

Texas Health Services Authority Privacy and Security Task Force

November 2, 2011

10:00 am

Meeting Agenda

1. Welcome and Announcements
2. State HIE Update
3. Update on HISP Agreement
 - Certificate Authority Services
 - Registration Authority Services
 - Specifications and Requirements
4. Draft Trust Agreement Update and Discussion
5. Future Meeting Schedule and Agenda Items
6. Other Items?
7. Adjournment

State HIE Update

Local HIE Grant Program

Current Status

- Quarterly Progress Reports
- Four HIE Business and Operational Plans Reviewed in October 2011
- Two HIE Business and Operational Plans Approved in September 2011
 - Healthcare Access San Antonio
 - Integrated Care Collaboration

Next Steps

- Auditing Provider Commitment Reports Submitted in October (40% of hospitals and physicians targeted)
- HIE Business and Operational Plans
 - 4 due in November
 - 3 due in December
- All HIEs Moving into Operations by January 2012

State HIE Update

White Space Strategy

Current Status

- Tentatively Qualified Six (6) Organizations
 - GSI Health;
 - Harris Healthcare Solution;
 - Inpriva;
 - Sandlot;
 - Secure Exchange Solutions; and
 - Surescripts.
- Developing HISP Agreement and Addressing Implementation Policy Questions

Next Steps

- Launch White Space Web Page and Provider Voucher Number Request Process
- Soft Communications Campaign through THSA and State-Level Professional Associations to Inform Providers of White Space Strategy and Voucher/Payment Process
- Timeline: November – December 2011

Update on HISP Agreement

- Policy Issues
 - Issuance of THSA CP based on Direct CP
 - HISP to issue their own CP/S that supports THSA CP
- Technical Issues
 - Certificate Policy Binding
 - Certificate Authority Services
 - Registration Authority Services
 - Specifications and Requirements

Draft Trust Agreement

Update and Discussion

- Revised based on draft Restatement 1 of Data Use and Reciprocal Support Agreement (DURSA).
- Maintained as much as possible from DURSA, to facilitate eventual connection to NwHIN exchange
- Plan to release for public comment
- December 9, 2011 THSA Board Meeting

Draft Trust Agreement Update and Discussion

- Focus of Trust Agreement on relationship between Participants
- THSA vendors removed as Parties
- THSA included as a Party only for administrative and enforcement purposes
 - Breach Notification
 - Dispute Resolution
 - Suspension or Termination of Participants
 - Development and Amendment of Operating Procedures
 - Maintenance of Performance and Service Specifications
- THSA to receive no PHI or Proprietary Information under Trust Agreement

Draft Trust Agreement Permitted Purposes

- Treatment of the individual who is the subject of the Message;
- Payment activities of the Health Care Provider for the individual who is the subject of the Message.
- Certain Health Care Operations
- Public health activities and reporting as permitted by Applicable Law
- To demonstrate meaningful use of certified electronic health record technology
- Uses and disclosures pursuant to an Authorization provided by the individual as described HIPAA Regulations

Draft Trust Agreement

But...

- HB 300 requires a separate authorization for electronic disclosure from a covered entity to another covered entity for anything but TPO, HMO or certain insurance purposes, or as otherwise authorized or required by law
- HB 300 prohibits the sale of PHI
- State and Federal Law provide additional restrictions with respect to certain types of sensitive PHI
- Minimum necessary still applies where applicable

Draft Trust Agreement Transaction Patterns

- A type of information exchange service(s) enabled by the Specifications
- Operating Policies and Procedures to identify the Transaction Pattern(s) and the Specifications required to implement each Transaction Pattern
- Transaction Patterns may be amended through amendment of the Specifications and the Operating Policies and Procedures
- Only have to comply with i) the Specifications for the specific Transaction Pattern utilized and ii) the Specifications applicable to all Transaction Patterns

Draft Trust Agreement

Access and Security

- System Access Policies
 - Autonomy Principle
 - Identification
 - Authentication
- Enterprise Security
 - No malicious software
 - Ability to audit system
 - Minimum requirement to exchange for treatment purposes
 - Statewide Collaborative Policy Development Process to be used to develop and update requirements outside of HIPAA/HITECH and Applicable Law

Draft Trust Agreement Additional Provisions

- Breach Notification – 1 hour notification of potential breach; 24 hours for providing specific details regarding breach
- Agreements with Participant Users
 - THSA intends to provide Best Practices recommendations for privacy and security policies to use in agreements with Participant users
- Agreements with Technology Partners
- Representation of Data Accuracy
- Submitter's warranty of Authority to Transmit Data
- Disclaimers for Incomplete Medical Records
- Disclaimer regarding substitution for Patient Care

Draft Trust Agreement

Additional Provisions

- Warranties
 - Other than as specifically provided regarding Message Accuracy, all Message Content provided “AS IS”
 - Disclaimer by Participants regarding errors in transmission and loss of service caused by third parties such as telecommunications carriers
 - Disclaimer by THSA regarding Specifications and Operating Procedures
- Liability
 - Each Participant responsible for its own actions
 - Limitation of Liability for THSA
- Include Indemnification?
- Dispute Resolution

Next Steps/Other Items?

Future Meeting Schedule

(tentative; changes or additions as needed)

- Wednesday, November 30

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