



Health Information Legal Reform: You Can't Tell the Players without a Program

By John R. Christiansen, J.D.

Astute followers of health information legal trends already know there are a number of initiatives in play which are very likely to result in significant changes in state and federal laws over the next few years. Following all this activity can be difficult though, since these initiatives are a mix of federal, state and private programs. It can be difficult to figure out which programs matter unless you know who they are and how they are related to one another.

For those who are trying to follow these trends, a brief taxonomy of health information-related programs is something like the following:

Probably the most important set of programs are those led by the U.S. Department of Health and Human Services (DHHS) through its Office of the National Coordinator (ONC, formerly ONCHIT). The ONC was established by executive order in 2004, and subsequently confirmed by regulation in 2005, as DHHS' principal advisor on HIT and lead agency for the implementation of a strategic plan to guide the nationwide implementation of interoperable health information technology in both the public and private health care sectors.

At the highest level the ONC's goal is the creation of a "national health-information network," or (NHIN) defined as

... a "network of networks" that will securely connect consumers, providers and others who have, or use, health-related data and services, while protecting the confidentiality of health information. The NHIN will not include a national data store or centralized systems at the national level. Instead, the NHIN

will use shared architecture (services, standards, and requirements), processes and procedures to interconnect health information exchanges and the users they support.¹

The ONC is pursuing this mission through a set of projects, principally including formation of the American Health Information Community (AHIC) as a federal advisory body chartered to advise DHHS on HIE and HIT issues; funding a set of NHIN technical architecture pilot projects; establishing the Health Information Standards Panel (HITSP) to identify and harmonize HIE standards; recognizing the Certification Commission for Healthcare Information as a DHHS Recognized Certification Body (RCB) which provides legally-recognized certification that electronic health record (EHR) systems meet federal criteria; and founding the Health Information Security and Privacy Collaboration (HISPC).

The HISPC is sort of a bridge between the federal and state governments, intended to catalyze changes in state laws and healthcare business practices which are unnecessary obstacles to the exchange of health information. The HISPC includes the National Governors Association (NGA) Center for Best Practices as a partner. The NGA has also formed the State Alliance for E-Health to support state development of health information exchange, and as noted in a previous column (Winter 2007), most states already have health information exchange initiatives under way.

The HISPC's mission has been to lead a nationwide but state-focused project to identify and catalyze action to resolve business practices and laws (both state and federal) which either are, or are perceived to be inappropriate barriers

to health information exchange, in 34 states. The first-phase HISPC state reports on issues and potential solutions were published in August 2007. The next phase, in which the HISPC facilitates and coordinates implementation of solutions in both HISPC and other states, is under way as of the date of this column.

Federal and state activities are also crucially complemented by non-governmental organizations, which have long played key roles in HIE and HIT initiatives as sources of both funds and expertise. While there are quite a few active organizations in this area probably the most influential nationwide initiatives currently active are the eHealth Initiative (eHI), a membership organization for a large, diverse constituency of healthcare and related entities involved in HIE, and the Markle Foundation's Connecting for Health Public/Private Collaborative. In 2006 Connecting for Health began publishing its "Common Framework," a set of standard policies and technical guides and a model contract for health information exchange, while eHI tracks state and federal legislation, develops policy positions and supports HIE activities, and has published a "Connecting Communities Toolkit" providing guidance for organizing HIE.

Key expertise is provided by professional associations. In particular, the American Health Information Management Association (AHIMA) has played a leading role, both as a source of records management practice information and through its Foundation for Research and Education (FORE), which funds research in HIE as well as other areas.

continued on page 54

¹ Gartner, Inc., Summary of the NHIN Prototype Architecture Contracts: A Report for the Office of the National Coordinator for Health IT (May 31, 2007) ("Gartner NHIN Report") at 2.

Have you ever been accused of being Chicken Little and warning that the “sky is falling”? It’s our job to identify risks and report them. Sometimes they happen and sometimes they don’t. But from time to time, things do fall from the sky. Just ask the dinosaurs.

Your intelligence may be questioned, your integrity may be challenged, but when you are confident with your facts, your principles, and your judgment, all else should be indisputable. Nothing is more powerful than an idea whose time has come. You can be the irresistible force that will finally move the unmovable object.

Never, never, give up. Be confident. Cross your fingers. Keep the faith.

Well that’s it for this issue and thanks for stopping by.

You can send your questions to *Letters to Auditor*, 1810 W. Birch Lane, Park Ridge, Illinois 60068, via email to: jlandreth999@aol.com; or via phone 847-525-6529. **NP**

John Landreth is Director, Internal Audit at Classic Residence by Hyatt, a national leader in luxury senior living, headquartered in Chicago, Ill.

Sections of *Silly Goose* by Jack Kent ©1983, reprinted by permission of the publisher, Simon and Schuster Books for Young Readers, New York.

Health Information Legal Reform: You Can’t Tell the Players without a Program
— continued from page 51

The Health Information Management Systems Society (HIMSS) and National Alliance for Health Information Technology (NAHIT) tend to be involved in HIE activities from the information technology management perspective; AHIMA, HIMSS and NAHIT joined forces to form the Certification Commission for Healthcare Information Technology (CCHIT). The American National Standards Institute (ANSI) also provides leadership in standards development through the HITSP, and the American Society for Testing and Materials (ASTM) has developed and is continuing work on electronic health-record and related technical standards.

This taxonomy is by no means complete—my apologies to those I’ve had to leave out in the interest of space! –And these are a lot of players to watch. But among them, they are leading us to crucial changes in health information laws and business practices, and those trying to keep track of such issues should be watching these groups, at the very least. **NP**



Do not go where the path may lead, go instead where there is no path, and leave a trail.
~Ralph Waldo Emerson