The Role of Law in Supporting Secondary Uses of Electronic Health Information

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Presentation Overview

- Law and electronic health information (EHI)
- Federal law supporting secondary uses of EHI
- State law landscape of secondary uses of EHI
- Next steps
- Questions and answers
BACKGROUND: LAW AND EHI
CDC’s Public Health Law Program Research Process

- **Purpose**
  - Systematic analysis of the characteristics, scope, implementation, and impact of public health laws

- **Projected outcomes**
  - Increase the evidence base for laws’ impact on systems, outcomes, and economics
  - Identify and encourage use of current legal epidemiology research methods
  - Create a national platform for the study of laws among public health practitioners at CDC and other organizations
Legal Epidemiology and Impact Research Activities

- **Background research**
  - Public health literature
  - Law journals and law reviews
  - Federal or case law foundations

- **“Legal assessments”—through legal research, collect, analyze, and code laws that impact public health**
  - State, tribal, local, and territorial statutes and regulations
  - Coding according to best practices

- **“Legal evaluations”—link findings from legal research to public health data**
  - Return on investment and economic data
  - Health statistics
  - Organizational behavior
EHI Background and Definitions

- EHI can transform the capacity, functions, and efficiency of the US health system

- **Primary use**
  - Collection of patient data for providing direct healthcare services

- **Secondary uses**
  - Research and analysis of primary use data to support disease prevention and health promotion
  - **Examples**
    - Public health uses: disease reporting, syndromic surveillance, and communications on health conditions and risk factors to patients and populations
    - Ancillary functions: clinical research, licensure, payment for services
Law and the Secondary Use of EHI

- Transition from paper to EHI systems
- Impacted by
  - Type of information that must be shared and whether it identifies individual patients
  - Types of entities sharing the information
  - Reasons for which information is shared
  - Jurisdictional qualities (existing infrastructure, capacity, etc.)
- Laws are being revised to support secondary uses of EHI
FEDERAL LAW SUPPORTING SECONDARY USE OF EHI
Privacy and Security Laws

- Health Insurance Portability and Accountability Act of 1996 and federal rules
- Common Rule
- Confidentiality of Alcohol and Drug Abuse Patient Records Act
- Family Educational Rights and Privacy Act
- Privacy Act
Incentives for EHI

- Health Information Technology for Economic and Clinical Health Act of 2009 and federal rules provide monetary incentives for “meaningful use”

- **Stage 1 (2012):** standards for data capture and sharing
- **Stage 2 (2014):** interoperability and health information exchange
- **Stage 3 (2017):** quality, safety, efficiency, and health outcomes, including population health improvement
STATE LAW LANDSCAPE SURROUNDING EHI
States have passed a significant number of laws relating to EHI

- Approximately 2,000 statutes and regulations

State legal frameworks also vary qualitatively

- Content covered by statutes and regulations creates differing legal environments

Laws often relate to more than one area of public health importance
Phase I: EHI Meta-Assessment

- **Primary use**
  - Licensed health care providers and facilities
  - School health
  - Correctional facilities

- **Secondary uses**
  - Disease reporting and investigation
  - Registries: cancer, birth defects, immunization, mental health, newborn screening, prescription drug monitoring
  - Syndromic surveillance and laboratory reporting
  - Vital records and anatomical gifts
  - Healthcare quality and health information exchange
  - Payors, workers compensation, licensure
Phase II: EHI Topic-Specific Assessments

- **Definitional provisions**
  - Legal definitions
  - Related code sections
  - Equivalence

- **Data control**
  - Storage and security
  - Privacy and confidentiality
  - Patient or provider access
  - Health department access
  - Data collection
  - Other data uses

- **Implementation and infrastructure**
  - Oversight
  - Incentives
  - Sustainability
  - Enforcement and crimes
  - Health Information Exchange
  - Opt-in/opt-out provisions
  - Health information technology standards
Specific contexts

- Research
- Immunization
- Laboratory testing
- Insurance enrollment and claims
- Workers’ compensation
- Vital records
- Telemedicine
- Mental/behavioral health
- Developmental disability services
- Substance abuse
- Education
- Detention/corrections
Next Steps

- **Legal evaluation of EHI**
  - Specific uses of EHI
    - Electronic health records access during outbreaks: qualitative interviews with stakeholders from 15 states
  - Literature review for other uses of EHI
    - Survey data analysis in collaboration with study partners
  - Select issue briefs

- **Match legal data sets to existing or proposed public health data sources**
Thank you!

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