

# Wisconsin Security and Privacy Project

## Legal Workgroup Charter

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### **Purpose**

The Legal Workgroup will analyze variations in privacy and security business policies and practices and map relevant policies and practices to state and federal law to determine which laws pose barriers to health information exchange (HIE). The Legal Workgroup will also work with the Solutions Workgroup to propose solutions to eliminate the identified barriers while maintaining consumer/patient privacy protections.

### **Membership**

The Legal Workgroup consists of 15 – 20 privacy and security law experts.

### **Member Expectations**

1. To consider the statewide and national interests of HIE in your assessments and review.
2. To review materials in relation to relevant state and federal privacy and security laws and regulations.
3. To review meeting materials ahead of time and be prepared to contribute clear and focused ideas for workgroup discussion.
4. To attend meetings (or send an alternate) and alert staff and the chair ahead of time to any scheduled absence.
5. To review the final report prior to submission.

### **Charge**

The charge of the Workgroup is to:

- Analyze organizational privacy and security policies and practices and map them to relevant state and federal law.
- Evaluate whether the policies or practices categorized as barriers are being driven by: (a) existing state and federal law; (b) varying interpretation/misinterpretation of existing law; or (c) deliberate decisions to incorporate policies and business needs that are more restrictive than current law.
- For the barriers that are driven by existing state and federal law, propose solutions to enable HIE.
- Analyze federal and state law or regulations related to privacy, patient rights, and HIE for: (a) completeness; (b) consistency; (c) redundancy; (d) applicability to new technology environments; and (e) balance between consumer benefits and protections.
- Collaborate with the Solutions Workgroup and the Implementation Workgroup to ensure that laws are accurately and consistently interpreted throughout the process of formulating solutions and planning implementation of those solutions.
- Review the Variations Assessment Report which documents the outcomes of the Variations and Legal workgroups' evaluations and assessments.

## **Approach**

Wisconsin is participating in a national collaboration created to identify privacy and security policies and practices that may affect the exchange of health information. The resulting reports from each state's privacy and security project will be compiled for use by U.S. Department of Health and Human Services (HHS) to develop and refine the business case for establishing a nationwide health information network.

The Legal Workgroup is the second step in a four-step process designed to:

1. Understand organization-level business policies and practices and state laws that affect privacy and security and may pose challenges to the effective exchange of health information.
2. Determine potential solutions to overcome the identified barriers to effective exchange of information.
3. Develop implementation plans for the solutions.

The Legal Workgroup will convene a series of three to four working sessions.

The Legal Workgroup will begin with the business processes identified by the Variations Workgroup. The Workgroup will analyze the business practices to determine which business processes are driven by (a) existing state and federal law; (b) varying interpretation/misinterpretation of existing law; or (c) deliberate decisions to incorporate policies and business needs that are more restrictive than current law and which will present a barrier to health information exchange.

For those barriers that are driven by state and federal law, the group will discuss potential solutions to enable HIE.

Outcomes from the Variations and Legal workgroups will be compiled into a report that assesses the impact of security and privacy policies and practices on the exchange of health information.

A Solutions Workgroup will then be formed to create solutions to barriers, followed by an Implementation Workgroup which will create an approach to implement the solutions. The Legal Workgroup will work with the Solutions and Implementation workgroups to ensure that laws are accurately and consistently interpreted throughout the process of formulating solutions and planning implementation of those solutions.

## **Deliverables and Timeline**

Deliverables:

- Draft Variations Assessment Report
- Draft Solutions Report
- Draft Implementation Plan

Timeline:

- Sept 12 – October 26, 2006: Workgroup Meetings

- October 31 – November 3, 2006: Review Variations Assessment Report
- November 6, 2006: Draft Variations Assessment Report Submitted

## **Members**

Cheryl Becker

Sue Bevsek

Mary Burke, Wisconsin Office of the Wisconsin Attorney General

Sarah Coyne, Quarles and Brady

Beth DeLair, UW Health, Hospital and Clinics

Jay Gold, MetaStar

Kathy Johnson, Department of Health and Family Services

Elizabeth Malchetske, Appleton Medical Center

Susan Manning

Kerry Taylor, St. Vincent's Hospital

Ralph Topinka, Mercy Health Center

Nancy Vogt, Aurora Health Care

Carol Weishar, Milwaukee Medical Center