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# Privacy and Security Solutions for Interoperable Health Information Exchange

## INTERIM ANALYSIS OF SOLUTIONS REPORT

Subcontract No. RTI Project No. 9825

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# **1. Background**

## **1.1 Purpose and Scope of this Report**

This document reports to the contracting authorities those privacy and security solutions that were identified and analyzed by the New Jersey Solutions Working Group (NJSWG) that address the barriers to interoperable health information exchange which were identified by the New Jersey Variations Working Group (NJVWG) and contained in the Interim Assessment of Variations Report (IAVR) that was filed on November 6, 2006. These barriers were identified by reviewing organization-level business practices in entities throughout New Jersey, and documenting the policies, customs, regulations, and laws which underlie them. These practices were obtained from individual and group providers, medical care institutions, durable medical equipment providers, pharmacies and benefit managers, payers of all forms, medical laboratories, imaging centers, vendors, public health and government agencies, patients, nurses and other care givers, law enforcement, trade associations, business and industry associations, and many other individual and group sources.

As a starting point, this report will summarize the essential elements of the IAVR. Then, we will address the composition and membership of the NJSWG, the authors of this report, followed by an outline of the process used to identify proposed solutions together with a description of the process used to evaluate and set priorities on the proposed potential solutions. Finally, we are presenting for consideration the interim proposed barrier solutions of the NJ-HISPC SWG with a review and discussion of the feasibility for implementation of proposed solutions.

## **1.2 HIT Development in New Jersey**

New Jersey's HISPC project fits well with overall HIT efforts undertaken in this state. It has served well as a focal point to continue, enhance and invigorate the development of interest and commitment to move forward with the development of interoperable electronic health record (EHR) systems in New Jersey. New Jersey's interest in electronic systems to mitigate and eliminate administrative costs associated with health care began fourteen years ago with the The Healthcare Information Networks Technology Study that was published in 1994. In 1999, New Jersey enacted The NJ Health Information Electronic Data Interchange Technology Act—(still referred to as HINT) (PL 1999, c. 154) that, among other things, implemented the HIPAA Transactions and Code Sets in this state. That law also provides the framework for NJ providers, trade groups, and state entities to explore cross-industry collaboration and dynamic tactical partnerships to further the goals and promises of HIPAA administrative simplification and EHR.

Recently, HINT was amended (PL 2005, c. 352, sec. 18 et seq.) to also include the authority to adopt administrative rules for the development and deployment of EHR in New Jersey. HINT obligates the New Jersey Department of Banking and Insurance (DOBI) - in cooperation with the New Jersey Department of Health and Senior Services (DHSS), Thomas Edison State College (TESC) and all other necessary Departments and entities - to propose and adopt the rules to achieve this statutory mandate.

DOBI considers this contract to be a critical component of its plans and projects for the deployment of electronic health records. Not only has it brought the necessary parties together to work on this project but has also served to emphasize the privacy and security concerns that must be considered as we construct our EHR systems and processes.

At the same time that we have been working on HISPC, DOBI has been engaged in a National Provider Identification (NPI) education, enumeration and roll-out project. In New Jersey, we have consistently undertaken state-wide projects in tandem with federal initiatives. While it is too soon to determine how successful our efforts on NPI will be, DOBI has endeavored to proactively facilitate the implementation of the HIPAA's Transaction and Code Sets as well as the NPI. We use these efforts as an opportunity to assemble and engage all critically placed stakeholders necessary to the success of projects such as this. In fact, as a result of our recent NPI conference, we obtained 200 stakeholders that have expressed an interest in working on projects associated with the creation of a Regional Health Information Organization (RHIO) and the development of electronic health records in New Jersey. Many of those stakeholders have also actively contributed to the NJ-HISPC project.

**NJ-HISPC has added a section 6 to this solutions report not anticipated by the RTI Interim Analysis of Solutions Report template. It acknowledges the tremendous impact the NJ-HISPC project has had on the state and the stakeholders, plus the creative energy the project has generated across the state. It outlines a number of next steps that will fit into the New Jersey implementation plan.**

### **1.3 Limitations of this Report**

This report presents all the solutions concepts<sup>1</sup> identified by the SWG, although not all of these solutions have been discussed with stakeholders beyond those who participated in the SWG teams. The NJ-HISPC Steering Committee plans extensive discussion of solutions with other members of the New Jersey stakeholder community, national experts, decision-makers in provider and payer organizations, consumers, and legislators. A more complete analysis of the feasibility of these solutions and refinement of specific solutions will take place during the implementation phase.

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<sup>1</sup> NJSWG has a very large number of nuanced solutions to review during the NJIPWG phase in the next month.

## **2. Summary of Interim Assessment of Variations Report**

### **2.1 Main Findings**

The IAVR detailed the barriers to interoperable Health Information Exchange (HIE) identified by New Jersey stakeholders through the NJ VWG and by a panel of twelve public and private sector attorneys convened by the NJ-HISPC Legal Working Group. The following points highlight the findings of the NJ-HISPC team.

- In some instances identified processes and procedures are deemed to be “appropriate controls” on the dissemination and exchange of protected health information (PHI) even though they create a barrier to the rapid exchange of medical information.
- In multi-state scenarios, discussions with a number of stakeholders disclosed uncertainty and confusion regarding the application of the appropriate state’s law pertaining to the consent and authorization requirements for the disclosure of PHI associated with treatment, payment and healthcare operations.
- In addition, after meetings with stakeholders, NJ-HISPC’s core group has observed that HIPAA itself was sometimes misunderstood by stakeholders to require creation of a barrier when it does not.
- Many stakeholders disclosed difficulty and confusion with the application of and compliance with HIPAA’s “minimum necessary” test in real life circumstances.
- Many technical and infrastructure barriers to electronic interoperability were identified.
- Many providers expressed a high level of comfort and acceptance of the existing business practices pertaining to PHI data exchange, such as telephone consultation, faxed documents and paper records. They do not yet fully recognize the efficiencies, benefits and quality of care improvements that will flow from interoperability of electronic health records.
- Some providers expressed a lack of certainty that more automated electronic processes would present substantial savings in the delivery of medical care in relation to the cost of implementation. These providers have advised the NJ-HISPC project manager that they recognize the potential savings for payers, but they are skeptical about the return on investment for providers.
- Financial resources and staffing limitations available to providers are frequently cited as an impediment to interoperability.
- Stakeholders identified specific categories of highly personal and “sensitive” PHI such as Sexually Transmitted Diseases, AIDS/HIV, mental and emotional health information including psychotherapy notes,

substance abuse and genetic testing data that create special challenges for state and federal law and practice and may require special situational rules for the exchange of this kind of PHI.

The NJ-HISPC team felt that the major barriers to HIE in New Jersey include the following issues:

- Misunderstanding of HIPAA requirements, particularly in the areas of defining “minimum necessary”, which can be expressed in terms of information sharing with terms such as “need to know”, “professional judgment”, and “individual interpretation”; and inconsistencies in the application of the terms, conditions and duration of the how patient consent and authorization is actually implemented.
- The comfort of many individuals with the existing paper-based systems and lack of motivation to explore new alternatives.
- A lack of consistency in health record formats, systems, layouts and databases in both the public and private sectors.
- Concerns among stakeholders that electronic systems may not deliver the savings, return on investment and quality improvements promised.
- The cost, continuity of current work flow and difficulty of effecting technical and infrastructure changes, particularly for small individual providers.
- Lack of connectivity between various types of providers, including substantial lack of granularity between providers even when using compatible formats.

## **2.2 Description of Effective Practices Undertaken**

New Jersey has a well-detailed procedure for handling certain public health emergencies; e.g., an explicit procedure exists for cooperation with local police departments in the event that an individual with active tuberculosis poses a threat to the general public. Communication with police and other affected entities is done by telephone to permit a rapid response and ensure the protection of public health. While every effort is made to communicate PHI on a ‘need to know’ basis, public health considerations are primary in this instance.

New Jersey hospitals have also considered procedures to be used during states of emergency to allow families to determine whether their relatives have been admitted without violating privacy rules. For example, some hospitals are discussing hosting a website where the name of a patient could be entered and, if it is matched to an admitted patient, that information could be made available to the requestor. Privacy is protected because no list of patients is posted yet next-of-kin can obtain valid information.

## **2.3 Lessons Learned**

Certain themes emerged as the NJVWG examined business practices throughout the state. We learned that there are many significant variations in the interpretation and application of HIPAA’s privacy rules relating to the sharing of health information, the degree and extent of the information that is shared and the practices employed by

providers to verify the identity and authenticity of requesting providers. Of particular concern are the observed variations in determination of when consent and authorization must be obtained and what the proper form for that consent or authorization is. There is general confusion, in fact, about the distinction between those two terms as they are used in the context of HIPAA. Also, some entities had special modifications for situations where emergency care was needed, but others had no provision for rapid information exchange in emergency situations. Restrictive use of HIE in emergency situations is often the result of poor training and/or overly conservative privacy practices.

While most health care entities in New Jersey employ security measures for information exchange; e.g., security of faxes, use of encryption, and secure web portals, there is large variation in business practices in how documents and faxes are secured and there is some question whether all are compliant with the HIPAA security requirements.

Business practices for maintaining security and privacy of health information exchange vary between large and small provider settings. Many small providers struggle to maintain appropriate security procedures and many are uncomfortable with electronic referral systems and other new technology. Anecdotally, DOBI still receives complaints from providers that they do not want to be forced by health plans to file claims and receive remittances electronically.

## **2.4 Variations Not Addressed in This Report**

All business practices listed as barriers in the Analysis of Variations section of the IAVR are addressed in this report. It is anticipated that other variations may be identified as additional stakeholders are consulted and become involved in the NJ-HISPC project on a going forward basis. These new variations, if any, will be listed and confronted in the final reports.

# **3. Review of State Solution Identification and Selection Process**

## **3.1 Solution Development Process**

The NJ-HISPC process for developing solutions rested upon a concerted and time consuming effort to thoroughly consider each barrier and to explore the application and ramifications of potential solutions with a wide and varied range of stakeholders. All barriers and solutions were recorded, analyzed and prioritized on a special database constructed by SWG Co-Chair Clifton Day of DOBI. (The format, content and use of this New Jersey specific database were submitted to RTI prior to use and it was approved by the contractor with the observation that it was “Excellent!”). The SWG and the NJ-HISPC management team obtained information, practical suggestions and solutions in some of the following ways:

- Discussions with stakeholders in the focus groups and during the variations working group process.
- Discussions with stakeholders at the DOBI NPI conference and subsequent working groups dealing with enumeration issues.

- Conferences with members of New Jersey’s HIPAA SNIP (NJSHORE).
- Information collected during assembly of the variations business practice report.
- Analysis of state and federal laws conducted by the NJLWG.
- Discussions with other states and national experts at the Newark Privacy and Security Regional Meeting on November 15, 2006.
- Phone conference with a panel of national security and privacy experts assembled by The Electronic Healthcare Network Accreditation Commission (EHNAC).

Also, stakeholder participation was increased beyond those activities and entities to provide for participation by technical experts, representatives of stakeholders already exploring electronic information solutions and consumers. Our goal was to allow for a full exploration of a wide range of potential solutions and to clarify any possible problems with future implementation.

The NJSWG reviewed information about the barriers identified by the NJVWG and determined that it could most efficiently accomplish its work by categorizing the barriers and having individual subgroups in the SWG address all similar barriers within an identified category. In the first phase of work, each subgroup established its own meeting schedule and proposed initial solutions independently which were reported to the SWG as a whole. Thereafter the entire SWG met to review proposed solutions, review the feasibility of the solutions, and to identify an initial list of stakeholders necessary for implementation of the solutions

### ***3.2 New Jersey Solutions Working Group***

The membership of the NJSWG included representatives from a wide variety of entities, including providers, clinicians, payers, technology companies, medical schools, state government, and technology consultants. Key members of the NJVWG and the NJLWG continued their involvement with the NJSWG. However, it was considered critical to increase the membership of the NJSWG to include other representatives from New Jersey stakeholder groups that are already exploring electronic information solutions, particularly individuals with the technical expertise to propose appropriate solutions and identify issues to be considered in determining feasibility. In addition, the NJ-HISPC team solicited involvement of members with specific legal expertise, knowledge of national efforts to promote the use of electronic health records, representatives of interested consumer groups, providers, representatives of interested New Jersey legislators and a national not-for-profit standard setting organization that accredits health care clearinghouses as to privacy and security.

### ***3.3 New Jersey Process to Identify Solutions***

The NJSWG team met initially as a full group with selected members of the NJVWG and the NJLWG to review the business practices and barriers identified in the Interim Assessment of Variations report. Those business practices were identified as barriers to interoperability and were extracted from the VWG database and presented in groups with similar barriers. Each contained a brief background statement of the context of the business practice and the reason it was or was not identified as a problem to be solved by the stakeholders participating in the variations assessment. Commentary from

the NJLWG was provided detailing state and federal law which pertained to the business practice.

Each member of the NJSWG received background information to orient them to the work done by the NJVWG, including a copy of the Interim Assessment of Variations report, a summary of legal and non-legal barriers to interoperability by domain and domain category, copies of scenarios and domains to provide context, and several technical documents developed as resources by national stakeholders. All of this information was assembled in a three ring binder and presented to SWG members (and to the RTI coordinator) to facilitate their work.

Initial discussion by the NJSWG identified several high-priority issues which provided the starting point for discussion about potential solutions:

- The need for uniform consent/authorization forms and procedures,
- Stakeholder interoperability pilot projects,
- Standard agreements for research data release,
- Education about HIPAA and PHI disclosure for treatment, referrals and payment,
- Clarification of “minimum necessary” information for treatment,
- Update of healthcare professional licensing requirements,
- Internal New Jersey communication during emergencies.

Due to the large number of business practices and barriers, the NJSWG elected to divide the barriers into categories would enhance the simultaneous discussion by subgroups in identifying and discussing solutions to similar barriers. The following categories were identified:

- Interoperability,
- HIPAA Security/Privacy,
- State and Federal Law,
- Education,
- Workflow.

The barriers were categorized as noted above and used as gathering points in a special New Jersey solutions database described above, which provided identifying information about each business practice (scenario, domain, and long description of the business practice), the impact of the barrier, NJLWG analysis of federal and state law, and the following fields to record the outcome of subgroup deliberations on the following subjects:

- Description of potential solution,
- Relative importance of potential solution,
- Perceived feasibility of potential solution,
- Potential barriers to solution,
- Stage of solution development,
- Healthcare functions affected (e.g., clinicians, payers, etc.),
- Potential stakeholders affected,

- Other comments, questions, or issues to be discussed.

Each of the five NJSWG subgroups met several times by conference call to clarify the dimensions of the business practice posing a barrier, identifying questions or concerns for the NJVWG or NJLWG, proposing solutions, discussing alternative solutions, and agreeing on those solutions to be proposed to the full group. The subgroup also determined the relative importance of the solutions, the feasibility and potential barriers, the current stage of solution development in New Jersey, and the healthcare functions and stakeholders likely to be affected by a proposed solution.

Once the five NJSWG subgroups completed their work, the entire NJSWG held a meeting to discuss the work of the subgroups, critique and refine the solutions, and make final decisions on overall importance and feasibility. A final statement of the NJSWG work was then presented to the Project Manager and the NJ-HISPC steering committee for critique and further discussion.

### ***3.4 Prospective Process to Evaluate and Prioritize Proposed Solutions***

The work output of the NJSWG will be further reviewed by the NJ-HISPC Steering Committee. Proposed solutions will be reviewed with stakeholders beyond the membership of the NJSWG to further evaluate technical, political, statutory, and organizational barriers to implementation. It will be of particular importance to solicit input from state legislators, top executives of healthcare entities, professional groups, and consumers. This will require multiple opportunities to present the suggested solutions to a variety of stakeholders and allow them time to absorb and fully understand the implications of moving ahead with a proposed solution.

The granular information contained in the NJ-HISPC Special Data Base, referred to above, has been assembled and will be preserved. While it is not named for inclusion in this report, such expansive detail may be useful in support of the final reports if requested by the contracting authorities.

As part of our continuing commitment to conduct this project with complete transparency and to obtain input from all sources, NJ-HISPC will be widely disseminating a summary of the NJ-HISPC Solutions Working Group Report and the Implementation Plan to all stakeholders; and we will conduct a public hearing after the HISPC National Meeting for all stakeholders and interested members of the public to offer comments and further suggestions.

### ***3.5 Presentation of Proposed Solutions***

Section 4 of this report presents and analyzes NJ-HISPC identified solutions. These are presented in five solution categories, which are defined at the beginning of Section 4. Domains and barriers addressed are presented for:

- Interoperability,
- Workflow,
- Federal and State Law,
- HIPAA Security and Privacy,

- Education.

After a brief discussion of issues in the New Jersey environment, which will impact discussion with stakeholders of solutions and implementation, solutions which have been identified and are under discussion are presented for each solution category.

For each category, the following information is discussed:

- General context for the proposed solutions, using the HIE Scenarios,
- Domains addressed by the proposed solutions,
- Types of health information exchanges addressed,
- Stakeholders which will be primarily affected/involved,
- HIE barriers addressed,
- Stage of development of solutions in category,
- Extent to which solutions are in use currently,
- Extent to which solutions are appropriate to a wide range of stakeholders, and
- Possible barriers to solution.

Section 4.4 contains three matrices, presenting the relationship of NJ-HISPC solution categories to barriers, project domains, and stakeholders.

### **3.6 Feasibility of Proposed Solutions**

NJ-HISPC is currently evaluating the feasibility of proposed solutions. We plan extensive discussions with stakeholders regarding feasibility, since not all affected stakeholders in New Jersey have participated in the NJ-HISPC project. In addition, many of the proposed solutions will require extensive effort and expense. More education within our state about the potential benefits of health information exchange will be necessary to develop a consensus among the many interested parties, and we will need to develop pilot approaches to test the feasibility of some solutions. While some entities have developed their own electronic health records, using these as building blocks for a statewide system will require extensive political buy-in.

## **4. Analysis of NJ-HISPC Proposed Solutions**

### **4.1 General Description of NJ-HISPC Identified Solutions, the Barriers and Domains Addressed**

The NJ-HISPC SWG has identified five (5) solutions categories that will assist with interoperability in New Jersey. The solutions categories are as follows:

1. Interoperability,
2. Workflow,
3. Federal and State Law,
4. HIPAA Security and Privacy,
5. Education.

**1. Interoperability** is the ability of products, systems, or business processes to work together to accomplish a common task. This category outlines the issues and basic solutions to sharing medical and administrative information for improved interoperability.

Summary of Domains:

<b>X</b> User/entity authentication	<b>X</b> Information Audits
<b>X</b> Information authorization and access controls	<b>X</b> Administrative and Physical Safeguards
<b>X</b> Patient and provider identification	<b>X</b> State Law Restrictions
<b>X</b> Information transmission security or exchange protocols	<b>X</b> Information Use and Disclosure Policies
<b>X</b> Protection Against Improper Modification	

Barriers:

Technical, matching / linking patients / members, administrative; security controls<sup>2</sup>

**2. Workflow** at its simplest is the movement of documents and/or tasks through a work process. More specifically, workflow is the operational aspect of a work procedure. The workflow category identifies solutions in both the paper and electronic environments to improve process to assist in the sharing of medical and administrative information.

Summary of Domains:

<b>X</b> User/entity authentication	Information Audits
<b>X</b> Information authorization and access controls	<b>X</b> Administrative and Physical Safeguards
Patient and provider identification	<b>X</b> State Law Restrictions
<b>X</b> Information transmission security or exchange protocols	<b>X</b> Information Use and Disclosure Policies
Protection Against Improper Modification	

Barriers:

Administrative, insufficient best practices, standard policies and procedures, technical

**3. Federal and State Law** are the healthcare law and regulations that impact HIE and interoperability. This category outlines the solutions of the impacts of laws and regulations on sharing medical and administrative information.

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<sup>2</sup> The barriers outlined in the NJ-HISPC interim variations report have been translated into generic categories, and also gained greater understanding in this solutions phase.

Summary of Domains:

User/entity authentication	Information Audits
<b>X</b> Information authorization and access controls	Administrative and Physical Safeguards
Patient and provider identification	<b>X</b> State Law Restrictions
<b>X</b> Information transmission security or exchange protocols	<b>X</b> Information Use and Disclosure Policies
Protection Against Improper Modification	

Barriers:

Federal / State Law confusion, misunderstanding, insufficient knowledge, and differing interpretations

4. **HIPAA security and privacy** category outlines specific federal security and privacy requirements when sharing medical and administrative information. This solution category outlines how to alleviate the HIPAA impediments to the sharing of medical and administrative information.

Summary of Domains:

User/entity authentication	Information Audits
<b>X</b> Information authorization and access controls	<b>X</b> Administrative and Physical Safeguards
Patient and provider identification	State Law Restrictions
<b>X</b> Information transmission security or exchange protocols	<b>X</b> Information Use and Disclosure Policies
Protection Against Improper Modification	

Barriers:

HIPAA confusion, misunderstanding, insufficient knowledge, and differing interpretations; and insufficient best practices, standard policies and procedures

**5. Education** is the systematic training and instruction to impart knowledge to alleviate the road blocks to the sharing of medical and administrative information including the interoperability needs, workflow issues and redesign, law and regulation misunderstandings and confusions and HIPAA security and privacy interpretations.

Summary of Domains:

User/entity authentication	Information Audits
<b>X</b> Information authorization and access controls	Administrative and Physical Safeguards
Patient and provider identification	State Law Restrictions

Information transmission security or exchange protocols	<b>X</b> Information Use and Disclosure Policies
Protection Against Improper Modification	

Barriers:

Federal / State Law / HIPAA confusion, misunderstanding, insufficient knowledge, and differing interpretations

**4.2 NJ-HISPC Description of Alternative Solution Approaches to the Same Barrier**

The NJ-HISPC SWG has identified several solutions to the same barrier during the SWG discussions. These will be outlined in the next section in the solutions categories and specific ideas outlines. In many instances, the team felt that education would need to be combined with other approaches to achieve a successful solution.

The NJ-HISPC solutions have been chosen to be both practical in today’s environment, and to push the industry to think beyond usual solutions. The NJ-HISPC solutions are designed to be a strong foundation for the advancement of HIE and interoperability in New Jersey.

NJ-HISPC support the standards proposed by the other federal contracts, including the HITSP work, the certification outlined by CCHIT, the NHIN projects, plus HL7, ANSI, ASTM, and ISO standards. NJ-HISPC also supports the HIPAA law and regulations and the New Jersey HINT law. NJ-HISPC supports all federal and state law and regulations that impact the provision of health care and the administrative and clinical transactions necessary for treatment, payment and health care operations.

**4.3 NJ-HISPC’s Solution Work Group Proposed Solutions**

**General Observations:**

NJ-HISPC has a number of broad overarching observations that will be incorporated into a New Jersey implementation plan.

In New Jersey there is confusion and misunderstanding of federal law, state law, and the HIPAA regulations across the health care industry. The foundation for HIE and interoperability needs to first stand on a deeper understanding of the health care laws and regulations and a consensus interpretation of these laws and regulations.

In New Jersey there is a need for enterprise wide and statewide best practices, policies and procedures that the industry agrees upon for smoother and more complete sharing of medical and administrative information.

During the NJ-HISPC project the stakeholders have come to understand that there needs to be some way to accurately match and identify patients and members. The current methods all fall short of what is needed for quick, complete and useful sharing of medical and administrative information. The current technologies are costly and time consuming to use.

New Jersey consumers of medical care, the patients, must be engaged in all enterprise wide and statewide HIE and interoperable solutions work and implementation. Consumers are often the last group thought of when there are changes in health care. If consumers are going to support, invest in, and use the changes that HIE and interoperability bring they must be engaged at each stage of any change planning and implementation.

No implementation plan no matter how well designed will move forward without sufficient funding and knowledgeable resources. A review of the interoperability project happening in the New Jersey region and in other parts of the country supports this statement.

Below are the five major NJ-HISPC solution areas that the NJ-HISPC SWG outlined and the NJ-HISPC Steering Committee approved during the New Jersey solutions work.

**NJ-HISPC has entered detailed information for the five solutions categories below, and then completed the other 9 information categories as outlined in the RTI template outline document.**

#### ***4.3.i NJ-HISPC Interoperability Solutions***

New Jersey does not yet have a functional RHIO, but there are a number of state and private projects working on sharing medical and administrative data electronically.

The NJ-HISPC interoperability solution category includes the technology imperatives and the standards support needed for smooth sharing of medical and administrative information. The NJ-HISPC stakeholders understand that technology may not yet permit enterprise wide solutions, and that not all standards necessary for interoperability are yet in place. Despite these restrictions the stakeholders have identified functionality needed for interoperability and to implement electronic systems in the near future.

The functionality may include:

- Complete EMR documentation
- Minimum encryption standards for the data within the EMR
- Procedures for the identity and security of medical and administrative information
- Create minimum encryption method for PHI in E-Mail
  - Encryption is not sufficient for secure E-mail between providers
  - Secure E-mail for patient-provider communication
  - E-mail also needs audit capability
- Provider remote access to EMR
- All PCs with same level of security and maintenance, consistent with facility standards
- Stratification of information access

- Strong auditing measures
- Minimum encryption standards for web portal
- Minimum authentication standards for web portal
- Statewide mandated uniform and specific security protocols for all healthcare institutions
- Access privileges defined for all category of users, including health plan case managers and consumer-patients
- All electronic prescribing and faxing will meet the statewide uniform security protocols
- Statewide approved and mandated algorithm for the de-identification of data
- Consider a regulation outlining an accepted method for de-identification of data
- Consent / authorization process per HIPAA for marketing uses of medical information
- Statewide approved and mandated HIPAA minimum necessary policies and procedures
- Create standard Business Associate Agreement
- Uniform protocol for providing hard copy of medical records to a hospital or provider
- Utilize the HIPAA NPI when sharing information though a web portal
  - Use to assist authorization and authentication
- Standardized secure web portal solution
- Plus a policy and procedure manual for all these areas
- Plus education for all these areas

The NJ-HISPC implementation plan will consider all the items and ideas above. All documents and outlines anticipated in this solution category will be accessible and available to the New Jersey healthcare community for all to review and download.

**Below are the answers for the other 9 categories of information for the interoperability solutions presented.**

4.3.i [a] What is the general context for the interoperable solution?

The impact of interoperability solutions has reference to:

- [Y] Scenarios 1 → 4, Patient care scenarios
- [Y] Scenario 5, Payment scenario
- [N] Scenario 6, RHIO scenario
- [Y] Scenarios 9 → 12, Pharmacy, Marketing scenarios
- [Y] Scenario 13, Bioterrorism scenarios
- [Y] Scenario 16, Public health scenario
- [Y] Scenario 18, Public oversight scenario

4.3.i [b] What domains will the interoperability solution address?

The interoperability solution category addresses all 9 of the project domains.

4.3.i [c] What types of health information exchanges are being addressed by within the interoperability solution?

- [Y] Clinical
- [Y] Lab
- [Y] Public health
- [N] Research
- [Y] Administrative and Financial

4.3.i [d] Which Stakeholders will be primarily affected/involved in the interoperability solution?

All NJ-HISPC stakeholders are affected and involved in the interoperability solution category.

4.3.i [e] What HIE barriers will the interoperability solution address?

The interoperability solution will assist with technical, standards, matching / linking patients / members, administrative; security controls barriers.

4.3.i [f] What is the stage of development of the proposed interoperability solution?

- [Y] Outlined
- [N] Proposed
- [N] Planned
- [N] Tested
- [N] Partially implemented

4.3.i [g] What is the extent to which the interoperability solution is in use?

- [Y] None yet
- [N] By whom
- [N] For how long
- [N] What areas of HIE

4.3.i [h] To what extent is the interoperability solution appropriate for wide range of stakeholders and HIE?

The interoperability solution will be appropriate for all the NJ-HISPC stakeholders.

4.3.i [i] What are the possible barriers to the interoperability solution? Including

- [Y] Legal
- [Y] Technical
- [Y] Cost

#### **4.3.ii NJ-HISPC Workflow Solutions**

The NJ-HISPC workflow solutions category highlights a number of changes and adjustments possible in an office workflow during the provision of medical services that will permit smoother interoperability and more complete record keeping.

The NJ-HISPC team anticipates developing a number of community standards and best practices. These will be developed through community forums. Community forums may be held with consumers and stakeholders to discuss workflow with each other and collect information. From these forums a typical workflow will be developed, and a set of consensus best practices and standards may be developed. Unusual workflows will also be outlined for statewide use.

There are a number of topics that will be used in the forums to assist the discussions, including:

- Standardized request form to share medical information
- Determine standard forms of identification, such as
  - Unique patient identification number
  - Photo ID
  - Digital drivers license, passport
  - Other forms of valid IDs
- Verification of clinicians
  - Physical security
  - NPI ID card with embedded coding / swipe card
- Create RHIO or patient centric portal
- Secure, encrypted email
- User access agreement
  - Delineate authorized uses
  - Recipient use rights
  - Provider obligations and responsibilities
  - Technical requirements
  - Mutual security assurances
- Standard procedures for law enforcement obtaining / using PHI
- Education program specific to law enforcement permission to obtain / use PHI
- Business Associate Agreements / Confidentiality Agreements, develop a list of where these documents are necessary
- Pharmacy issue
- Marketing issues
- Employer issues
- Public health issues

The NJ-HISPC implementation plan will consider all the items and ideas above. All documents and outlines anticipated in this solution category will be accessible and available to the New Jersey healthcare community for all to review and download.

**Below are the answers for the other 9 categories of information for the workflow solutions presented.**

4.3.ii [a] What is the general context for the proposed workflow solution?

The impact of workflow solutions has reference to:

- [Y] Scenarios 1 → 4, Patient care scenarios
- [N] Scenario 5, Payment scenario
- [N] Scenario 6, RHIO scenario
- [Y] Scenario 8. Law enforcement scenario
- [Y] Scenario 10, Pharmacy scenario
- [Y] Scenarios 11 + 12, Marketing scenarios
- [N] Scenario 13, Bioterrorism scenario
- [Y] Scenario 14, Employee health scenario
- [Y] Scenario 17, Public health scenario
- [Y] Scenario 18, Public oversight scenario

4.3.ii [b] What domains will the workflow solution address?

Summary of Domains:

<input checked="" type="checkbox"/> User/entity authentication	Information Audits
<input checked="" type="checkbox"/> Information authorization and access controls	<input checked="" type="checkbox"/> Administrative and Physical Safeguards
Patient and provider identification	<input checked="" type="checkbox"/> State Law Restrictions
<input checked="" type="checkbox"/> Information transmission security or exchange protocols	<input checked="" type="checkbox"/> Information Use and Disclosure Policies
Protection Against Improper Modification	

4.3.ii [c] What types of health information exchanges are being addressed by within the workflow solution?

- [Y] Clinical
- [Y] Lab
- [Y] Public health
- [N] Research
- [Y] Administrative and Financial

4.3.ii [d] Which Stakeholders will be primarily affected/involved in the workflow solution?

The smaller providers will be greatly affected by the changes in workflow; all providers will be affected by changes in workflow; and special workflows will impact stakeholders beyond providers.

4.3.ii [e] What HIE barriers will the workflow solution address?

The workflow solution will assist with administration, insufficient best practices, standard policies and procedures, technical barriers.

4.3.ii [f] What is the stage of development of the proposed workflow solution?

- [Y] Outlined
- [N] Proposed
- [N] Planned
- [N] Tested
- [N] Partially implemented

4.3.ii [g] What is the extent to which the workflow solution is in use?

- [Y] None yet
- [N] By whom
- [N] For how long
- [N] What areas of HIE

4.3.ii [h] To what extent is the solution appropriate for wide range of stakeholders and HIE?

The workflow solution will be appropriate first for providers; the non-routine workflows will be appropriate for all stakeholders.

4.3.ii [i] What are the possible barriers to the workflow solution? Including

- [N] Legal
- [Y] Technical
- [Y] Cost

#### **4.3.iii NJ-HISPC Federal and State Law Solutions**

The New Jersey healthcare stakeholders should understand the federal and state laws and regulations that impact health care within the state. Currently there is a great deal of confusion, misunderstanding, lack of knowledge, and breadth of interpretation of the health care laws and regulations in New Jersey.

Federal and state law management will consist of several prongs, as follows:

- There needs to be statewide understanding of federal and state healthcare laws and regulations, and the ability to access these federal and state healthcare laws and regulations when necessary; topics to consider investigating include
  - Information sharing between state and local health authorities
  - Lead poisoning causes, identification of risk factors
  - Medicaid law reform to permit data sharing
  - IRB web portal
  - State permission for data sharing / types of authentication

- Sharing of mental health information
- State / interstate data sharing agreements
- Comprehensive consent form for research
- Statewide health data information exchange
- Temporary access for first responders
- Family access to medical records
- There needs to be consensus statewide for putting baseline policies and procedures in place for the federal and state healthcare laws and regulations mandates and requirements
- Education, and continuing education, on federal and state healthcare laws and regulations, and consensus policies and procedures to dispel myths, deal with cultural issues, and the differing perceptions between and among the provider and payer stakeholders, and how they may differs from consumer perceptions

The NJ-HISPC implementation plan will consider all the items and ideas above. It will also consider performing a comprehensive review of the federal and state laws and regulations that apply to HIE and interoperability.

All documents and outlines anticipate in this solution category will be accessible and available to the New Jersey healthcare community for all to review and download.

**Below are the answers for the other 9 categories of information for the federal and state law solutions presented.**

4.3.iii [a] What is the general context for the proposed federal and state law solution?

The impact of federal and state law solutions has reference to:

- [Y] Scenarios 1, 2 and 4, Patient care scenarios
- [Y] Scenario 5, Payment scenario
- [N] Scenario 6, RHIO scenario
- [Y] Scenario 7, Research scenario
- [Y] Scenario 8, Law enforcement scenario
- [Y] Scenario 13, Bioterrorism scenario
- [Y] Scenarios 15 – 17, Public health scenarios
- [Y] Scenario 18, Public oversight scenario

4.3.iii [b] What domains will the federal and state law solution address?

Summary of Domains:

User/entity authentication	Information Audits
<b>X</b> Information authorization and access controls	Administrative and Physical Safeguards
Patient and provider identification	<b>X</b> State Law Restrictions
<b>X</b> Information transmission security or	<b>X</b> Information Use and Disclosure

exchange protocols	Policies
Protection Against Improper Modification	

4.3.iii [c] What types of health information exchanges are being addressed within the federal and state law solution?

- [Y] Clinical
- [Y] Lab
- [Y] Public health
- [Y] Research
- [Y] Administrative and Financial

4.3.iii [d] Which Stakeholders will be primarily affected/involved in the federal and state law solution?

All stakeholders are affected by the federal and state law solution.

4.3.iii [e] What HIE barriers will the federal and state law solution address?

The federal and state law solution will assist with federal / state law confusion, misunderstanding, insufficient knowledge, and differing interpretations

4.3.iii [f] What is the stage of development of the proposed federal and state law solution?

- [Y] Outlined
- [N] Proposed
- [N] Planned
- [N] Tested
- [N] Partially implemented

4.3.iii [g] What is the extent to which the federal and state law solution is in use?

- [Y] None yet
- [N] By whom
- [N] For how long
- [N] What areas of HIE

4.3.iii [h] To what extent is the federal and law solution appropriate for wide range of stakeholders and HIE?

The federal and state law solution will be appropriate for all NJ-HISPC stakeholders.

4.3.iii [i] What are the possible barriers to the solution? Including

- [Y] Legal
- [N] Technical

[Y] Cost

#### **4.3.iv NJ-HISPC HIPAA Security and Privacy Solutions**

The New Jersey healthcare stakeholders need to understand the impact of HIPAA security and privacy mandates and requirements. Currently there is a great deal of confusion, misunderstanding, lack of knowledge, and breadth of interpretation of the HIPAA requirements in New Jersey.

HIPAA security and privacy solution will consist of several prongs, as follows:

- There needs to be statewide understanding of HIPAA requirements, and the ability to access HIPAA law and regulations when necessary; topics to consider investigating include:
  - Patient rights understanding and education
  - Law enforcement – both HIPAA and NJ law impacts; understanding and education
  - Minimum necessary understanding and education
  - De-identification understanding and education
  - Use and disclosure of sensitive data – both HIPAA and NJ law impacts; understanding and education, including when authorization for disclosure is required and when not
  - Standard consent / release documents
  - Consent / release management process defined and implemented
  - Standard forms and checklist for employee return to work
  - Standard authorization forms
  - Authorization management defined and implemented
- There needs to be consensus statewide baseline policies and procedures in place for the HIPAA security and privacy mandates and requirements
- Education, and continuing education, on the HIPAA law and regulations, and consensus policies and procedures to dispel myths, deal with cultural issues, and the differing perceptions between and among the provider and payer stakeholders, and how they may differs from consumer perceptions

The NJ-HISPC implementation plan will consider all the items and ideas above. It will also consider performing a comprehensive review of the HIPAA law and regulations as they apply to HIE and interoperability.

All documents and outlines anticipate in this solution category will be accessible and available to the New Jersey healthcare community for all to review and download.

**Below are the answers for the other 9 categories of information for the HIPAA security and privacy solutions presented.**

4.3.iv [a] What is the general context for the proposed HIPAA security and privacy solution?

The impact of HIPAA security and privacy solutions has reference to:

- [Y] Scenarios 1, 2 and 3, Patient care scenarios
- [Y] Scenario 5, Payment scenario
- [N] Scenario 6, RHIO scenario
- [Y] Scenario 7, Research scenario
- [Y] Scenario 8, Law enforcement scenario
- [N] Scenario 13, Bioterrorism scenario
- [Y] Scenario 14, Employee health scenario
- [Y] Scenario 17, Public health scenario
- [Y] Scenario 18, Public oversight scenario

4.3.iv [b] What domains will the HIPAA security and privacy solution address?

Summary of Domains:

User/entity authentication	Information Audits
<input checked="" type="checkbox"/> Information authorization and access controls	<input checked="" type="checkbox"/> Administrative and Physical Safeguards
Patient and provider identification	State Law Restrictions
<input checked="" type="checkbox"/> Information transmission security or exchange protocols	<input checked="" type="checkbox"/> Information Use and Disclosure Policies
Protection Against Improper Modification	

4.3.iv [c] What types of health information exchanges are being addressed by the HIPAA security and privacy solution?

- [Y] Clinical
- [Y] Lab
- [Y] Public health
- [Y] Research
- [Y] Administrative and Financial

4.3.iv [d] Which Stakeholders will be primarily affected/involved in the HIPAA security and privacy solution?

All stakeholders are affected by the HIPAA security and privacy solution

4.3.iv [e] What HIE barriers will the HIPAA security and privacy solution address?

The HIPAA security and privacy solution will assist with HIPAA confusion, misunderstanding, insufficient knowledge, and differing interpretations; and insufficient best practices, standard policies and procedures.

4.3.iv [f] What is the stage of development of the proposed HIPAA security and privacy solution?

- [Y] Outlined
- [N] Proposed
- [N] Planned
- [N] Tested
- [N] Partially implemented

4.3.iv [g] What is the extent to which the HIPAA security and privacy solution is in use?

- [Y] None yet
- [N] By whom
- [N] For how long
- [N] What areas of HIE

4.3.iv [h] To what extent is the HIPAA security and privacy solution appropriate for wide range of stakeholders and HIE?

The HIPAA security and privacy will be appropriate for all NJ-HISPC stakeholders

4.3.iv [i] What are the possible barriers to the HIPAA security and privacy solution? Including

- [Y] Legal
- [Y] Technical
- [Y] Cost

#### **4.3.v NJ-HISPC Education Solutions**

The NJ-HISPC education solutions are initial and critical foundation blocks to HIE and interoperability in New Jersey. The NJ-HISPC SWG, Steering committee, and project management staff agree that an education package needs to be developed to assist with dispelling cultural and perception barriers. The federal / state / HIPAA laws and regulations and New Jersey consensus drawn and approved policies and procedures need to be explained to the consumer and provider stakeholders, as well as all the other NJ-HISPC stakeholders for statewide understanding.

The NJ-HISPC implementation plan will consider the following specific topics for inclusion in education programs:

- Notice of Privacy Practices
- Consent
- Authorization
- Minimum Necessary
- De-identification
- Law Enforcement

The NJ-HISPC implementation planning process will consider and investigate a number of outreach and communications methods and efforts, including:

- Face-to-face training
- Community forums
- Town Hall forums
- Teleconferences
- Webex presentations and conferences
- Newsletters
- Posting news and alerts to websites and portals
- Brochures
- Mass media

The NJ-HISPC implementation plan will consider all the items and ideas above. Any education programs and packages will be available for the stakeholder community for use inside their own institutions and facilities.

All documents and outlines anticipated in this solution category will be accessible and available to the New Jersey healthcare community for all to review and download.

**Below are the answers for the other 9 categories of information for the education solutions presented.**

4.3.v [a] What is the general context for the proposed education solution?

The impact of education solution has reference specifically to:

- [Y] Scenarios 1 and 2, Patient care scenarios
- [N] Scenario 6, RHIO scenario
- [N] Scenario 13, Bioterrorism scenario
- [Y] Scenario 17, Public health scenario

And to all the other project scenarios as well. In the NJ-HISPC implementation planning all 18 project scenarios will be again considered and reviewed.

4.3.v [b] What domains will the education solution address?

Summary of Domains:

User/entity authentication	Information Audits
<b>X</b> Information authorization and access controls	Administrative and Physical Safeguards
Patient and provider identification	State Law Restrictions
Information transmission security or exchange protocols	<b>X</b> Information Use and Disclosure Policies

Protection Against Improper Modification	
------------------------------------------	--

4.3.v [c] What types of health information exchanges are being addressed within the education solution?

- [Y] Clinical
- [Y] Lab
- [Y] Public health
- [N] Research
- [Y] Administrative and Financial

4.3.v [d] Which Stakeholders will be primarily affected/involved in the education solution?

The consumer and provider stakeholders will be the primary beneficiaries of the education solution. However, all NJ-HISPC stakeholders will find the education solution programs, documents and outlines of use.

4.3.v [e] What HIE barriers will the education solution address?

The education solutions will assist with federal / state law / HIPAA confusion, misunderstanding, insufficient knowledge, and differing interpretations; statewide best practices, healthcare policies and procedures; security technology controls

4.3.v [f] What is the stage of development of the proposed education solution?

- [Y] Outlined
- [N] Proposed
- [N] Planned
- [N] Tested
- [N] Partially implemented

4.3.v [g] What is the extent to which the education solution is in use?

- [Y] None yet
- [N] By whom
- [N] For how long
- [N] What areas of HIE

4.3.v.[h] To what extent is the solution appropriate for wide range of stakeholders and HIE?

The education solutions will be especially appropriate for the consumer and provider stakeholders. However, all NJ-HISPC stakeholders will find the education useful.

4.3.v [i] What are the possible barriers to the education solution? Including

- [N] Legal

[Y] Technical

[Y] Cost

#### 4.4 NJ-HISPC Summary Matrices

Matrix 1 is a cross-tabulation table that associates the issues (described previously) with categories of solutions (also described previously) that are proposed to address those issues. For example, "workflow" barriers may be addressed by Interoperability, Federal and State Law, HIPAA Security and Privacy, and/or Education solutions, and any comprehensive strategy should contain all necessary components. The x and y axis have been switched by 90 degrees as there are more barriers, domains and stakeholders than NJ-HISPC's proposed solutions.

**NJ-HISPC MATRIX 1: NJ-HISPC Solutions to NJ-HISPC Barriers**

<b><u>Barriers</u></b> <b><u>To</u></b>	<i>Inter-operability</i>	<i>Workflow</i>	<i>Federal and State Law</i>	<i>HIPAA Security and Privacy</i>	<i>Education</i>
<b><i>Technical</i></b>	X	X			
<b><i>Lack of Patient Identification and Matching</i></b>	X				
<b><i>Lack of Administrative Protocols</i></b>	X	X			
<b><i>Lack of Security Controls</i></b>	X				
<b><i>Lack of Best Practices</i></b>		X			X
<b><i>Lack of Standard Policies and Procedures</i></b>		X			X
<b><i>Confusion with Federal / State Law</i></b>			X		X
<b><i>Confusion with HIPAA Requirements</i></b>				X	X
<b><i>Lack of Laws and Regulations Knowledge</i></b>			X	X	X
<b><i>Perception</i></b>			X	X	
<b><i>Cultural</i></b>			X	X	

**NJ-HISPC MATRIX 2: NJ-HISPC Solutions to Project Domains**

<u>Domains</u> <u>to</u>	<i>Inter- operability</i>	<i>Workflow</i>	<i>Federal and State Law</i>	<i>HIPAA Security and Privacy</i>	<i>Education</i>
<u>Solutions</u>					
User and entity authentication	X	X			
Information author and access controls	X	X	X	X	X
Patient and provider identification	X	X			
Information transm Security	X		X	X	
Information Protections	X				
Information Audits	X				
Administrative and physical security safeguards	X	X	X	X	
State law Restrictions	X	X			
Information use and disclosures policies	X	X	X	X	X

**MJ-HISPC MATRIX 3: NJ-HISPC Solutions versus NJ-HISPC Stakeholders**

<u>Stakeholders</u> <u>To</u>	<i>Inter- operability</i>	<i>Workflow</i>	<i>Federal and State Law</i>	<i>HIPAA Security and Privacy</i>	<i>Education</i>
<u>Solutions</u>					
<b>All STAKEHOLDERS</b>	X	X	X	X	X

**4.5 NJ-HISPC Solutions Organization:**

- a. Solutions affecting variations in organization business practices and policies (but not affecting state laws)

## 1. Governance-related solutions

NJ-HISPC is just beginning a discussion about RHIOs and interoperability issues that are governance related. In the NJ-HISPC implementation plan this process will be outlined.

NJ-HISPC laws and regulations solutions are recorded in the federal and state law solutions section of the Interim Analysis of Solutions Report.

## 2. Business arrangement solutions

NJ-HISPC is just beginning a discussion about RHIOs and interoperability issues that are business arrangement related. In the NJ-HISPC implementation plan this process will be outlined.

Some NJ-HISPC business arrangement solutions are recorded in the solutions categories sections above of the Interim Analysis of Solutions Report.

## 3. Technical solutions

NJ-HISPC technical solutions are recorded in the interoperability solutions section above of the Interim Analysis of Solutions Report.

## 4. Guidance/Education solutions that address misinterpretation issues

NJ-HISPC guidance and education solution(s) are recorded in the education solutions section above of the Interim Analysis of Solutions Report.

### b. Solutions affecting state laws/regulations

1. Solutions that would require changes in existing state law/regulations
2. Solutions that would require new state laws/regulations
3. Solutions that would address issues of non-compliance with state laws/regulations
4. Education solutions to address misinterpretations of state laws/regulations

The NJ-HISPC solutions areas represented by the four (4) items enumerated above are outlined in the specific solutions sections above of the Interim Analysis of Solutions Report.

### c. Solutions affecting federal laws/regulations

1. Solutions applicable to general privacy/security federal laws and regulations (e.g. HIPAA Privacy, HIPAA Security)
2. Solutions applicable to state programs (e.g., Medicaid)
3. Solutions that would address issues of non-compliance with federal laws/regulations (such as non-compliance with HIPAA Privacy, HIPAA Security)
4. Education solutions to address misinterpretations of federal laws/regulations

The NJ-HISPC solutions areas represented by the four (4) items enumerated above are outlined in the specific solutions sections above of the Interim Analysis of Solutions Report.

#### d. Solutions affecting Interstate Health Information Exchanges

1. Special consideration should be given to identified barriers that involve cross-state health information exchange, and possible solutions that will require a multi-state approach

The NJ-HISPC solutions affecting interstate Health Information Exchange are outlined in Section 5 below and the federal and state law solutions category above.

## 5. NJ-HISPC National-level Recommendations

- a. The focus of this report is on specific solutions that New Jersey and its stakeholders can implement at the organization, local, or state level to address HIE.

However, it is recognized that states and stakeholders may have recommendations that could be of value on a national scale. Such recommendations should be recorded in this section, and may include, for example:

- i. Draft model legislation, business agreements, and uniform patient consent / authorization forms
- ii. Requests for clarification of HIPAA Privacy and Security requirements and / or other existing or proposed Federal legislation and regulations

**Below are the NJ-HISPC national recommendations. These recommendations will be considered again during the implementation planning period.**

NJ-HISPC recommends that the project stakeholders continue working with our sister states and the District of Columbia to solve cross border issues such as state laws and regulations differences, especially in sensitive information and public health information sharing.

NJ-HISPC suggests that the states and territories work with the National Conference of Commissioners on Uniform State Laws to consider model language for both federal and states laws.

NJ-HISPC recommends that the HIPAA privacy requirements for minimum necessary, de-identification, limited data set, and designated data set be reviewed for possible technical adjustments. NJ-HISPC recommends that these HIPAA privacy requirements also have new and more nuanced guidance developed by the Department of Health and Human Services, Office for Civil Rights.

NJ-HISPC recommends that the states and the territories continue to work together at the end of the HISPC project, possibly with or through the National Governors Association (NGA) or the NGA's eHealth Alliance.

## 6. The Way Forward in New Jersey

The HISPC project has had a profound impact on the overall level of interest in the promise of administrative simplification and EHR. While HISPC has joined many otherwise divergent interests in a study of the impact of HIT on the universally recognized significance of privacy and security, it has also triggered an immediate commitment to move forward with EHR in New Jersey.

Now that NJ-HISPC will be advancing to the implementation plan phase of this project, it is critical that we examine our history, goals and expectations and determine the best way to proceed.

The people and the government of New Jersey have always believed in the principle that progress through technological advancement will result in cost savings and improvements in the quality of health care. Witness our cutting edge HINT study in 1993 that was able to academically quantify the savings that could be realized through the introduction of electronic systems into medical office administration and management. Many of the conclusions reached in the pioneering HINT study became the foundation upon which HIPAA's Administrative Simplification was based. As noted earlier at page 3, New Jersey has even codified its commitment to the promise of medical information technology.

Unlike most states and the federal structure, the jurisdiction to adopt rules for the deployment and use of electronic transaction and code sets as well as EHR is not placed with those agencies that generally regulate health care providers. Rather, HIT is directly linked to the payment of claims by state based health care payers and is part of the fabric of the state's prompt payment and clear claim laws. Thus, DOBI is the agency directed to adopt rules in furtherance of HIPAA Administrative Simplification and EHR and to foster the use of electronic technology in the health care field with DOHSS acting in a consultative role. As a consequence, New Jersey has addressed many of the issues encountered in this process from practical business juxtapositions. We tend to use the good offices of state government to seek our ways to bring all the competing interests together in a cooperative working structure to find mutually acceptable ways to achieve common goals for the benefit of all. Most of all, we seek to find economically self-sufficient common ground for all parties in a health care transaction that will foster the goals of HIT.

While New Jersey has always been forward looking and progressive, our consideration of the practical need to find financially sound solutions and structures for HIT has restrained our early involvement in the Regional Health Organization (RHIO) arena. Before adopting rules for the use of EHR, we have sought to identify a return on investment for all, individual and large providers, payers, and the taxpayers as well as a business model that will be financially sound and capable of sustaining itself. This does not mean that we have done nothing to hasten the timely and productive use of HIT. We have on a regular basis in the last several years used the NJ DOBI Task Force to mobilize all the parties to a health care transaction in joint ventures such as our NPI initiative.

Now we find ourselves at pivotal moment! The HISPC project has generated substantial interest and desire in all facets of the health care industry to take the next necessary steps in the long and difficult metamorphosis from paper based record systems

to universal EHR. As we go forward, each of our actions should be measured against the following basic questions:

- Will it encourage and facilitate the development and deployment of EHR in New Jersey? Regionally? Nationally?
- Will it impose an unfair economic burden on any party?
- Can we demonstrate a return on investment for all parties?
- Are all parties invested in success?
- Have we created an infrastructure and business model that will stand on its own, without constant or periodic infusions of outside capital?
- Are we proceeding deliberately and in concert with the needs of consumers, industry best practices, federal standards, regional standards and protocols?
- Have we considered what assets and resources already exist that can be used in furtherance of EHR development?
- Have we learned from the successes and mistakes of others?

With these questions in mind and always concerned about the essential aspects of privacy and security of protected health and other private consumer information, we should consider taking the following steps forward:

1. Obtain knowledge of all electronic health information networks currently operating in this state. We need to determine the full extent and nature of all HIT resources; what information is being exchanged; what formats and granular structure are in use; can we join any of these networks to obtain more regional usage; are the parties willing to share assets and lessons learned with others. In short, we need to know what resources and people are available and their willingness to join in a common undertaking.
2. Continue to work with the recently undertaking by the New Jersey Hospital Association, Horizon Blue Cross/Blue Shield of New Jersey and several other interested parties to develop, if possible, a business plan for a self-sufficient RHIO in New Jersey.
3. If feasible within the current economic condition of the state budget, appropriate sufficient funds to use state governmental agencies to gather all stakeholders into working groups to develop and deploy HIT systems; undertake all necessary steps to develop and increase public awareness of the benefits of EHR to all members of society; participate in all necessary federal and regional activities and forums in recognition that the HIT systems and formats will need to be consistent with federal standards and many of the solutions will be regional in nature; and, fund Thomas Edison State College to continue to assess and carry out the academic studies necessary to determine the effectiveness of HIT.
4. Clearly demonstrate the return on investment for payers to be realized by the EHR systems. Even though it is often stated as a fact that HIT can reduce costs by eliminating the incidence of unnecessary and redundant medical tests, there have been no processes suggested that would demonstrate the means by which payers would be able to actually see a reduction in these wasted funds. Hence, we should explore specific ways that can be developed that will actually reduce and/or eliminate unnecessary testing. One such model would employ a single web portal

- where all medical tests would be ordered by all providers. The order form would be patient centric and would be immediately linked to a central index of medical tests already performed, and the results of those tests. If no new medical necessity or clinical conditions existed, and the results of the previous test are still valid, authority to perform a new test would be withheld. Such a model, while not the only one, could be developed using the state's ability to regulate state based payers and the structure related to the payment of medical claims.
5. Rather than trying to create a costly and single system to accomplish all our goals at one time, we should take those basic and sequential steps that are attainable within a reasonable time, are economically feasible and do not raise unreasonable expectations of the participants. There are many currently operating networks functioning in New Jersey. Medical data elements and test results are already being digitized in formats that can be capable of transmission from hospitals, testing centers and laboratories into the offices of individual and group providers. We should look to join all currently available assets where possible. Once we are comfortable with the simple task of moving test results among all the essential parts of our health care delivery systems, we should then advance to more difficult issues, of such as interoperable EHR. This does not mean that we should adopt a rigid incremental approach but simply that our progress should be measured and not raise unreasonable expectations.
  6. Assemble the necessary parties to determine the costs and savings that might be realized by introduction of EHR into the New Jersey State Health Benefits Plan and the state funds expended in the delivery of charitable and uninsured medical care.
  7. Work with all appropriate New Jersey stakeholders to seek out funding opportunities from federal and private sources for the development of EHR and RHIO(s).
  8. Finally, whenever possible we should continue to stress the important of EHR to society as a whole and to each of us individually.

None of these steps are difficult nor overly expensive, yet each will have a significant impact on the attainment of our goals.