

THINC RHIO, Inc.

Taconic Health Information Network and Community

Privacy and Consumer Affairs Committee Meeting

November 20, 2008, 2pm-3pm

A meeting of the Privacy and Consumer Committee of the THINC RHIO, Inc. (THINC), a New York not-for-profit corporation (the "Corporation"), was held on November 20, 2008.

Committee members present: Art Levin, Susan Wilson, Tim Cleary, Paul Kaye, Steve Sarg

Non-Committee members present: Susan Stuard, Asha Upadhyay, Dianne Koval, John Blair, III, Helen Pfister

I. APPROVAL OF OCTOBER 2008 MEETING MINUTES

A motion was made, seconded to approve the October 2008 meeting minutes.

II. RECRUITMENT OF COMMITTEE MEMBERS

Susan Stuard and Art Levin welcomed the new Committee member Steve Sarg as a consumer representative to the committee. The Committee discussed efforts to recruit additional members. Susan Stuard said that she will work on recruiting additional members for this Committee and that it will likely take the next two to three months to get the Committee fully constituted. She informed the committee that Helen Pfister, Esq. will also be joining us as part of the THINC staffing. The Committee agreed that it would like to involve more hospital privacy officers and will begin outreach to a few more hospital privacy officers.

III. OVERVIEW OF NYS CONSUMER CONSENT POLICY

Susan Stuard distributed these two documents to the committee in advance of the meeting:

- 1) *Privacy and Security Policies and Procedures for RHIOs and their Participants in New York State*
- 2) *Recommendations for Standardized Consumer Consent Policies and Procedures for RHIOs in NY*

These policies address seven areas: 1) Consent, 2) Access, 3) Authentication, 4) Authorization (still in development), 5) Patient Engagement and Access 6) Audit, and 7) Breach. The Committee reviewed in detail the patient consent requirements put forward by NYS DOH and the Statewide Collaboration Process (SCP). The Committee focused on understanding the consent framework and its overall implications for THINC's privacy policies including one-to-one exchange. John Blair raised the concern that carbon copies on a laboratory report to another treating physicians might not be viewed within the one-to-one exception.

IV. DISCUSSION OF SECURITY BREACH POLICY

The committee undertook a review and discussion of the security breach policy put forward as part of the Statewide Collaboration Process (SCP) process. The Committee started to discuss recommendations that might be appropriate for THINC's own security breach policy. Tim Cleary raised the issue of compliance with Massachusetts Code 201 relating to the protection of patient information for residents of Massachusetts. Susan noted that THINC will look into this issue and asked Helen Pfister to assist.

The Committee raised the following issues in its discussion of the SCP breach policy. How does THINC want to define a suspect breach? It was noted that THINC should specify a defined timeframe for notification of patients about a breach. Sue Wilson noted that a defined time frame would help spur organizations to make the notification. The group discussed whether a time frame between three and ten days was achievable. The Committee also raised the issue of what party should bear the costs of investigation, mitigation and notification for the breach. The Committee thought a standard along the lines of—the party in the best position to avoid the breach—might be reasonable. For the application of sanctions, the Committee also suggested that when the participant administers the sanctions that THINC require a report back from the participant on the actual sanctions administered.

THINC staff will assemble a draft policy for the Committee to react to and revise at the December meeting.

V. QUESTIONS and NEW BUSINESS

There being no further business for discussion, the meeting was adjourned.