

# HISPC

Health Information Security and Privacy Committee State of Nebraska

## Security and Privacy Barriers to Health Information Interoperability

### Recommendations and Summary:

### Final Report for the state of Nebraska June 2007

A complete version of the Final Report is available upon request from the state of Nebraska Office of Rural Health (Phone: 402-471-0142) or as a downloadable PDF file from the Creighton Health Services Research Program at <http://chrp.creighton.edu>



Partial resources support from the Creighton Health Services Research Program (CHRP) and grant no. 1P20 HS015816 Building Research Infrastructure Capacity from the Agency for Healthcare Research and Quality (AHRQ); and the State Offices of Rural Health grant no. H95RH00119, Nebraska Health and Human Services System

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## Security and Privacy Barriers to Health Information Interoperability

### Executive Summary Final Report for the state of Nebraska

The United States is in the middle of a ten year plan to develop and implement a nationwide electronic health information infrastructure that will allow authorized health care professionals to securely access relevant patient data from any location in the country at any time. As envisioned, the National Health Information Initiative in the United States will be a “series of cross-jurisdictional interconnected regional health information exchanges or organizations”.<sup>1</sup> The Lieutenant Governor for the State of Nebraska formed the Health Information Security and Privacy Committee (HISPC) in 2006. The vision driving the state HISPC is to create the flexibility to electronically exchange patient authorized health care information, confidentially and securely between the patient/client and all appropriate persons involved in the health care process. Many issues have come to light nationwide as states begin to work on these linkages and collaborations. One core issue is how to appropriately protect the privacy and security of health information in an interconnected electronic health information system. The Nebraska HISPC has focused its energy on the issue of “privacy”, believing that security is an issue that lies outside of a single state’s ability.

The HISPC has reviewed key documents related to the state statutes that address, movement of personalized health information to assist in the treatment and care of a patient. We have also conducted surveys of three stakeholder groups in Nebraska: 1) health/licensure/certification and facilities oversight board managers, 2) health professions organizations leadership, and 3) consumers. These surveys assessed stakeholder security and privacy issues as they relate to stakeholder knowledge and perception about health information exchange, technology, and quality and safety of patient care. These state level findings are then presented in comparison to the nation when feasible, as determined through a review of national reports, publications and technical information from leading health information organizations and the government.

This final report reflects a benchmark about the progress toward health information exchange and overcoming security and privacy barriers in the state of Nebraska as compared to the nation. The HISPC committee has identified a fundamental need for a *sustainable* process of monitoring and facilitating the assurances of privacy and security as both the entities in the state and the state government continues to increase in capacity for health information exchange. Researchers must continue to play a key role in assisting us to gain new knowledge as we move forward. Our findings in the state were consistent with in the 33 state examination of security and privacy issues released in June of 2007, whose findings are summarized in our full report.<sup>2</sup>



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<sup>1</sup> Substance Abuse and Mental Health Services Administration (SAMSHA): the Implementation of E-consent Mechanisms, Feb. 16, 2007

<sup>2</sup>Dimitropoulos, L.L. Interim assessment of variation: privacy and security solutions for interoperable health information exchange. December 29, 2006. RTI Project No. 0209825.000.004.002 RTI International, Chicago, Illinois.

Recommendations are provided. The magnitude, complexity, and dynamic nature of the developing health information exchange efforts in the state have guided these recommendations. These factors also influenced the committee to develop this report as an educational resource document that offers guidance to health and information technology (IT) professionals while also assisting consumers of health care with some basic understanding of terms and concepts about security, privacy and health information exchange.

**The final findings and recommendations of the HISPC Committee are:**

**Finding 1:** Facilitation of knowledge and understanding about health information exchange is essential for the Nebraska Health and Human Services Health Board managers and Facility Oversight Managers. This knowledge directly affects the management of security and privacy issues. Managers who are equipped with this understanding can assist the boards to address how current and future rules and regulations affect and are affected by the evolving landscape of health information exchange and interoperability.

**Recommendation:**

- **Nebraska Health and Human services develop a process for obtaining timely and up to date technical information on health information and interoperability and disseminating this to health/ licensure/ certification board managers and their members.**
- **Nebraska Health and Human services charge managers to facilitate the boards to address how current and future rules and regulations affect and are affected by the advancement of health information exchange and interoperability.**

**Finding 2:** Facilitation of knowledge and understanding of health professionals across the state is an important role that the health professions organizations can perform. These organizations vary in their engagement and understanding of the technical information about health information interoperability and the related security and privacy issues. The organizations would provide a great service in the process of informing their members about understanding health information exchange and interoperability, and the related security and privacy practices and issues.

Further, the unique knowledge and expertise of health care practitioners, facilities in which health care is provided, organizations involved with health issues at the societal level and educators of health professions students, is needed to address how current laws, rules and regulations related to their disciplines affect and are affected by the electronic exchange of health information. We encourage these associations to seek additional information about health information exchange and interoperability in other regions within the state, region, nationally and internationally.

**Recommendation:**

- **the e-Health Council engage all health professional associations involved in health care delivery and services to assist in present and future efforts to design, implement and educate key stakeholders in the health professions, health education and health organizations about the sharing of health information, and the related security and privacy issues as these processes unfold.**

**Finding 3:** The HISPC recognizes that state government, boards and health care providers need more knowledge about the Nebraska consumer. Consumer viewpoints are critical to this broader understanding of health information exchange and interoperability. A larger and broader representation of consumer viewpoints and needs will greatly improve our understanding of “what” consumers will participate in and “how” they will participate.

Similarly, consumers are in great need of information and education about health information exchange and interoperability. Consumers have concerns that must be addressed through knowledge dissemination. This will facilitate the best decision-making possible for the consumer. A dissemination process for essential and timely information related to progress of this initiative occurring at both the federal and state level to consumers is needed.

A variety of ways of consumer involvement are needed to assist in the design of the processes of education of all stakeholders and policy formulation as the macro system of sharing health information electronically unfolds over time. This is an essential step to facilitating citizens and providers to more easily establish a common understanding and agreed upon set of solutions to health information exchange as security and privacy issues are addressed.

**Recommendation:**

- **The e-Health Council engage consumers to assist in present and future efforts to design, implement and educate other consumers and key stakeholders in the health professions, health education and health organization about the sharing of health information, and the related security and privacy issues as these processes unfold.**

**Finding 4:** The complexity of the rules and regulations create confusion in the area of privacy. Because the HIPAA preemption rules are complex, individuals in a position to potentially disclose protected health information (PHI) sometimes are unsure if the PHI may be disclosed without written individual authorization. Health care providers and payers who are faced with potential civil and criminal HIPAA fines and penalties, state law causes of action for invasion of privacy, and reporting to licensure boards for breach of confidentiality, may often decide not to disclose PHI without written patient authorization, when it is otherwise permissible to disclose.

**Recommendation:**

- **The e-Health Council should study the issues identified and described in the background information of this report and recommend a sustainable action plan developed to facilitate progress in assuring privacy and security protections of the individual while progressing in health information exchange.**

**Finding 5:** Our HISPC study of security and privacy issues is consistent with the same concerns and areas of work needing to be addressed within our state and its’ communities as a most recent cross-sectional study of the nation revealed.<sup>1</sup> The issues are embedded in complexity and confusion associated with state and federal level inconsistencies, conflicting business practices, and varying

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consent policies and approaches. These issues must be untangled and addressed. This will require a sustained commitment to achieve.

**Recommendation:**

- **The e-Health Council should explore the development of a sustainable system for monitoring our progress in studying and addressing the security and privacy issues within the state of Nebraska.**
- **An in-depth study of existing laws and regulations, with guidance from representatives from health professions, health educators and health organizations is needed to develop solutions on how to overcome these barriers.**

**Finding 6:** Based on the three research reports from this committee and our discussions, we believe there is a need for further research needed about implications to consumers, health professionals, health systems, educators, private and public care providers, and payers. Examples of important research questions that the committee has thought about, but are not limited to include:

- How are consumer's health and safety outcomes affected by the sharing of health information?
- What processes are necessary for consumers to participate in the sharing of health information?
- How will consumers concerns about the risks they perceive with health information sharing be "stewarded" as the processes emerge, and who will "steward" them?
- How are small business health care providers, health systems and large healthcare organizations, affected by the impact of sharing health information: What is the impact on workload? What is the impact on workforce considerations?
- How will the educational needs of the young, middle age, young-old and old-old adults be met as these processes develop?
- What is the impact of a partial adoption of health information sharing on patient security and privacy?

**Recommendation:**

- **The NHHS should pursue further research in the area of how to obtain needed technical information and employ effective processes of applying this information to assist health boards and facility boards with the ongoing process of staying current in and facilitating adoption of future rules and regulations that advance secure, private health information and interoperability approaches.**
- **Further research should be conducted by professional organizations about the on-going impact of health information and exchange and interoperability on provider and patient security and privacy issues.**
- **Further research should be conducted to better understand consumer viewpoints and needs.**

## **HISPC Steering Committee:**

- ◆ Lieutenant Governor Rick Sheehy
- ◆ Senator Pat Bourne (Past Member)
- ◆ Senator Jim Jensen (Past Member)
- ◆ Senator Philip Erdman
- ◆ Mark Adams, Corporate Security Officer, Blue Cross/Blue Shield of Nebraska
- ◆ Brenda Decker, Chief Information Officer, State of Nebraska
- ◆ David H. Filipi, M.D., Vice President, Medical Affairs, Physicians Clinic
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- ◆ Steve Grandfield, Exec. Vice President, Blue Cross/Blue Shield of Nebraska (Past Member)
- ◆ Donna K. Hammack, Chief Development Officer, St. Elizabeth Foundation
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- ◆ Ron Hoffman, RHU, S5-Enterprise Privacy Office, Mutual of Omaha Insurance Company
- ◆ Dick Nelson, Director, NE HHSS – Dept. of Finance & Support (Past Member)
- ◆ Nancy Shank, Associate Director, University of Nebraska Public Policy Center
- ◆ September Stone, R.N., Nebraska Health Care Association
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