the meeting.