Healthcare Reform – IT, Security & Privacy Issues/Concerns

Joint Legislative Committee on Health Care Reform Law - November 2011
Copyright OK-SAFE, Inc.™

In the Beginning: God created the heavens and the earth. He created the light; dry land and the seas; vegetation; the sun, moon and stars; and all living creatures. Then, God created man. And God gave man dominion over the earth and all things in it. He did not give man dominion over man.

The Declaration of Independence Notes the Principle of Liberty and declares: “We hold these truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed…”

The Principles of Liberty

The Oklahoma Constitution Acknowledges this Principle of Liberty.

- Art. 2, Sect. 1: “All political power is inherent in the people; and government is instituted for their protection, security, and benefit, and to promote their general welfare;…”
- Art. 2, Sect. 2: “All persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry.”
- Art. 2, Sect. 7: “No person shall be deprived of life, liberty, or property, without due process of law.”

HE did not give man dominion over man.
Contents/Outline –

Part I
The Federal Data Hub/IT/Digital Everything

Part II
Health Care Reform Defined/National Standards/Global Adoption

Part III
Office of the National Coordinator/
Government+Industry +Academia = PPPs /One “Fused” System

Part IV
State Initiatives

Part V
Privacy & Security

Part VI
Conclusion
Part I

The Federal Data Hub/IT/Digital Everything
Seamless Flow of Information

- Information sharing requires common standards and interoperability of information technology systems – at the federal, state, local, tribal and territorial level

- Requires the elimination of institutional and jurisdictional barriers to information sharing

- State laws, regulations and policies that “inadvertently and unnecessarily prohibit or significantly limit the exchange of electronic (including health) information” are changing to allow the seamless flow of information across organizational borders.

By 2015

IT – (Information Technology)


Established a ‘network’ for research, and for use by the America people.

1993 – Technology for America’s Economic Growth

Created a National Information Infrastructure, including networking in healthcare

Today - “ubiquitous” or “pervasive” computing

Digital Everything

• Digital everything - Persons, Places, Things, and Events

• Data on persons, places, things, and events is being collected, aggregated, analyzed and shared – across jurisdictions regionally, nationally and internationally

• Technology now includes the ability to locate, identify and track (surveille) persons, places, things and events remotely
IT in ARRA and PPACA

2009 – The Stimulus Bill - The REAL Health Care Reform Law


2. Adoption of certified EHR technologies and requirements for their “meaningful use”; State Health Information Exchanges/ SHIECAP (Cooperative Agreements)

2010 - PPACA – (Patient Protection & Affordable Care Act +)

Health IT provisions:

PL 111-148 and 111-152

1. Quality of Care - Sections 2717, 3004, 3005, 3013, 4302, 6301, 10332, 10333, 10109, 10305

2. Programs – Sections 1322, 1323, 2401, 2703, 3011, 4103, 5405, 934, 5604, 6701, 10410

3. Reimbursement Structure (Insurance Exchanges) – Sections 1311, 2706, 3002, 3021, 3022, 3024, 3201

4. Operating Rules and Standards – Sections 1104, 1561

5. Health IT Workforce – Sections 2801, 3012, 3501, 3502, 5101, 5301, 6114

Sources: The HITECH Act, PL11-5; HIMSS Summary on Key HIT in PPACA http://www.himss.org/content/files/PPACA_Summary.pdf
Part II

Health Care Reform Defined/National Standards/Global Adoption

Gratuitous Photo of Children
Health Care Reform - Defined

- **Health Care Reform** - is really about the use of IT to implement a nationwide health information network (NHIN), that will enable the seamless flow of information across boundaries, and that allows a growing *global* surveillance system to function.

- **Electronic Health Records** - Reform is predicated on the creation of a standardized, interoperable electronic health record (EHR) on every single individual.

- **Cradle-to-Grave** – EHRs are used for data collection, aggregation and reporting and are intended to track a person from birth to death. *(Longitudinal)*

- **EHRs are universal and to be shared globally** – not only within our government, but with foreign governments, universities, and other third parties.

- **Requires Standardization and Interoperability** – to establish uniformity and compatibility in data collection, regardless of jurisdiction.

- **EHRs include each person’s genetic information** – and will be used for research purposes without the knowledge or consent of the person.

- **Rights killing** - Health care reform, and other data collection networks, do an “end-run” around search warrants and nullify our inherent rights to life, liberty and property.
NAPHSIS – Electronic Vital Records

Cradle-to-Grave

- NAPHSIS - National Association for Public Health Statistics and Information Systems

- Electronic Birth, Death Certificates for data collection, aggregation, and cross-jurisdictional sharing

- Data standardization and interoperability of systems

Permanently linked to EHRs - NIEM Compliant

The Seamless Flow of Information – From You to the Feds...and Beyond

Individual
Health IT Data Collection System
Government/Research Universities
Private Sector/Foreign organizations

Source: Diagram by OK-SAFE, Inc.
What makes it work?
Standardization & Interoperability

- **Standards** – Common use, rules, guidelines, formats, coding, etc. Establishes **UNIFORMITY**.
  
  HL7 International – Health Level 7 International has been adopted by U.S. (global)
  
  ICD-10 – International Classifications of Diseases, V10 – For health coding and claims, adopted by U.S. (global)

- **Interoperability** – one system can communicate with another system, even if using different software and hardware.

**ALL FEDERAL GRANTS** that involve technology, including all healthcare, law enforcement and education grants, **REQUIRE** compliance with federal IT standards and interoperability capabilities.

**ALL federal standards are international standards and globally interoperable.**

State CIOs, the OHCA, the Oklahoma Health Information Exchange, (OHIET), RHIOs, HIOs adopt common standards and interoperability requirements.

The U.S. and the states’ healthcare systems **must** comply.

Sources: [http://worldstandardscooperation.org/about.html](http://worldstandardscooperation.org/about.html); Health Level 7 International - [http://www.hl7.org](http://www.hl7.org);

National Standards/Acronyms

- **FHIM** - Federal Health Information Model – Fed. information model
- **NHIN** - Nationwide Health Information Network – A network of networks
- **NIEM** - National Information Exchange Model – Data model

**Goal** - Information sharing across all levels and branches of government. Collaborators are DHS, USDOJ, and HHS.

The National Information Exchange Model (NIEM) is the result of a collaborative effort by the United States Department of Justice and Department of Homeland Security to produce a set of common, well-defined data elements to be used for **data exchange development and harmonization**.

NIEM – Makes the Federal Data Hub Work

» ONC’s Office of Interoperability and Standards is building a Health Information Exchange Model (NIEM Health) that is harmonized with NIEM
NIEM Core

Source: www.niem.gov
**Trust - The Identity Ecosystem**

“*It is an online environment where individuals and organizations will be able to trust each other because they follow agreed upon standards to obtain and authenticate their digital identities—and the digital identities of devices.*”

Although the private sector will lead development, the federal government will act as an early adopter to “stimulate demand.”
The Two Exchanges Linked

The Health Information Exchange (HIE) exists now in Oklahoma.

- 2004 - Groundwork laid in 2004 via OK’s participation in the national Health Information Security and Privacy Collaborative (HISPC) program.
- 2005 – Creation of the Secure Medical Records Transfer Network (SMRTNET), OK’s first regional health information organization (Heartland HealthNet, OK Physicians Health Exchange; Greater OKC Hospital Council (GOCHC); Greater Tulsa Health Access Network (Greater THAN))

The Health Insurance Exchanges (HIX or HBX) determine Eligibility –

- Collect demographic/income-related info to determine eligibility for state programs or use of the Exchange
- Exchange info with the IRS for purposes of verifying/determining:
  - Eligibility to use Exchange
  - Amount of tax credit and cost sharing subsidies
  - Whether individual is exempt from personal responsibility requirements of PPACA
- Exchange citizenship/immigration status info with Social Security Administration/Department of Homeland Security to verify eligibility to use Exchange

Both exchanges are NIEM Compliant; will be linked for purposes of data collection, aggregation, analysis, and sharing; and will require a federated identity to access

- 2008 – OK in the CMS EHR Demonstration Project; **SB 1420 Creates the Oklahoma Health Information Exchange Act**
- 2009 – **SB 757** -Health Information Infrastructure Advisory Board (HIIAB)
- 2010 – **SB 1373 – Oklahoma Health Information Exchange Trust (OHIET)**, which oversees the state’s implementation of HIT and HIE.

**PPACA**

- Exchange citizenship/immigration status info with Social Security Administration/Department of Homeland Security to verify eligibility to use Exchange
- Streamline/coordinate enrollment procedures for all state health subsidy programs and facilitate enrollment in those programs

Sources: OK Legislation; OHIET Strategic Plan, March 2011; ONC HIT Plan.
Global Adoption

EHRs for Everyone
Global Adoption

WHO -

Strategic Outcome: Total information awareness “to address emerging threats”

Objective:

• An Electronic health record (EHR) on everyone

• Access to technologies for data collection, aggregation and reporting

Global Adoption: A Global Perspective and a Charter

“The U.S.…is the only county, for example, that has not adopted a universal healthcare system.”

“EHR development is …the first step in building a national system.”

ONC – Global Medical Data Exchange

- Electronic Health Network demonstrated exchanging medical data on a global scale, using Cisco MDES and CONNECT.
- Medical data was shared between a U.S. physician and a European physician.
- The use case demonstrated bi-directional exchange of medical data.
- Purpose was to illustrate that the Nationwide Health Information Network (NHIN) is global.

And with whom did the European physician share the medical data? Who knows? U.S. laws do not apply outside of this country…

Part III

Office of the National Coordinator/
Government+Industry+ Academia=PPPs/One “Fused” System
On April 27, 2004, President Bush issued Executive Order (E.O.) 13335 establishing the position of a National Coordinator for Health Information Technology (IT) within the Office of the Secretary of Health and Human Services.

ONC Initiatives include establishing the Nationwide Health Information Network (NHIN), and supporting the development of the Federal Health Architecture.

**The ONC has set a goal that every person in the U.S. must utilize an electronic medical record by 2014.**
Example - Enrollment Workgroup Members – Ronan Rooney, Curam

Workgroup Members

Chair: Aneesh Chopra, Federal CTO
Co-Chair: Sam Karp, California Healthcare Foundation

Members:
- Cris Ross - SureScripts
- James Borland - Social Security Administration
- Jessica Shahin - U.S. Department of Agriculture
- Stacy Dean - Center on Budget & Policy Priorities
- Steve Fletcher - CIO, Utah
- Reed V. Tuckson - UnitedHealth Group
- **Ronan Rooney** - Curam
- Bob Restuccia - Community Catalyst
- Ruth Kennedy - Louisiana Medicaid Department
- Ray Baxter - Kaiser Permanente
- Deborah Bachrach - Consultant
- Paul Egeman - Businessman
- Gopal Khanna - CIO, Minnesota
- Bill Oates - CIO, City of Boston
- Anne Castro - Blue Cross/Blue Shield South Carolina
- Oren Michels - Mashery
- Wilfried Schoeiri - InTake1
- Bryan Sivak - CTO, Washington, DC
- Terri Shaw - Children’s Partnership
- Elizabeth Royal - SEIU
- Sallie Milam - West Virginia, Chief Privacy Officer
- Dave Molchany - Deputy County Executive, Fairfax County

**Ronan Rooney – CURAM Software**

- Headquartered in Dublin, Ireland and Herndon, VA
- Corporation documents filed in Oklahoma June 2011
- Lobbyists hired same month - Courtney Jones, Robert Stem
- Already networking with OK state legislators for OK contract for the Insurance Exchange – enrollment and eligibility

Source: http://www.slideshare.net/brianahier/hitsc-2010-0630-slides - Slides 45, 46
The ONC’s Strategic Plans -

ONC Federal Health IT Strategic Plan – 2008-2012

ONC Federal Health IT Strategic Plan – 2011-2015

CHANGE - Yes, We Can!

Technology Nullifies Principle!

“inadvertently and unnecessarily prohibit or limit the appropriate exchange of information…”

must change to accommodate the technology.

ONC will leverage the National Information Exchange Model (NIEM)

OU-Tulsa, IBM collaborate on health care, technology pilot project
By Heather Caliendo, 2009

―Champions of national health care reform might someday say real change began in Tulsa. But it won't involve lab rats—rather, the click of a mouse.

The University of Oklahoma-Tulsa and IBM are collaborating on an electronic medical records model….

―The primary care practice model will meet President Barack Obama's push to replace paper files with electronic medical records, officials said Monday….

The model will serve as a blueprint that can be adopted by health care systems and primary care practices across the United States, said Gerry Clancy, president of OU-Tulsa and dean of the OU School of Community Medicine…

The new program includes 355 physicians and connects clinical data from 11 different electronic medical records between hospitals, physician offices, local ambulances, fire departments and patients.

The project will begin at the physician's practice level.

Sources: http://findarticles.com/p/articles/mi_qn4182/is_20090407/ai_n31516321/-; and Michigan Economic Dev. Corp.; and Greg Mains, President of St. Gregory’s University, ppt presentation at the OEDC 2011 Summit, Oct. 3, 2011, Norman, OK
One “Fused” System

Elimination of Barriers to Information Sharing
Health Care Reform - One “Fused” System

Fusion Center Model: Data Collection, Analysis, and Sharing

Eliminate barriers to information sharing between the federal, state, tribal, and local governments and the private sector.

Share info nationally & internationally

Both systems
NIEM (National Information Exchange Model) Compliant

Eliminate barriers to information sharing between the patient, provider, payer and federal, state, tribal, and local government and private sector.

Share info nationally & internationally

# Federal Enterprise Architecture - CONNECT

| 3. Administration on Aging (AoA)                | 18. Department of Housing and Urban Development (HUD) |
| 4. Agency for Healthcare Research and Quality (AHRQ) | 19. Department of Justice (DOJ)     |
| 5. Agency for Toxic Substances and Disease Registry (ATSDR) | 20. Department of Labor (DOL)     |
| 6. Centers for Disease Control and Prevention (CDC) | 21. Department of State Department of the Treasury |
| 7. Centers for Medicare & Medicaid Services (CMS) | 22. Department of Transportation (DOT) |
| 8. Food and Drug Administration (FDA)           | 23. Department of Veterans Affairs  |
| 9. Health Resources and Services Administration (HRSA) | 24. Environmental Protection Agency (EPA) |
| 10. Indian Health Service (IHS)                 | 25. National Aeronautics and Space Administration (NASA) |
| 12. Substance Abuse and Mental Health Services Administration (SAMHSA) | 27. Office of Personnel Management (OPM) |
| 14. Department of Defense (DoD)                 | 29. Small Business Administration (SBA) |
| 15. Department of Agriculture (USDA)            | 30. Social Security Administration (SSA) |
|                                                | 31. United States Agency for International Development (USAID) |

Source: CONNECT, http://www.connectopensource.org/about/contributors
Fusion Centers and Public Health

“Integrating the PH/HC (Public Health/Health Care) community into a fusion center does not require additional capabilities but simply the incorporation of their information, expertise, and resources into the existing fusion center operations.”

Fusion Centers and the Health Care Systems are NIEM Compliant (National Information Exchange Model)

Part IV

State Initiatives
### Federal/OK Legislation/Related Initiatives

<table>
<thead>
<tr>
<th>Year</th>
<th>Events</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td></td>
</tr>
</tbody>
</table>
  • Office of National Coordinator for Health IT (ONC)  
  • OK participates in the ONC’s Health IT Security and Privacy Council (HITSPC)  
  • Fed. - Fusion Center Guidelines written.  
  • OK Biometrics initiative  
  • OK SMRTNET (state’s 1st HIO) - leads to other regional HIOs  
  • Creation of Gov’t Modernization C’tmt.  
  • HB 1170 - Creation of Chief Information Officer CIO position  
  • SB 757 - HIIAB; EMRs defined; health data exchange; HIT and HIE.  
  • $1M Contract w/ Capgemini for statewide IT assessment  
  • SB 1373 – Creation of the Oklahoma Health Information Exchange Trust (OHIET)  
  • Fusion Centers go federal – include public health info  
  • Health Insurance Exchange attempt  
  • OK accepts $54 M Early Innovator Grant for IT Infrastructure |

---

*Sources: Federal - ONC; DHS. State - OSCN; OK Sec. of State website; OK Legislature; OHIET Strategic Plan, March 2011*
OK Health Information Exchange Trust (OHIET) Plans

- OHIET created in 2010 in SB 1373, by Crain/Schwartz
- 7 Trustees – Including David C. Kendrick
- Kendrick - Archimedes, Inc.
- Archimedes received a $15.6 funding from Rob’t Wood Johnson Foundation.
- Archimedes awarded Beacon Community contract, and is intended to be adopted statewide.

“Oklahoma will adopt ONC standards.”
Health Benefit Exchange will be ‘plug & play’

Health Outcome Decisions Include:

• Quality-adjusted life years (QALYs)

• Life years

• Costs

• Cost per QALY

• Cost per life year

• Cost per event averted

A software program to diagnose and treat carbon-based life forms

Source: http://archimedesmodel.com/how-indigo-works
Part V
Privacy & Security – There is None
EPIC Comments re: DHS NPRM, System of Records Notice (SORN)

- DHS is dismantling the Privacy Act of 1974 by attempting to give itself broad information sharing authority and by exemptions from the Act’s requirements about disclosure of personal information.

- The Electronic Privacy Information Center (EPIC) states, “The system of records will involve an unprecedented collection of personal information, subject to the Privacy Act.”

- The information DHS is seeking “extraordinarily broad”…

- “Moreover, the agency claims an unusually broad authority to share this information with both public and private parties,” including foreign and international interests.

Source: EPIC Comments on DHS NPRM and SORN - http://epic.org/privacy/fusion/EPIC_re_DHS-2010-0052_0053.pdf
Privacy - What Privacy?

DHS Wants it ALL...this is the list:

• Full name;
• Date and place of birth;
• Social Security Number (Many state, local, tribal, territorial, domestic security, emergency management, and private sector individuals, organizations and agencies collect/use SSNs as an identifier and may be shared with the Department);
• Citizenship;
• Contact information including phone numbers and email addresses;
• Address;
• Physical description including height, weight, eye and hair color;
• Distinguishing marks including scars, marks, and tattoos;
• Automobile registration information;
• Watch list information;
• **Medical records;**
• Financial information;
• Results of intelligence analysis and reporting;

Source: EPIC Comments on DHS NPRM and SORN - http://epic.org/privacy/fusion/EPIC_re_DHS-2010-0052_0053.pdf
Human Subjects Research – without consent! And without oversight either.

The federal notice proposes a new rule to expand researcher access to private patient data and biospecimens, allow studies and analysis that interfere with the patient-doctor relationship without patient consent or customary research oversight requirements, lessen legal contracts for protecting patient data, centralize oversight and control, and eliminate consent requirements for researcher access to deidentified, but identifiable, tissues, body parts, and patient DNA.

In 1991, the "Common Rule" - a uniform set of rules for the protection of human subjects in federally-funded research - was adopted by 15 federal agencies. However, the FDA's "Advance Notice of Proposed Rulemaking" now states,

"The intent is to revise the Common Rule."

## Stanford Security Breach

**By Kevin Sack, 9/8/2011**

**Patient Data Posted Online in Major Breach of Privacy**

A medical privacy breach led to the public posting on a commercial Web site of data for *20,000 emergency room patients* at Stanford Hospital in Palo Alto, Calif., including names, diagnosis codes, and names of 20,000 emergency room patients at Stanford Hospital in Palo Alto, Calif., including names of emergency room patients.

“...experts on medical security said the Stanford breach spotlighted the persistent vulnerability posed by legions of outside contractors that gain access to private data.”

### Security Breach By the Numbers

<table>
<thead>
<tr>
<th>Record Type</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total # of records breached</td>
<td>542,303,627</td>
</tr>
<tr>
<td>of above were ED, GOV, MED, or NGO</td>
<td>164,659,284</td>
</tr>
<tr>
<td>1. Just GOV</td>
<td>131,583,366</td>
</tr>
<tr>
<td>2. Just MED</td>
<td>22,431,091</td>
</tr>
</tbody>
</table>

Sources: 
February 13, 2008

Lockheed wins $1 billion FBI biometric contract FBI awards Lockheed Martin a 10-year contract

Electronic Health Records

“Accenture Health discovers emerging trends in international electronic medical records (EMR) and electronic health records (EHR) markets.”

“The global EMR/EHR market is slated to be worth $19.7 billion in 2013—and a

Interoperability Standards for Emerging Technologies - $22.8M

“Newly emerging technologies such as a smart electrical grid (i.e., Smart Grid), interoperable electronic healthcare records, and cloud computing promise to transform our society and galvanize U.S. industry.

For each technology to be effective, however, many complex interconnected components must be fully interoperable, able to exchange information, and work together seamlessly on a nationwide scale.”

Martin on the contract will be Accenture and BAE Systems Information Technology.”

outsourcing services for the state's Medicaid agency.
**OHCA $281M Contract with HPES**

(Hewlett Packard Enterprise Systems)

- **Shares information with the Health Insurance Exchange (HIE) and link to Electronic Health Records (EHRs)** (pp. E-57, 58)

- “…and is aligned with the Medicaid Information Technology Architecture (MITA) and the National Health Information Network (NHIN)” (p. E-113)

- “Existing Health Exchanges—Our solution can accommodate and capitalize on efforts to integrate into other local community and private health exchanges through its gateways. It provides a framework for future enhancements.”

Part VI

Conclusion & Recommendations
The American People Are NOT Slaves – Nor simply ‘carbon-based life forms’

Conclusion:

Government, via health care reform and other federal initiatives, is establishing a globally networked and integrated intelligence enterprise - one that includes an extraordinary amount of extremely personal, detailed information about the America people.

Government, in it’s attempt to be an all-knowing technocratic “god” and to satisfy the IT industry’s insatiable, ever-changing appetite, is doing an end-run around human dignity and nullifying our God-given rights to life, liberty and property.

“Nature has not made men slaves, but free, with an intrinsic right to liberty when they infringe not the equal freedom of others. Not only so, but liberty is a divine principle, recognized in Scripture. So the Psalmist declared, “I will talk at liberty; for I seek thy precepts,” and Jesus taught that it is lawful for a man to do what he will with his own, when he thereby commits no wrong to others.”

Biblical Law, by H.B. Clark, p. 15
Recommendations:

1. Repent – not kidding here
2. Do not establish a state-based Health Insurance exchange – it will be the same as the Federal government’s version
3. Allow people to escape HIT/HIE system without penalty; do not penalize providers who opt *not* to adopt EHRs or participate in this system
4. Repeal state laws that prohibit individuals from seeking alternative health care services, i.e. homeopathic medicines or non-traditional treatments
5. Terminate the Oklahoma Health Information Exchange Trust
6. Audit the Oklahoma Health Care Authority – expenses outweigh benefits
7. Adhere to the OK Constitution - work to restore liberty

Source: The People of Oklahoma