OeHI
Office of eHealth Innovation

Meeting Name: Consent Management Working Group
Call In: Zoom Link: https://us02web.zoom.us/j/84144212711 (Panelists, please use your individual links sent to your email)
Location: Virtual Only
Meeting Materials: • SUD Data to Criminal Justice Entities. • Meeting Recording

Meeting Date: 09/15/2023	**Meeting Time**: 10:00am - 11:00am

Agenda Topic	**Time**
Welcoming Remarks **Wes Williams** **Introductions:**Wes Williams, Allie McGee, Erin Crites, Jane Wilson, Cassie Niedzila , Stephanie Pugliese, Rick Rowley, Gabby Burke, Alexis Harper, Justin Man, Karen Hanake, Abigail Tucker, Lyn Snow, Arthur Davidson, John Greene, Paul Presken, Kelly McGann, Heather Culwell,Ashley Darnell	5 mins
Quick Recap and Level Setting **Wes Williams:** Congratulations to everyone working on the Social Health Information Exchange (SHIE) Invitation To Negotiate (ITN)! Gabby and Cassi, I know there was a lot of work that went into it. As I understand, one of the opportunities that comes with it is that we can have the vendors work on a use case around consent. Allie and I met last week and discussed some of the possibilities with that. One of the distinctions we want to draw was having a broad use case and creating several smaller stories within that with each user story describing a functionality. We wanted to pick a difficult use case that could be broadly generalized and could solve a number of problems. The use case we went with was sharing specific information with individuals within the criminal justice system. With this we are moving from sharing data within a healthcare setting to an external setting and dealing with other protections that might be in place around criminal justice. We would also be able to address sharing Substance Use Disorder (SUD) data to other healthcare providers, not just criminal justice, and have this use case solve a number of problems.Thank you to everyone who contributed comments in advance of today meeting.	5 min
SUD Data Sharing to Justice Involved Individuals **Allie McGee:** When I was thinking through the idea of SUD data sharing to someone in the criminal justice system one question I had was who would that go to? Would the	40 min

person receiving the data be a care provider or a care coordinator and what does that sharing look like in the criminal justice system?

Art Davidson: I know that there are several facilities that provide medical care to correctional facilities in Denver. There is a law where they must provide care and have some kind of relationship with the department of corrections at the state level. If you are interested I would be happy to connect you with someone at Denver Health.

Allie McGee: Yes that would be great

Erin Crites:I want to point out that in the criminal justice system information flows in all directions and not always through a care provider or care coordinator that is housed within a criminal justice agency

Wes Williams: What I'm hearing is that when we talk about SUD treatment and criminal justice entities we should get more specific. My original intent was to have this move out of treatment and address court ordered treatment specifically probation officers and care providers. That topic would handle a lot of the complexities we are trying to address.

Karen Haneke: If we were to focus on something we could come out of today as far as exchange of data, what could we do? Would that be a healthcare provider interacting with SHIE and how they might navigate that system. Should we start with a small piece for today?

Wes Williams: Let's say you have a person arrested and is on probation and has a court order to participate in substance use disorder treatment. His probation officer will have specific things he wants to see (attendance records, treatment plan goals, objectives etc). You have a person who signs a consent to share for the purpose of that level of detail but not all the details. Can Resultant create a system that can handle that? On the policy side, there is a lot of complexity however technically you have to get to a certain level of granularity. I imagine this case working for a bunch of use cases. In my mind if we are contracted with Resultant to do a use case then we should do a use case that unlocks a bunch of things on the technical side.

Abigail Tucker: I'm happy to talk through definitions that could provide clarity to this case. I think the scenarios we're discussing every day are very realistic and could have a great impact. Getting the data sharing outside of just treatment might make these scenarios less complicated than they might seem

Art Davidson:What might be some of the risks in each of these cases? For example in the probation officer scenario does the criminal justice system have a system to actually receive information?Would it be an app or on a phone? Is the infrastructure there for us to get a quick win in a year?

Wes Williams: It sounds like it could be a good idea to pick a use case where the sender and receiver both have some type of data system.

Gabby Burke : It could be helpful to visualize the workflow of what we are thinking. Where might the data systems be accessed. Where would the consent be applied? I

think it could be helpful to take a step back and think of where the person is interacting with the data.

Justin Man: We currently have enough data about people's healthcare interactions stored in the BHA data Lakehouse. We might be able to pull that from our systems because we're not having to work with multiple EHR systems.

Alexis Harper: It the Division of Criminal Justice, we are currently working on a trusted interoperability platform to share information with each other and that includes to some degree health information of the insights we are responsible for. I would love to connect this group with the health information exchanges (HIEs), Contexture and Quality Health Network (QHN) because they already have a bidirectional transfer of information between jail and community providers., I think it could be helpful to hear how they are facilitating that. We wouldn't have to start from scratch it would be us building up to sharing 42 CFR part 2 data as well as what they are already exchanging

Wes Williams: Are they handling regular non 42 CFR Part 2 data to transmit to criminal justice departments?

Alexis Harper: They are able to transmit data to and from jails. The data is accessible only by the clinicians within the jail. So they must be specified and authorized users. The jail can input information about the individual back into the HIE so they can continue to be seen as the person reenters the community. It is not in every jail but it is growing and expanding.

Wes Williams: Has QHN distributed 42 CFR part 2 data before?

Alexis Harper: I haven't spoken directly with anyone at QHN. To answer Justin's question, he's asking is the CICJIS (Colorado Integrated Criminal Justice Information System)? Yes, this is. This project is working to essentially connect jails as a sixth partner to the CICJIS. One of the use cases that we're looking to develop is the capacity for information exchange between jails and eventually with community providers. This way as a person comes into the care of a jail, providers have the information they need about the person's medical history, and then as the person is exiting the jail, that continuum of care can be relayed to a community provider under referral.
The capacity is for any provider that's connected through the HIE. We have been working with Contexture because of our pilot jails in the CICJIS program. Three of the four of our pilot jails are with Contexture because they're on the eastern slope versus the western slope, which QHN covers.

However, when we talk about these kinds of things in the exchange, some jails have vendors that provide health services, and those vendors have health management systems that are separate from the jail management system that contains all of the data and this data is not accessible by only those that work at the jail. Health management systems may contain information pertaining to behavioral health. That would not be accessible by non-authorized health staff. Jails that do not have internal vendors like Moffat County, for example. They're one of our pilots, they contract directly with the local hospital. They are connected to QHN through that network. But they don't have an internal team to serve inmates at the jail. They work directly with the hospital for prescriptions. And the reason for that is because their capacity is 100 people.

Wes Williams: When we solve this all broadly those will be important points. If we can only choose one use case, we do need to decide if we want to do, what I hear you describing, which is HIPAA -only healthcare data moving to health care within the jail

Jane Wilson: I wanted to follow up on what Justin raised. The provider is putting their data in this theoretical system we are building. I think that people who are placing their data in this system are going to rely on the new system to track that consent and the appropriate decision with it. In regard to what Wes mentioned about different EHRs and HIE's availability to segregate 42 CFR part 2 data and HIPAA. Contexture is on this call, they might want to chat about their efforts in that area.

Heather Culwell: We have been working with the Office of Behavioral Health for the past 5 years to connect to the county jails. We are connected specifically with the HIPAA covered entity who is the healthcare provider that serves each jail. We are granting them access to Patient Care 360 so that they can look at inmate information. We have seen most utilization happening at booking to review previous medications, diagnosis or notes in their chart. We do have 5 county jails that are sending us back a Continuity of Care Document (CCD) document that populates into patient care 360 upon patient release and that is sent to providers in the community.

Wes Williams: To be clear none of that is part 2 data?

Heather Culwell: If there is part 2 data that is contained in a note or visit or medication that happens in a hospital facility that is not covered under part 2 data then yes it would be in the documentation.

Wes Williams: So if a treatment provider thinks that a set of documentation is covered by part 2 they are not sending it to you correct?

Heather Culwell : That's correct

Wes Williams: Do you care to comment on Contexture's plans around that? We are trying to build something that potentially could rely on the HIEs especially given last week's announcement of the merger between QNH and Contexture. OeHI is left asking the question: should we build our system where we work separately from the HIEs and connect EHR vendors to, for example, jail systems?

Heather Culwell: We are working on a Part 2 rollout in Colorado, we're seeking early adopters. We do work on this in Arizona, currently. My cohort Kristin Weissinger has been working more closely on the project and can describe it at a high level.

Kristin Weissinger: We are working on a Part 2 rollout in Colorado. We are at the phase right now where we've been developing our consent form and our procedures internally and getting them ready to receive input externally. We are starting to seek early adopters from community mental health centers who would like to be a part of the early rollout so we can make sure that it's working well and so that everybody's comfortable with how it's operating before we roll it out fully.
What it would do is allow us to share that Part 2 data from Part 2 providers. While we have that data we are unable to make it accessible through the HIE because we don't

have a system to manage those consents in Colorado. By having those consents managed within the system, if the patient grants their consent that would free up their data to be shared through the health information exchange. It's almost there and we hope to have some milestones to share with you soon and more updates but that's where we are today.

Wes Williams: Can you speak to the level of granularity around data elements or around provider specificity that you are working on implementing in Colorado?

Kristin Weissinger: Because EHRs are not tagged to segment that data, that makes it impossible to segment. If if were tagged that would change everything however now it is not tagged in way that it can be segmented

Wes Williams: To say that the EHRs don't tag data just is not true. If you think of a Consolidated Clinical Document Architecture (CCDA) document it has all these sections: a demographic section, procedure section, allergy section, lab section, that is data tagging. You could have a system that allowed people to pick sections. Or document types, and share some of it, but not all of it. That information simply is there

Kristin Weissinger: I would love to get our IT team to join, maybe a future meeting, and talk through the possibilities and what the current state is and maybe what might be in development. My understanding is that is not something that we can reliably do with a degree of confidence that's required to release Part 2 data without consent. So it has to be considered that all data from that provider would have to have those protections

Lyn Snow: This is a really important conversation, when you look at the use cases and you use the term for 42 CFR Part 2 data, we have to clarify, 42 CFR Part 2 provider, or program. When using the term suboxone if the suboxone is prescribed by a Part 2 program does that require different handling than if the suboxone is prescribed by a primary care physician or a non-part 2 provider. Is it the program or is it the suboxone? I don't think a lot of people understand what a Part 2 program is and that is the area that's protected by that regulation.

Allie McGee: Could we not have a requirement that our proof of concept puts some sort of unmistakable notice on this data so that the system the information goes to, sees it and has to abide by that?

Wes Williams: Our EHR vendor does something similar. If we say it's coming from part two, it'll put the re-disclosure notice at the bottom of the file it's sending out.
The tricky part is a scenario where you have information coming from a Part 2 source EHR.

Wes Williams: We have a lot of requests for information in the chat. Provided the documentation is well phrased I want to make sure we follow up on those

Abigail Tucker : If there are written documents and visuals to avoid assumptions of what systems can and cannot do, I would like to see them.

Wes Williams: I think we are coming into this with different ideas in our head of what we are discussing and need to get more specific. That would be a good direction to

move to next, to hone in on what we are wanting. **Allie McGee:** If there is additional information that anyone would like to send regarding documentation please send it to allie.mcgee@state.co.us **Wes Williams:** Does anyone have anything they'd like to add or advocate for as we focus on refining this for next month? **Alexis Harper:** The CICJIS project is moving along and I'm happy to share the draft of our participation data-sharing agreement in the next few weeks. We're working with the Attorney General's office right now, to address some different legal questions that some of our pilots have. We're also developing an overview of the project slide deck that includes information as it pertains to the use cases that our primary for connecting jails and why it's so important to accomplish this.I just don't want to share those two things independently without the context for each other. I don't know how helpful it will be for this group because, again, at this juncture, it doesn't necessarily include Part 2 data because we're working through all of that within the state of Colorado and how that can be shared what the consent around that looks like which is the entire purpose of this group. What I can say, there are alerts about whether or not part two data exists. So, the jails have the capacity to exchange through whatever proper channels they get established, and that includes HIPAA data. Essentially we are setting up a data exchange for the exchange of an alert. The alert asks Is there a behavioral health concern. Yes, or no, and if a yes is flagged then the jail knows that they can go through a more appropriate channel with our clinicians to connect with that individual patient's provider to determine what all of the parties know. Currently, they can't establish that continuum of care within the facility. Right now, to circumvent the issue around not being able to share specifics, we are working on sharing alerts that at least make them aware. These alerts say here's something to know, and here's who to contact Because right now, the pilots don't even have that capacity. They're flying totally blind when they come into contact with a new individual that's come into their care. **Wes Williams:** As you know, as an SUD provider, I can't even acknowledge whether this person is in treatment. But I want to take the opportunity to remind you that if you had a SUD release, then I could tell you if there was anything for you to know. Let's get some volunteers to form a subgroup and try to meet for an hour and focus on a tighter use case with some diagrams then we'll try this back out next month. Contact Allie if you're interested in joining.	
Public Comment & Q&A **Kristin Weissinger:** We would love to set up time to talk through some of these questions to work out detailed factual questions on what the current state is in Arizona. **Wes Williams:** Thank you Kristin we now have 2 subgroups one focused on use cases and one focused on the current state of affairs with Contexture	5 mins
Closing Remarks **Wes Williams** Remember everyone that this solution does not currently exist so we get to make it what we want it to be. So I want to caution against using the current constraints. I want	5 mins

what we figure out to be better than what others have done so far and we have the opportunity to do that. **Allie McGee:** I want to say thank you to everyone who commented and gave perspective on the use case. I'm still learning about consent and appreciate the opportunity to expand my knowledge on it. **Stephanie Pugliese:**I appreciate all the good engagement in this group and I think we have some good next steps so I'm looking forward to next month.	

Upcoming Agenda	**October:Pending**