

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

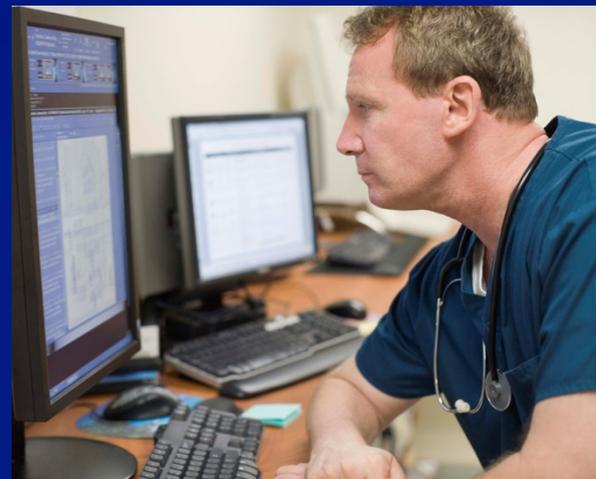
- ❑ **Transition from paper to EHI systems**
- ❑ **Impacted by**
 - Type of information that must be shared and whether it identifies individual patients
 - Types of entities sharing the information
 - Reasons for which information is shared
 - Jurisdictional qualities (existing infrastructure, capacity,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



FEDERAL LAW SUPPORTING SECONDARY USE OF EHI

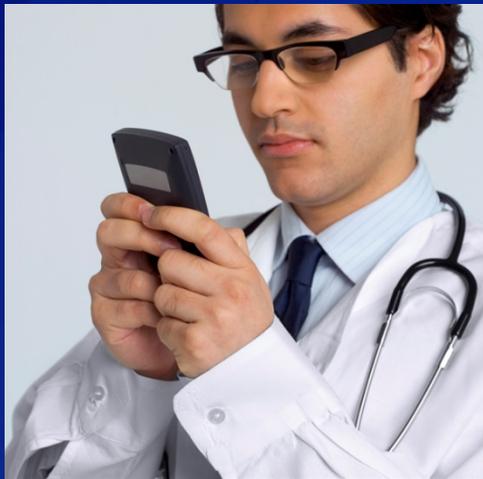
Privacy and Security Laws

- ❑ 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

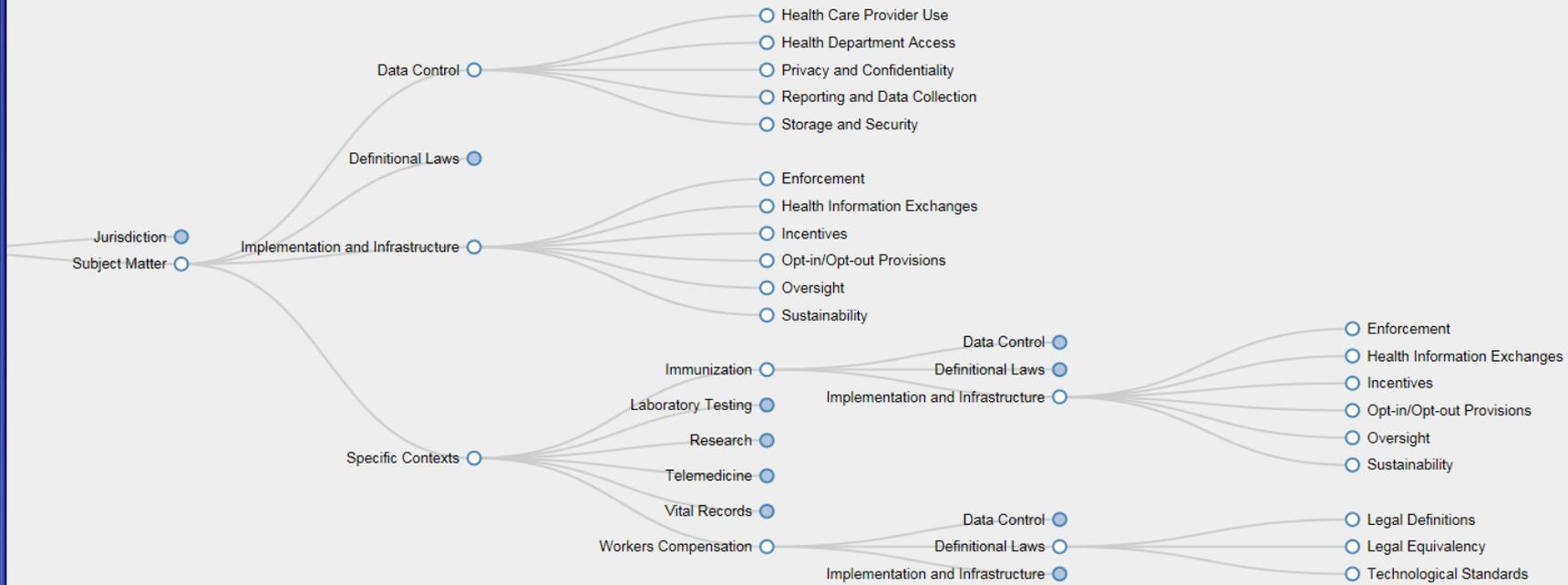
- ❑ **Health Information Technology for Economic and Clinical Health Act of 2009 and federal rules provide monetary incentives for “meaningful use”**



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



Public Health Law Program's Study of State EHI Laws: Preliminary Results

- ❑ **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**

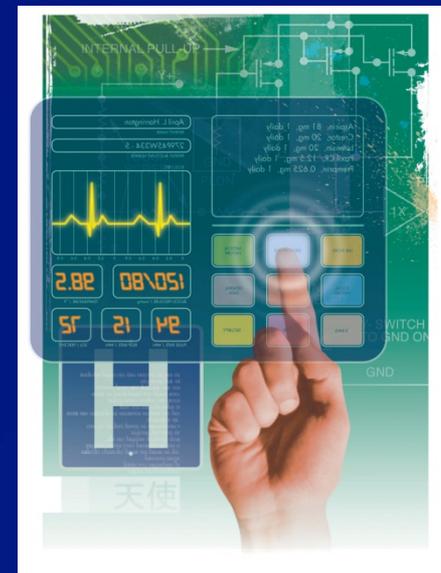
Phase I: EHI Meta-Assessment

□ 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

Preliminary Results—State EHI Legal Landscape (Cont.)

□ 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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For more information, please contact CDC's Office for State, Tribal, Local and Territorial Support

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