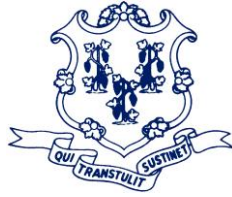


The Connecticut General Assembly



Medical Record Requests and Records Fee Working Group Meeting

MEETING MINUTES

Tuesday, November 14, 2023

ATTENDANCE: Representative Mike Quinn, Representative Christine Conley, Michael D'Amico, Senator Anwar, Jennifer Cox, Kim Schlottman, Marie Gallo-Hall, Kyle Probst, Liz McElhiney, Rick Silver, Rachel Pattison, Kathleen Nastri, Carl Schiessl, Mike Johnson, Sue Schaffman

I. CONVENE MEETING

Representative Quinn called the meeting to order at 10:00AM.

II. REMARKS BY THE CHAIRS

Representative Quinn offered welcoming remarks and asked his co-chair if she had anything additional. Representative Conley also offered welcoming remarks.

III. APPROVAL OF MINUTES – October 24, 2023

Representative Quinn asked for a motion to approve the minutes from the October 24, 2023 meeting. A motion was made by Michael D'Amico and seconded by Representative Conley. A voice vote was taken and the motion passed.

IV. DISCUSSION REGARDING CURRENT BENEFIT LIMITS

Representative Quinn asks some of the third-party providers to explain how they process medical records.

Kyle Probst says the process is very similar for all third-parties, their process is governed by HIPAA and state-law regarding privacy rights. When they receive a request for records one of the first things they do is review the request which is delivered to the provider not to the third-party directly. He states a lot of the time attorneys use an agent to receive the records, and there can be various types of documentation for any of the records and their first job is to make sure all of the documentation is legitimate. Kyle states there are various types of requests and he doesn't want the group to just focus on one type of request. He states once they verify the request, they then have to get the medical records number and it's in a different software which is where the EHR is. They then have an opportunity

to review the record to ensure they aren't disclosing very sensitive information (HIV/Mental Health/Substance Abuse treatment for example). After they get the record, they compile and convert it to a more viewable documentation and able to print it. Kyle clarifies that with EHR's they have to go into each hospital EHR to look for the medical records, and sometimes they don't have the records even though the person was treated there.

Liz McElhiney states that if any amendments are made to the records, they don't cross over so they have to get it from the original system. She states that they aren't maintained sometimes because of IT issues or not enough staffing.

Kyle Probst states that they have to check all of the hospitals if you request "any and all records". Kyle states that these requests take a lot of manpower and a lot of labor which is costly. He states there are two types of EHR systems, one that works directly with the doctor when they type it in for that patient, and the second is when doctors take handwritten notes and scan them in and they have to get allocated to the correct file. He states there are three types of delivery for records; a portal, CD/USB, and physical copies (portal is the most preferred one he states). He states if you're a patient, you can see a portion of your medical record to something like MyChart, but it isn't everything and everything will be in your EHR. He states many of the files are way too large to email, and it isn't a safe and secure method. He states they expedite the process and understands there has been a delay, but that his company has zero incentive to delay records and that it makes more sense for them to get it done as fast as possible because that's why they get outsourced.

Liz references the Dobbs decision and that CT moved to protect patient rights. She states when EHR's were created there were already predetermined sets of sensitive information, and that reproductive health is incredibly broad and intertwined with other things (medication history, reviews, etc.). This requires labor to go through and protect privacy, which takes more time. She also states that these companies need highly qualified individuals to do this work. She states she wishes EHR's had the capability to output a pdf quickly, but if healthcare providers relied on EHR's to push records out it wouldn't exist. She states it isn't as straightforward as someone would think.

Jennifer Cox asks what percentage of the healthcare market uses a third-party service. Kyle says that there are a handful of providers that handle it themselves, but Ciox services around 3,000 hospitals and 15,000 medical practice groups in the country. He states that Jennifer brings up a great point about the fact that pharmacies, nursing homes, and other healthcare providers use these services as well. Liz adds that it's about 75% hospitals use third-party release vendors.

Michael D'Amico asks about the limitations with IT and older systems as well as how highly sensitive information is removed from records. Liz states that other hospitals grow by acquisition, and they each will have their own EHR. She states when they acquire the smaller hospital, they must decide what to do with the previous EHR, most of the time they want them to all be on the same platform and there isn't a great way to do so. Regarding removed records (STI's, HIV/AIDS, reproductive healthcare, mental healthcare, substance abuse, etc.) Kyle states most of the time the third-party isn't charged with redaction so the third-party sends it in its entirety and the patient has to sign off on the whole record. If the third-party isn't able to receive a sign-off then they take it to the HIM director and go through a redaction process.

Michael D'Amico says he's interested on what the proposal will be and thanks the chair for the permission to ask questions.

Rick Silver introduces himself as a medical malpractice lawyer. He states his concerns are that the portal system doesn't allow the patient to get any meaningful information, he states the third parties don't help get the hospital records faster and cause delay. He notes that people come to him close to the statute of limitation, so the records are extremely important to get in a timely manner. Kyle states when a patient goes to a hospital and requests a record directly, the third-party are still the ones who provide it, so that you aren't avoiding third parties when trying to do that.

Kathleen Nastri asks if she sent a request to Yale with highly sensitive information and it's for a current hospital stay how the process changes from a time-intensive process to a simpler process. Kyle states it isn't a lot easier because they still go through every page of the record they are converting because they don't want to be in a situation where they disclosed a record that isn't that patient and authorization. He states he's tried to streamline the process over time to lessen the time.

Kathleen asks if she gets a record 8,000 pages long from Yale, does the third-party have to review every single page still. Kyle and Liz confirm. Kathleen says that doesn't make any sense. Kyle states that data privacy is on the top of everyone's mind, and that they cannot be careless with these records because they do get complaints from patients who say they've disclosed information they didn't agree to.

Kathleen asks how many times in Connecticut a request has been sent and there was some other patients record was in there. Kyle states that is what the third-party prevents, and hospitals give all medical record requests to the third-party they don't do anything.

Kathleen asks if the hospitals checked themselves, would the third-party have less issues. Kyle confirms.

Jennifer Cox believes it isn't the hospitals fault and she is happy to share articles on it, and it's beyond the scope of this group. Jennifer states she disagrees with Kyle that the hospitals don't do anything. She states hospitals have a long queue of records requests. She states even if you have the perfect sensitive information request (Checks all HIPAA boxes) and it applies to the workers' compensation injury you still have to apply the minimum necessary law.

Rachel Pattison asks if a claimant requests sensitive information isn't disclosed, does that redaction process add time to the request. Kyle confirms but can't say exactly how long it takes, and the redactions aren't done solely by the third-party because there's a lot of clinical work involved.

Representative Conley states records are requested through the office and then the conversations with the vendor happen they state they never got the request; she asks if there is a way to deal with that situation. Kyle doesn't know of a perfect solution to that, but a number of the companies are working on a way for providers to request records directly through the third-party.

Representative Conley asks that the offices post how to get records through third-party vendors on their websites which would help the delay. Kyle states that in Utah they were interested in the penalty provision regarding medical records,

and states they included DPH maintains a list of who the vendors are for each medical provider so the attorneys can find the vendors easier.

Representative Conley states that she has heard vendors can't know the level of urgency on requests based on who is requesting it (workers comp attorney for example). Kyle states that when you prioritize everything, you prioritize nothing. Representative Conley would like a solution because the attorneys for the insurance companies and workers comp are attorneys.

Representative Conley asks if two people ask for the same record, could those two people get a different record because of redactions. Kyle states there's always room for human error, but that they should get the same record. She had concerns with different people going through the request determining what is and isn't sensitive.

Representative Conley asks if there's a way to pull a smaller part of the record from a record already created. Kyle states that record isn't attached to the request history for the bigger request so it's no longer with them, but it is possible in theory, but it'd have to be done by IT.

Representative Conley and Kyle go back and forth regarding duplicative records and a way to fix it, potentially to have them sent in tandem with both requestors.

Representative Quinn states that there isn't an automatic duality of disclosure in Connecticut and wonders if it should be the case. Kyle believes it should.

Representative Conley states she has a problem with misfiling's, and most law firms just shred the wrong persons sensitive records, but it can be an issue if it goes to someone it isn't supposed to.

Michael D'Amico wants to make sure the lawyer can request the record not just the patient, make sure attorneys can get records at a reasonable cost, make sure records are delivered in a timely fashion, and a mechanism for enforcement regarding requirements for records.

Michael asks about the third-party portal and access to records through there. Kyle explains the difference between the "MyChart" portals and then the third-party portals which are more comprehensive reports on records. Liz states there are company portals to deliver full reports on records and some are trying to do the imaging electronically but it's a work in progress.

Michael D'Amico states that imaging has been an issue, and when they get imaging, they must download a program to make it legible but doesn't think that can get solved in this working group.

Jennifer Cox believes the focus should be on workers compensation, and making sure the records are related to the work-related injury.

Jennifer Cox added a comment in the Zoom chat at 11:33 AM, stating " Last session, PA 23-97 sect. 43 has prioritized record exchange to/from institutions over other requests. That will alter the queue. Effective Jan. 1, 2024."

Susan Schaffman appreciates the information from the third-party vendors. She states the orthopedic community deals with injured workers and believes they haven't been aware by the WCC that this issue exists. She states 40% of medical

providers are still providing the records themselves so to be mindful on the timeliness aspect.

Representative Quinn asks Susan if she has a CT statistic on how many use a third-party vendor. Susan says she's hopeful the third-party representatives will provide that data.

Marie Gallo-Hall reiterates she isn't here to formulate legislation but to just give input from the WCC. She states she was surprised by what Susan said, but this has been the subject of numerous conversations over the year. She states most attorneys on the group are claimant attorneys and that not only WCC must protect privacy rights of claimants they have obligation to protect due process rights of respondents as well. Sometimes respondents need records that predate the date of the worker injury. She asks Kyle regarding timeframe, is the 30 days a realistic number and asks how things are prioritized. Kyle states there's no statutory construction for prioritization so it falls on the SOP's and the providers. He states 30 days should be sufficient and it's what's required under HIPAA for a patient request. He states he wants to research his average turn around time for Connecticut. He also cautions the group that if they come in with a low turnaround number, it's because it's when they enter it into their system not based on delivery to the requestor.

Michael D'Amico asks if the legal requirement under HIPAA and other statutes is 30 days from the time the request is made to the provider, is it not tracked in some way when the request was received to comply with the 30 days. Kyle says he puts it into their system from the day they receive it. Kyle states he isn't sure what entity tracks the 30-day time period. Michael reiterates that the timeliness issue is very significant and that he feels there isn't strict processes regarding who is tracking the time limitations.

Representative Conley asks Jennifer if the Hospitals track it. She states they do, and she'll make sure she checks to make sure it's never been broken. She also mentions that there might be a federal change to make it to 15-days.

Jennifer Cox states that when the hospital believes they have the right "paperwork" to make a release that's when the HIPAA 30-day period starts.

Representative Quinn asks if the third-party vendors have their own HIPAA form and if they do, if an attorney sends in a request on the attorney's form would it make sense for the vendor to send back their version of the form to have their client sign it. Liz isn't sure if the vendors own forms would expedite the process. Kyle mentions that states have legislated a form authorization that must be used, and it has streamlined it a little bit, but they still have to look at it to make sure it's the right form. Kyle states it should be a training aspect more than a uniform form.

Representative Quinn asks how vendors deal with ongoing disclosure, and if there's anything that can be done to ensure ongoing disclosure happens. Kyle states that the number of requests they get on a regular basis, there's no way to notify in the file any new doctor visits that it goes to the requestors.

Representative Quinn asks if it could be put in a patients record that if you get any new records for the patient that it gets sent out to the proper attorney. Kyle states the problem there is on the doctor/provider not on the third-party.

Rick Silver asks the Chair if the plan is to propose legislation. Rep. Quinn confirms but will likely not have unanimous agreement.

Rick Silver asks if each side will be able to propose legislation and then go over each of them. Rep Quinn confirms.

V. ANNOUNCEMENT OF TIME AND DATE OF NEXT MEETING

- Tuesday, November 28th @ 10:00am

VI. ADJOURNMENT

- Representative Quinn asked for a motion to adjourn the meeting. Kyle Probst makes the motion, Michael D'Amico seconds the motion. The meeting adjourned at 11:55AM.