



Interstate and Intrastate Consent Policy Options

California

Illinois

North
Carolina

Ohio

Challenge Addressed

Due to variation in state and local policies and laws, various models for obtaining consent to use or disclose health information have been established. The Interstate and Intrastate Consent Policy Options collaborative was formed to identify and evaluate consent options for electronic health information exchange at the state level and among states.

Approach Developed

Members of the collaborative focusing on the intrastate aspects of consent have developed research templates and are analyzing five consent alternatives that can be used to establish the accessibility and/or ability to electronically exchange health information. The consent alternatives under consideration include: opt out; opt out with exceptions; no consent; opt in with restrictions; and opt in unless otherwise required by law. Each consent alternative is being reviewed and analyzed through specific scenarios which will identify the pros and cons of the alternative.

Members of the collaborative focusing on the interstate aspects of consent are exploring the viability of high-level policy options that could be used across states to resolve impediments to electronic health information exchange due to conflicting state laws and requirements related to consent. Four specific approaches are being reviewed and evaluated: (1) uniform laws; (2) model acts; (3) choice of law provisions; and (4) interstate compacts. The collaborative is identifying the pros and cons of each policy option, specifically addressing how long it would take to implement, implementation requirements, feasibility, liability concerns, ramifications of acceptance/rejection of the option, potential conflict with state or federal laws, process for withdrawal, state responsibilities, state rights, and enforcement.

Target Audience

- State policy makers
- HISPC participants in other collaboratives

Expected Final Deliverables

- Central bibliography of consent documents
- Matrix of international and national consent approaches
- Process for evaluating five model approaches to intrastate consent
- Guidebook to analyzing interstate legal mechanisms