

**American Health Information Community
Electronic Health Records Workgroup
Summary of the Web Conference Held
Tuesday, November 7, 2006
(11th Web Conference of This Workgroup)**

PURPOSE OF MEETING

Charges for the Electronic Health Record Workgroup (EHR WG)

- **Broad Charge:** Make recommendations to the Community on ways to achieve widespread adoption of certified electronic health records (EHRs), minimizing gaps in adoption among providers.
- **Specific Charge:** Make recommendations to the Community so that within one year, standardized, widely available, and secure solutions for accessing current and historical laboratory results and interpretations are deployed for clinical care by authorized parties.

The primary objectives of the 11th Web conference of the EHR WG meeting, chaired by Jon Perlin and Lillee Gelinas, were the following:

1. Receive an update from the Office of the National Coordinator for Health Information Technology (ONC) staff with respect to the EHR WG's May 2006 Recommendation 3.0 related to the EHR WG's specific charge.
2. Identify what additional information the EHR WG might need to develop recommendations in five critical domains pertaining to the Workgroup's broad charge: (1) privacy and security, (2) legal/regulatory, (3) state of the technology, (4) organizational, and (5) financial.

INTRODUCTORY REMARKS

Dr. Perlin reported that he had recently attended a meeting sponsored by the Commonwealth Fund in Washington, DC, at which they presented an analysis of some of the leading countries' implementations in health records. There was wide agreement that EHR systems could be implemented in an interoperable way in a reasonable amount of time. Some presenters from European countries indicated that they already had identified a task list for getting to interoperable EHRs. Ms. Gelinas suggested that the EHR WG, when thinking about how to advance its broad charge, might broaden its focus to include countries other than the United States, in addition to considering practices at the Cleveland Clinic and the Department of Veterans Affairs (VA).

Staff Action Item #1: The ONC staff will consider the possibility of arranging a presentation to the EHR WG on the implementation of EHR systems in Europe, as well as on the EHR systems at the Cleveland Clinic and the VA.

Karen Bell reported that ONC is rethinking its figures for baseline adoption of EHRs in physician offices, because a new report, *Health Information Technology in the United States: The Information Base for Progress*, suggests that the penetration rate varies, depending in part on how an EHR is defined. Dr. Perlin and Ms. Gelinas recommended that EHR WG members look at the new report (available at <http://www.rwjf.org/newsroom/newsreleasesdetail.jsp?id=10439>). They also recommended that although the pre-publication report was presented to the workgroup, Dr. Blumenthal and/or his coauthors be invited again to review the findings with the EHR WG.

Staff Action Item #2: The ONC staff will invite the authors of the new report *Health Information Technology in the United States: The Information Base for Progress* to make a presentation to the EHR WG on that report's findings about EHR penetration rates in physicians' offices.

KEY TOPICS

1. Update on ONC's Progress with Respect to Recommendation 3.0 Related to the Workgroup's Specific Charge – Jodi Daniel, ONC

Ms. Daniel reported that the ONC staff had been working with staff at the Centers for Medicare & Medicaid Services (CMS) and legal experts to comply with the EHR WG's May 2006 Recommendation 3.0 to the Secretary of Health and Human Services (HHS) pertaining to the Workgroup's specific charge:

Recommendation 3.0: By September 30, 2006, ONC should review the possible models for the exchange of historical lab information and determine which would require the Clinical Laboratory Improvements Amendments of 1988 (CLIA) and/or Health Insurance Portability and Accountability Act guidance, regulatory change, and/or statute change.

She explained that CLIA was passed to ensure accurate reliable and timely testing regarding the location of the test and covers all phases of the testing process from specimen handling and analysis and to result reporting. To facilitate the identification of issues pertaining to CLIA that require CMS guidance, regulatory change, and/or statute change, ONC and CMS staff members and legal experts have identified the following three potential models for the exchange of historical lab information:

- *Model #1: A laboratory sends test results in paper or electronic form directly to the ordering health care provider.*
- *Model #2: A laboratory sends test results to the ordering health care provider via an intermediary (e.g., a vendor or regional health information organization).*
- *Model #3: A laboratory sends test results to a health care provider who is treating a patient but did not order the tests.*

Model #2 illustrates issues related to CLIA regulations requiring laboratories to return test results to the authorized individual or the individual who is responsible for using those test results (42 CFR 493.129f): Can the test results can be returned via an intermediary? What if lab data do not get to the provider? Model #3 illustrates issues related to CLIA regulations that define an authorized individual as "an individual authorized under State law to order tests or receive test results, or both" (42 CFR 493.2). Some State laws authorize only the ordering physician or

his/her designee to receive test results, thereby limiting labs' ability to share lab test results with other health care providers. Model #3 also raises issues related to who is "responsible for using the test result." Would it be possible to have lab results be made available to any treating provider?

Ms. Daniel reported that ONC had just signed a contract with the National Governors Association's Center for Best Practices to create a State alliance for e-health that will review State laws that might preclude sharing of lab data with physicians involved in a patient's treatment with a view toward changing those laws. In addition, ONC is working with CMS to see whether any action steps can be taken to overcome barriers to the widespread adoption of EHRs posed by CLIA regulations. Any regulatory changes would go through the full notification and comment process in the *Federal Register* – not via the American Health Information Community.

2. Gap Analysis Based on Review of a Document Summarizing Testimony to the EHR WG Pertaining to the EHR WG's Broad Charge – Dr. Bell, ONC

Dr. Bell distributed a document summarizing testimony to the EHR WG over the last several months related to five domains of the EHR WG's broad charge. She asked EHR WG members to think about what recommendations the EHR WG might make related to its broad charge and to indicate whether they wanted additional presentations on any topic related to that charge.

Using the ONC document distributed by Dr. Bell, EHR WG members discussed the need for additional information related to five domains of the EHR WG's broad charge: (1) privacy and security, (2) legal/regulatory, (3) state of the technology, (4) cultural/organizational, and (5) financial.

Gaps in information about privacy and security. Jon Houston expressed concern that the new Workgroup on Confidentiality, Privacy, and Security has been focusing almost entirely on "identity proofing," and he underscored the importance of having a broad range of privacy recommendations related to the National Health Information Network (NHIN). Other Workgroup members agreed with this point. Dr. Bell suggested that the EHR WG take another look at the National Committee and Vital Statistics' (NCVHS) June 2006 report on privacy and confidentiality to the HHS Secretary (available at <http://www.ncvhs.hhs.gov/060622lt.htm>), and possibly consider the NCVHS recommendations as the basis for its own recommendations to the new Workgroup.

Staff Action Item #3: The ONC staff will recirculate the June 2006 NCVHS letter and report with recommendations to ensure privacy and confidentiality in the NHIN to the EHR WG so that the EHR WG can consider them in making recommendations to the Workgroup on Confidentiality, Privacy, and Security.

Dr. Houston noted that many people are concerned about a "land grab" of their personal health data for purposes other than their own treatment. His comment led to an extended discussion of the need for more information on issues related to secondary uses of personal health data. A number of people made suggestions for presentations to the EHR WG related to the secondary uses of personal health information. Dr. Houston, noting that one of the topics addressed by the NCVHS report is secondary uses of personal health information, recommended inviting the

Chair of the NCVHS Subcommittee on Privacy and Confidentiality, Mark Rothstein, to give a presentation to the EHR WG on this topic. Mr. Isenstein indicated that the American Medical Informatics Association (AMIA) has developed a white paper on developing a framework for the secondary uses of health data and recommended that the EHR WG take a look at that. Mike Kappel stated that the Markle Foundation and Connecting for Health have done a lot of work in the area of privacy and security in a networked health care environment and have begun working on secondary uses of personal health care data. He recommended that the EHR WG hear a presentation on this work. Dr. Bell suggested the possibility of hearing from Indiana about how it is dealing with privacy issues and CLIA in a regional health network.

Staff Action Item #4: The ONC staff will consult with members of the EHR WG about which of the following presentations pertaining to the privacy and security domain of the EHR WG's broad charge they would like to have at the January 2006 meeting:

- **A presentation on secondary uses of personal health data by Mark Rothstein, Chair of the NCVHS Subcommittee on Privacy and Confidentiality**
- **A presentation on the AMIA paper entitled Toward a National Framework for the Secondary Use of Health Data**
- **A presentation on the Markel Foundation's work pertaining to privacy and security issues in an NHIN, including its more recent work on secondary uses of personal health data**
- **A presentation from Indiana about how it is dealing with privacy issues and CLIA in a regional health network.**

Gaps in information pertaining to legal/regulatory issues. Several EHR WG members indicated that a presentation on physicians' malpractice concerns related to the use of an EHR or managing large amounts of data would be valuable. Lieutenant Colonel Bart Harmon said that he had heard attorneys say that there the rules requiring physicians to exercise due diligence may not be that different just because information is available electronically, and he would like to hear someone validate that. Dr. Houston recommended inviting a lawyer with an ethics background.

Staff Action Item #5: The ONC staff will arrange for a lawyer or lawyers to give a presentation to the EHR WG about malpractice and ethics issues related to EHRs that the Workgroup should consider when making recommendations to the HHS Secretary about achieving the widespread adoption of EHRs among providers.

Gaps in information related to the state of the technology. EHR WG members agreed that the private sector should be the focal point of this document. It was also agreed that the ONC staff would solicit Blackford Middleton's input on whether additional presentations pertaining to the state-of-the-technology domain was needed.

Staff Action Item #6: The ONC staff will get Dr. Middleton's input on whether additional information related to the state of the technology in the private sector is needed for the EHR WG to consider when making recommendations

to the HHS Secretary about achieving the widespread adoption of EHRs among providers.

Gaps in information related to cultural/organizational issues. Dr. Bell, noting that several presenters have indicated that it is hard to get physicians to adopt EHRs without a lot of support and tools to change their workflow, asked whether someone from the Agency for Healthcare Research and Quality (AHRQ) could give a presentation on how to support workflow changes related to EHRs in physicians' offices. Dr. Clancy said that someone from AHRQ definitely could do this.

Staff Action Item #7: The ONC staff and Dr. Clancy will arrange for a presentation to the EHR WG on AHRQ's work on supporting workflow changes related to EHRs in physicians' offices.

Connie Laubenthal indicated that the American College of Physicians also was doing something related to workflow changes in physicians' office and that she could check to see whether Michael Barr might be able to give a presentation on that.

Staff Action Item #8: The ONC staff and Ms. Laubenthal will check to see whether it is possible for Dr. Barr to give a presentation to the EHR WG on the American College of Physicians' work related to supporting workflow changes related to EHRs in physicians' offices.

Gaps in information related to financial issues ("the business case"). Ms. Gelinas recommended putting in parentheses "the business case" when talking about the financial domain, to make it clear that this is what is meant here. Colonel Harmon noted that some physicians believe that pay-for-performance means "withhold money if you don't do what we want you to do." He suggested that the EHR WG consider how to structure payment to provide physicians with incentives to share in the gain. Dr. Perlin said that in some communities (e.g., Boston), providers and payers have structured payments to make the financial case for EHRs viable for physicians. EHR WG members agreed that it would be useful for the EHR WG to learn about what has been done in Boston.

Staff Action Item #9: The ONC staff and Jim Sorace will check with Dr. Middleton about arranging for a presentation to the EHR WG on the project in Boston where payers and providers structured payment to make the business case for EHRs more viable for physicians.

EHR WG members also agreed that they would like to get more information about on electronic prescribing ("e-prescribing") and approaches payers are using to support it. Dr. Perlin and Robert Smith added that e-prescribing might be a catalyst for broader adoption of health information technology.

Staff Action Item #10: The ONC staff will arrange for a presentation to the EHR WG on e-prescribing and approaches payers are using to support it.

Dr. Perlin and Ms. Gelinas thanked EHR WG members, the ONC staff, and others for their participation and robust discussion. Dr. Perlin said the next task will be to translate the analysis into recommendations to make EHRs more available to Americans in 8 years. The next meeting of the EHR WG will be in January 2007, but the precise date has not been set. The ONC staff will send the calendar out as soon as possible.

Staff Action Item #11: The ONC staff will send the calendar of the EHR WG's upcoming meetings to EHR WG members as soon as possible.

SUMMARY OF ACTION ITEMS

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Electronic Health Records Workgroup
Members and Designees Participating in the Web Conference
November 7, 2006

Co-chairs

Jonathan B. Perlin	HCA Inc.
Lillee Smith Gelinas	VHA, Inc.

ONC/OHITA Director

Karen Bell	HHS/ONC
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Members

Jason DuBois (for Alan Mertz)	American Clinical Laboratory Association
Connie Laubenthal (for Dr. John Tooker)	American College of Physicians
Howard Isenstein (for Chip Kahn)	American Federation of Hospitals
Daniel Morreale (for George Lynn)	American Hospital Association
Jim Sorace (for Barry Straube)	HHS/CMS
Colonel Bart Harmon	Department of Defense
Robert Smith	Department of Veterans Affairs
Ken Waldbillig (for Mark Lewis)	EMC Corporation
Mike Kappel (for Pam Pure)	McKesson Provider Technologies
John Houston	National Committee on Vital and Health Statistics, and UPMC

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