

THINC, Inc.

Taconic Health Information Network and Community

*Privacy and Consumer Affairs Committee Meeting
June 18, 2009 11:00AM-12:00Noon*

A meeting of the Privacy and Consumer Committee of the THINC, Inc, a New York not-for-profit corporation (the "Corporation"), was held on June 18, 2009.

Committee Members Present:

Arthur Levin, Committee Chair, Norma Johnson, Lucy Pitaro, Helen Rinaudo

Non-Committee Members Present:

Dianne Koval, Helen Pfister, Allison Laquidara, Susan Stuard

I. APPROVAL OF MAY 2009 MEETING MINUTES

A motion was made, seconded to approve the May 2009 meeting minutes.

II. DISCUSSION OF PATIENT CONSENT POLICY

Susan Stuard briefed the committee about the RHIO requirements regarding consent. Each provider and payer organization in a RHIO must obtain affirmative consent from the consumer that specifically references the RHIO prior to accessing his/her personal health information. A single consent may be obtained to exchange all health information, including all specially protected health information, with special considerations for minors and incapacitated adults. The RHIO must use a state approved consent form and there will be two levels of consent. Level 1, would consist of treatment, quality improvement, care management activities, and insurance coverage reviews. Level 1 consents are durable and revocable. Level 2 consents would consist of any other use including payment, research and marketing. Level 2 consents must be time-limited. At this time THINC is not planning any level 2 uses and only planning for treatment uses in level 1.

An affirmative consent is not required for one-to-one exchange. The one-to-one exchange is a disclosure of health information by one of the patient's providers to one or more health providers treating the patient, with the patient's knowledge and permission. Examples of one-to-one exchange are physician referrals, hospital discharge summary sent to the patient's primary physician, lab results sent to the clinician who ordered the tests. The majority of THINC's planned health information exchange functionalities fall into the one-to-one exception. As long as THINC has the ability to discretely handle these one-to-one transactions both from a technology perspective as well as from a policy and contractual perspective, THINC will not have to require the providers to obtain consent.

The committee discussed the gray area of minor consent. The committee noted that at this time minors ages 11-18 will potentially be withheld from the exchange because of the inability for technology to recognize the age range as well as differentiate services for which the minor or parent/guardian would be legally authorized to consent.

The committee discussed the "Model RHIO Consent Form". Some concerns expressed by the committee were the "check the box" model of the consent form. Concerns were expressed that the front

office staff in busy physician practices are not going to be able to ensure that the consent form is properly executed, making sure not only that the form is signed, but also that the proper box is checked. The committee felt that patients are likely to sign the form, but forget to check the appropriate box. The committee agreed that there needs to be an aggressive campaign to educate patients about consent. This responsibility should not be left solely up to the physician practices. Patients need to clearly understand what it is they are or are not consenting to and the implications for the healthcare they could receive based on their decision. The committee felt that the best course of action would be to put a policy in place, gather a few months worth of data and take any issues to the Privacy and Security workgroup. The committee agreed to continue the consent discussion at the next meeting on Thursday, July 30, 2009 at 11:00 am.