DEPARTMENT OF HEALTH

# HIE Study Public Comments

SUMMARY ANALYSIS, NOVEMBER 2017

## Introduction

MDH invited public comment for the HIE study proposed recommendations. The comment period was from October 2-31, 2017. Comments were received from 31 people representing organization and/or provider perspectives, and 69 people representing their personal perspectives. A handful of quotes are included to portray the varied perspectives. Methods and a list of organizations that submitted comment is at the end of this document.

## Themes

- Many of the organizational comments indicated moderate or strong support for the proposed recommendations. Many offered constructive comments to focus the recommendations and apply them to a limited set of use cases. A summary of the comments is tallied in this document, and the project team will consider all of the comments as the recommendations are refined.
- Several of the organizations support the proposed services, though many comments suggested focusing and/or adding more details for better understanding of the project.
- Two comments suggested support for a single statewide HIE, suggesting more historical information on the experiences in MN and other states to support the argument for not proposing this type of model is needed.
- Most of the organizational comments support MHRA option 1 (full alignment with HIPAA). Some respondents offered specific language/topic concerns. Highest among these relates to mental health and behavioral health, and children. The Privacy & Security workgroup is addressing these suggestions.
- Almost all of the comments from individuals offered objections to the proposed changes to MHRA. These objections focus on their desire to control who sees their personal health information.

# Comments from organizations

Comments representing organizations and associations generally provided more extensive comments. These are tallied and described below.

## Overall

- 6 indicated that they agreed with the barriers and issues described in the document
- 6 indicated that they agreed that HIE will improve health care and reduce costs
- 2 emphasized the need to focus on foundational HIE – establishing statewide exchange of clinical information for care transitions.
- 2 prefer to see a single statewide HIE model
- 1 prefers MN to implement a consumer-driven HIE model
- 2 support modifying HIE oversight to substitute ONC certification for health data intermediaries.

"[Our organization] has long championed the Triple Aim's goals of reducing per capita cost of care, improving the health of the population, and improving the care that patients receive. None of this can be achieved without good, robust and actionable HIE. Minnesota has not universally achieved good, robust HIE, which constitutes a significant barrier in our collective ability to advance the Triple Aim."

"The rising cost of health care is one of the biggest concerns employers face in running their business. Employers are engaging their employees to make sound economic and responsible choices about their health care. In order to do this, it is important that consumers are able to move through the health care system in an efficient manner that allows providers to better coordinate care, improve outcomes, and reduce health care costs. There is also tremendous pressure on the health."

"Health care is information-driven, and if the information is not available to providers and covered entities in a timely manner, patient care suffers, and health care costs are increased."

"Minnesota patients, providers, health plans, employers and the State of Minnesota are currently paying a high price because of the absence of a functional way for multiple health care providers who treat the same patients to securely share health information with each other. It has become clear through research and the real-life experiences of patients, health professionals and health care organizations that the current health care system is more expensive and less effective in providing optimal, efficient health care and improving patient's health because of the current fragmentation and lack of information and coordination that currently exists."

"In reading the proposed plan, I am concerned that the many community providers such as in mental health, social service, and home care will not have a prominent place in the discussion. It is the community provider information that is currently left out of exchanges. For individuals with complex health conditions, community providers offer many crucial services that the big systems of care never hear about or include in the plan of care."

"[This] is a detailed set of recommendations that present and viable solution, long term but lack specific committed outcomes and milestones to changes that can happen soon to impact those providers that have a significant investment in HIE at present."

# Connected Networks Model

- 14 indicated moderate or strong support for the model (7 each)
- 4 do not support the model
- 8 want to utilize existing national networks
- 4 want to build upon existing EHR capabilities
- 4 see the need for oversight and/or statutory governance of the model
- 4 want to see more detail on a funding strategy
- 3 want to see how this connects to the care continuum and community services
- 1 wants to see how the patient connects in this model

## Gaps that the model addresses

- 2 Cross-border HIE
- 2 Provider access to information needed for safe, effective treatment

## Services

- 5 Reporting (quality, public health)
- 5 Master patient index
- 5 Consent management
- 5 ADT/EAS
- 4 Provider directory
- 2 PMP
- 2 Medication history
- 1 Provider-patient relationship
- 1 Narrative content
- 1 Query

## Downsides/unintended consequences

- 3 Costs for providers, especially small, safety net, etc.
- 1 Need a culturally-sensitive MPI (e.g. birthdate alternative)
- 1 Need to address information blocking (relating to FFS payments)
- 1 Risk of burying necessary information – difficult to get needed info
- 1 Workflow modifications (incl. consent processes)
- 1 Vulnerability of too many small HIOs (risk of failure)

"This [model] would give us more rapid access to information we currently do not have when treating clients and would assist with patient safety and result in cost savings by not having to run duplicate tests. Relying on patients to report their diagnoses, past and current medications, side effects, and allergies when they are mentally ill is a challenge, and waiting for information

from their primary care doctor, specialists, and hospitals after releases are signed and sent is inefficient."

"Our MN model should undertake exchange of clinical, real time patient data as its highest priority. Any other use is secondary to this until this purpose is met, even as planning for future opportunities."

"In its final recommendations, the Project Team and its partners should consider whether to require that each Technology vendor providing services in the state of Minnesota implement a connection with CareQuality, CommonWell, or another national framework that includes governance, technical specifications, and legal agreements."

"The DHS EAS approach recognizes the challenges associated with prior query models and positions Minnesota for success by laying foundational infrastructure with high value notification use cases."

"The model could be strengthened with more integration of the national initiatives, such as Carequality and Commonwell. We should leverage what those initiatives are trying to accomplish rather than start from scratch. Also incorporate the Encounter Alert System as soon as possible to eliminate duplicative efforts."

## Task Force

- 9 Need to be more focused/immediate; narrow the use cases
- 1 Require participation on the task force (as part of governance)
- 1 Consider the AUC model
- 2 Government led (MDH and/or DHS)
- 1 Flexible structure to be responsive to change
- 1 Broad stakeholder representation, including HIOs & vendors
- 3 Include technical/standards representation
- 1 Representation from other states (successful ones)
- 8 willing to commit to the task force

"… we firmly believe that the scope of this task force should be narrower and more focused than the described responsibilities in the draft recommendation. Adding another layer of complexity by creating a Coordinated Services model to the already confusing landscape of HIE in Minnesota could frustrate the provider community even more."

"Without statutory authority and a well thought out governance model, the "Connected Networks" concept may not change the current incentives that have restrained Minnesota's movement toward Foundation HIE for the HIOs, providers, and payors."

"[Our organization] has some concern that without clear legislative expectations and timelines the effort may suffer from a lack of urgency, attention, commitment, and participation."

# MN Health Records Act

## Preferred option

- 12 Option 1 generally (full alignment with HIPAA)
- 6 Option 1A
- 2 Option 1B
- 2 Option 2C (partial alignment with HIPAA)
- 3 No changes

## Benefits/consequences

- 5 Need for MH consent; psychotherapy notes; children's records
- 1 Burden of Option 1 on non-covered entities

"Safe and quality care requires timely and accurate information – removing barriers for patients and providers in the MHRA is a meaningful step towards ensuring that Minnesota physicians are able to provide the type of care that their patients need. Beyond sharing information for treatment purposes, however, meaningful health information exchange, care coordination, and public health goals require data access and analysis that is made burdensome by the existing requirements of the MHRA."

"The current inconsistency in federal and state law makes it challenging to assist patients in efficient care coordination. Other states, such as Wisconsin, have aligned their state laws regarding release of health records for treatment, payment, and operations with the federal HIPAA regulations. Aligning Minnesota law with surrounding states would reduce the confusion and expense that comes with interpreting and complying with varying privacy laws."

"The greatest advantage to full alignment [with HIPAA] is greater understanding for everyone – patients and providers – on what is or is not allowed to be released or is required to comply legally. Instead of trying to learn and reconcile which law is the one that prevails in every incident, there will only be one law to learn or research or explain. Everyone has heard of HIPAA and can Google it and find what they are looking for, but very few know about Minnesota and its multiple privacy laws and even fewer can hash out which law is the one in effect in every possible situation. Often it takes paying an attorney."

"While simply changing Minnesota law to reflect HIPAA would be expedient, it may not contain the nuance to the consent process upon which providers and patients in the mental health community have come to rely. We urge you to maintain consent for the release of mental health records."

# Comments from individuals

Comments received from individuals were generally very brief and targeted. Among the 69 individuals:

- 1 indicated support for the coordinated networks concept and for aligning MHRA with HIPAA (Option 1 generally).
- 68 indicated that they do not support changes to the MHRA, including 1 who also opposed the coordinated networks concept.

"My privacy and control in health care are very important to me and many others. Unlike the Minnesota Health Records Act (MHRA), HIPAA is a permissive data-sharing law and does not protect my privacy. I fully support the MHRA which is the strongest health care privacy law in the nation. It requires my consent to share my personal information. My privacy rights are incredibly important to the patient-doctor relationship and should not be eliminated just because people who want my data don't want to ask me for my consent. My medical records and personal information are mine and should remain in my control. I absolutely oppose any changes to, or the repeal of the MHRA."

"Privacy in medical care is very important to our citizens. Unlike the MHRA, HIPAA allows data sharing and does not protect privacy. MN needs to retain MHRA as it is a good law for our protection. My medical records and personal information must remain in MY control. I totally oppose any changes to or the repeal of the MHRA."

# Methods

The public comment document provided background information and a high-level description of the recommendations to elicit ideas and suggestions from responders. A request for overall comments was requested, along with the following specific questions relating to the recommendations:

The proposed "connected networks" model

1. To what extent do you view this "connected networks" model as heading in the right direction for Minnesota? What suggestions can you offer that would strengthen the concept? If you have concerns, what viable alternatives would you suggest?
2. Thinking about your organization (provide specific examples):
    a. What gaps does this concept address?
    b. Which coordinated HIE services would be valuable for your organization? Which of these are a higher priority for your organization?
    c. What downsides and/or unintended consequences do you see?

Recommendation 1: Convene a task force to develop a detailed plan to implement the "connected networks" model

1. What organization(s) should be involved in leading this effort? What ideas or recommendations do you have to actualize this task force? For example, what existing models could we build this from?
2. What would you and/or your organization commit in order to develop a plan to implement the recommended "connected networks" model? Examples include resources, expertise, leadership, logistic support, and staffing.

Recommendation 2: Modify the Minnesota Health Records Act

1. Indicate which, if any, option you and/or your organization would support.
2. What benefits and/or unintended consequences of any of these options do you foresee for your organization or generally? (specify the option, provide specific examples when possible)

This public comment is one of several data collection efforts as part of the HIE study. Invitations to comment were distributed broadly and frequently during the comment period, but a formal census or sampling effort was not used. Comments were *not* received from many important stakeholders; however, many stakeholders have provided input through other study efforts and related evaluations.

# Organizational Responders

- Allina Health
- Am College of Physicians
- Audacious Inquiry
- Care Providers of MN
- Children's Hospital
- Citizen's Council for Health Freedom
- Datuit
- Epic
- Essentia Health
- Fairview-HealthEast
- Gillette Children's Hospital
- HCMC
- HealthPartners
- IDEPC-MDH
- Jennen Law
- Klauser, George (Altair ACO)
- Meditech
- Mental Health MN
- MN Hospital Assn
- MN Psychological Assn
- MN Medical Assn
- MN Chamber of Commerce
- MN Council of Health Plans
- North Memorial
- North Shore Health
- Safety Net Coalition
- South Central Human Relations
- St. Luke's Health System
- Stark, Trisha
- Stratis Health
- Surescripts