



Proposed Health Information Exchange (HIE) Regulation Public Workshop

State of Nevada
Department of Health and Human Services
June 9, 2016

Objectives

- To promote an understanding of HIE regulation
- To solicit stakeholder feedback
- To facilitate open discussion
- Questions and answers

Background

- Under existing law, the Director of the Department of Health and Human Services (DHHS) is required to establish a statewide health information exchange and a governing entity for the system.
- Senate Bill 48, enacted in the 78th Legislative Session, eliminated the requirement that the Director establish a statewide health information exchange system, and requires the Director to establish a regulation for health information exchange.
- This proposed regulation prescribes the requirements for a health information exchange.

Purpose

- Establish an oversight process that will protect the public interest on matters pertaining to health information exchange.
- Ensure that organizations involved in HIE are adhering to nationally recognized standards and requirements
- Allow Nevada providers and hospitals to access pertinent patient health information to improve health outcomes
- Promote exchange of health information.
- Ensure patients have the appropriate privacy and security protections in place.

Section 2

- This section of regulation requires a health information exchange to:
 - Comply with federal and state privacy and security laws and regulations
 - Facilitate sharing of health information across public and private sectors
 - Support public health initiatives
 - Comply with “Meaningful Use” according to the HITECH Act
 - Use enterprise master patient index and master provider index
 - Provide interoperable infrastructure for exchange of information

Section 3

- This section of regulation prescribes requirements for an application for certification of a health information exchange.
 - Proof that the exchange meets the requirements of Section 2 of this regulation
 - Operational and financial sustainability
 - Standards for routine electronic auditing
 - Renewal every three years

Section 4

- This section of regulation authorizes and provides guidelines for appeal hearings.
 - Authorizes a health information exchange to request an administrative hearing if an appeal is denied and provides for the appointment of a hearing officer.
 - Authorizes a health information exchange to be represented at a hearing and imposes requirements concerning the presentation of evidence and the retendering of a decision.

Section 5

- This section of regulation prescribe who may use a health information exchange.
 - Ensure only entities with which the exchange has a Business Associate Agreement may gain access.
 - Establish policy and procedure to verify identity of all users.
 - Adopt and comply with a nationally recognized organizations to authenticate identify of users.
 - Create and maintain access data.
 - Ensure encryption and use of integrity controls.
 - Comply with Board of Pharmacy regulations that authorizes a prescription to be created, maintained or transmitted using a health information exchange.

Section 6

- This section of regulation requires a health information exchange to perform routine audits and annual risk assessments to ensure the safety of health information and compliance with federal law.
- This section requires a health information exchange to:
 - adopt a standard procedure for incorporating amendments to records made by authorized users of the health information exchange; and
 - notify an authorized user who has disclosed information using the health information exchange of any error in the information.

Section 7

- This section of regulation prescribes who may use a health information exchange.
 - Disclosure of health information must comply with applicable laws and only that information necessary for the purpose of the disclosure may be retrieved; a person shall not use a health information exchange for a discriminatory purpose or a purpose prohibited by law.
 - Persons who do not have a Business Associate Agreement with the exchange shall not retrieve health information.
 - Electronic signatures compliant with NRS and federal regulation are acceptable.

Section 8

- This section of regulation provides that any patient who is authorized under state law to opt out of electronic disclosure of health information owns any health information concerning him or her that is disclosed, retrieved or maintained using a health information exchange.
- Medicaid recipients cannot opt out of participation in the exchange per NRS 439.538.

Section 8 continued

- This section also:
 - requires a person to obtain the informed written consent of a patient before retrieving the health information of the patient from a health information exchange; and
 - prescribes procedures for providing and revoking such consent.
- Consents obtained prior to the adoption of this regulation are grandfathered in.
- Informed consent must be voluntary and not used as a condition of receiving medical treatment.
- Allows providers access to records of any patient, without consent, in an emergency using the procedures adopted pursuant to 45 CFR 164.312.

Section 9

- This Section of regulation provides that any person who becomes aware of violation of this regulation may submit a written, signed complaint in the form prescribed by the Director.
- The Director determines whether to take action concerning the complaint.

Section 10

- This section addresses breach and confidentiality of patient record.
- The section requires a health information exchange to:
 - notify a patient in a manner that complies with federal law if the confidentiality of information concerning the patient that is disclosed, retrieved or maintained using the health information exchange is breached; and
 - take any appropriate measures to mitigate or remediate damage caused by the breach.

Section 11

- This section proposes provisional certification for HIEs operating on the effective date of this regulation.
- HIEs currently operating are certified:
 - until a date its application is approved or denied by the Director
 - one year after effective date of this regulation

Questions? Comments?

- Davor Milicevic

DHHS – Office of Health Information Technology (HIT)

4126 Technology Way # 100, Carson City, NV 89706

775-684-3733

davor.milicevic@dhsfp.nv.gov

- Lynne Foster

Division of Health Care Financing & Policy

1100 East William Street, Carson City, NV 89701

(775) 684-3606

lynne.foster@dhsfp.nv.gov