



Health Information Technology and State Health Policy

Health Information Technology and Transparency
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Background

- About NCSL
 - Bipartisan organization made up of all the state and territorial legislatures
 - The problem solvers for state legislatures.
- NCSL mission is:
 - To improve the quality and effectiveness of state legislatures
 - To promote policy innovation and communication among state legislatures
 - To ensure state legislatures a strong, cohesive voice in the federal system

States and Health IT

- States view health IT as a vital tool to increase quality and decrease costs
- States are actively working to address barriers to health IT adoption and are using various policy levers to promote its adoption and use
 - Planning
 - Targeted financing initiatives
 - Protecting privacy in the digital age
 - Promoting health information exchange
 - Oversight/governance models
 - Advancing adoption and use

State Legislation

- In 2007 and 2008 over 375 bills with health IT content were introduced.
- Of these 140 bills have passed in 44 states and the District of Columbia
- In 2009 over 55 bills have already been introduced
- Searchable database of state health IT bills is available at http://www.ncsl.org/programs/health/forum/Hitch/HIT_database.cfm

Planning

- Many states have taken a strong role in creating study commissions
- Bringing together public and private stakeholders helps build trust and support for a roadmap
- Legislation to convene study commissions typically:
 - defines membership
 - sets tasks that include inventorying existing projects, detailing future needs and resources
 - recommending necessary state policy changes to facilitate health IT
 - develop a sustainable interoperable statewide roadmap that addresses privacy and security. 5

Targeted Financing Initiatives

- Many states are investing in health IT to gain benefits for the system as a whole
- State strategies to achieve a critical mass of health IT adoption must address the current misalignment of incentives
 - States do not want to replace funds from private sector
 - Targeting funding toward groups that otherwise could not adopt health IT, such as community health centers, small practices and rural providers
 - Public health is an additional area that requires state funding
- States see a role for themselves in allocating the costs of new systems across interested groups
 - What is the ROI for the state financially and in terms of improved health outcomes?

Targeted Financing Initiatives

- Study commissions
- Appropriations
- Grants and revolving loan funds: States target groups otherwise not able to afford health IT such as community health centers, small practices and rural providers
 - Minnesota (HB 1078, 2007) gives preference to projects benefiting providers located in rural and underserved areas which have an unmet need for the development and funding of electronic health records. Grant funds awarded on a three-to-one match basis with maximum grant of \$900,000.
- Tax incentives
 - Wisconsin (SB 40, 2007) creates a tax credit for providers who purchase electronic medical records. Providers can claim up to 50% of the cost of the system with a maximum of \$10 million a year.

Health IT Fund

- At least three states (MA, MO, VT) have established a fund for health IT development.
- These funds usually pool public and private funds to increase adoption of health IT.
- Vermont Health IT Fund (HB 891, 2008)
 - Funds raised through a 0.199% quarterly fee on all health insurance claims paid by insurers and third-party administrators for seven years.
 - The health insurer fee is expected to raise around \$32 million over the next seven years.
 - Funds will be used to help non-affiliated providers adopt EHRs and will assist in the creation of a statewide health information exchange.
 - The state estimates a net savings of \$320 million over 10 years.

Revenue Sources

- States are looking at various means to fund health IT.
- Medicaid and federal transfers dominate, but the state share is large.
- States are looking at creating dedicated funding sources but few have so far. They view health IT as a way to create net savings.
- Revenue sources in play but not generally adopted: dues, bonds, insurer assessment, user fees.

Protecting Privacy in the Digital Age

- States are taking varying approaches to allowing for HIE
 - **Comprehensive Legislation**
 - Define key terms
 - Privacy and security (consent, audit trail etc)
 - Common consent or authorization form
 - Access to data in emergency situation
 - Penalties/warranties
 - **Modify existing statute**

Comprehensive Reform

- Minnesota: Allow for record locator service and provider representation of consent. Require audit trail and provides for penalties (HB 1078, 2007)
- Rhode Island: Patient must opt in for his or her health information to be included in the HIE. If a patient opts in they can choose which providers can access their data (HB 7409, 2008)

Modify Existing Statute

- Nevada: Exempts covered entities from state rules if they meet the standards of HIPPA for the electronic exchange of individually identifiable health information (SB 536, 2007)
- Oklahoma: Created a standard authorization form for the exchange of health information. Use of form is not required, but if it is used the provider is immunized from liability under state privacy and privilege laws (SB 1420, 2008)
- California: Expanded its data breach notification to include health information and expands its health data laws to PHR vendors (AB 1298, 2007)

Promoting HIE

- An EHR in every pot is not enough
- Building off national standards states are taking various approaches to ensuring that interoperability is achieved
- *Use state agency purchasing requirements*
 - Virginia requires state agencies to purchase interoperable health IT systems. Any grantee receiving state funds must also purchase interoperable systems.
- *Require purchase of certified systems*
 - Minnesota requires EHRs to be certified by CCHIT or its successor.

Promoting HIE

- Getting the data flowing
- *Adopt standards and require use for HIE*
 - The Utah Dept. of Health can adopt standards for HIE. Payers and providers must use these standards to exchange data between health care systems.
- *Create or designate a state-level HIE*
 - Public-private initiatives (RI)
 - State government (TN)
- *Create interoperability among state agency data systems*

Oversight/Governance of HIE

- Emerging issue current state approaches include:
 - Contracts
 - Informal
 - Legislation
 - Regulation
- Lawmakers are taking differing paths as they attempt to capture the benefits of mobile health data and temper the associated risks

Advance Adoption and Use

- Mandates
 - Minnesota's 2015 EHR and 2011 e-prescribing capability mandated for all providers
 - Massachusetts hospitals and community health centers are required to have CPOE by 2012 and EHRs by 2015 as a standard for facility licensure
- Incentives
 - Massachusetts loan repayment
 - Tax credits
 - Pay for participation/performance

Advance Adoption and Use

- CON Law
 - States are finding creative ways to leverage the CON process
- Build Professional Capacity
 - Funds for training
 - Require health IT competency
- Facilitate resource pooling
 - MiHIN Resource Center
 - Florida Association of RHIOs

Advance Adoption and Use

Leveraging State Purchasing

- Medicaid
 - 37 states have e-health activities in Medicaid*
 - Reimburse providers for adoption or use
 - Managed care contracts
- State Employee Health Plans
 - Minnesota plan requires e-prescribing in 2011
 - CalPERS initiative with CalRHIO
 - 8 states have PHRs*
- Medicaid and SEHP are paying a flat per member per month charge to participate in the Michigan capital area RHIO

Outlook for states

- Continued focus on health IT
- Economic situation?
- Stimulus package

Thank You

Contact Information

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NCSL health IT website

<http://www.ncsl.org/programs/health/forum/hitch/>

Report on enacted health IT legislation from 2007
and 2008

http://www.ncsl.org/print/health/forum/HIT_Enacted.pdf

