

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

Tara Ramanathan, JD, MPH

Public Health Analyst

Cason Schmit, JD

ORISE Fellow

Akshara Menon, JD, MPH

Senior ORISE Fellow

Gregory Sunshine, JD

ORISE Fellow

Dawn Pepin, JD, MPH

ORISE Fellow

Public Health Law Program
Office for State, Tribal, Local and Territorial Support
Centers for Disease Control and Prevention

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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

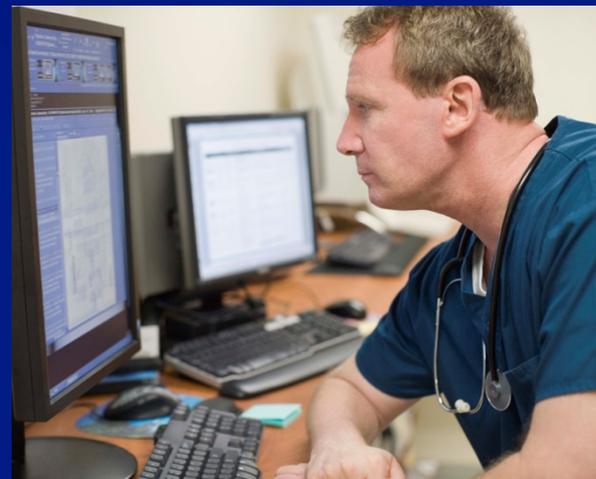
- ❑ **Transition from paper to EHI systems**
- ❑ **Impacted by**
 - Type of information that must be shared and whether it identifies individual patients
 - Types of entities sharing the information
 - Reasons for which information is shared
 - Jurisdictional qualities (existing infrastructure, capacity,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



FEDERAL LAW SUPPORTING SECONDARY USE OF EHI

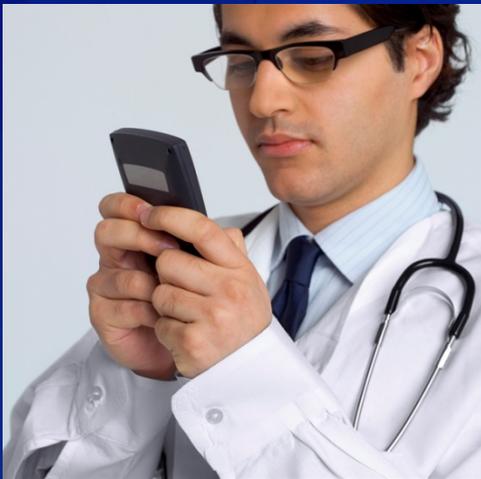
Privacy and Security Laws

- ❑ 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

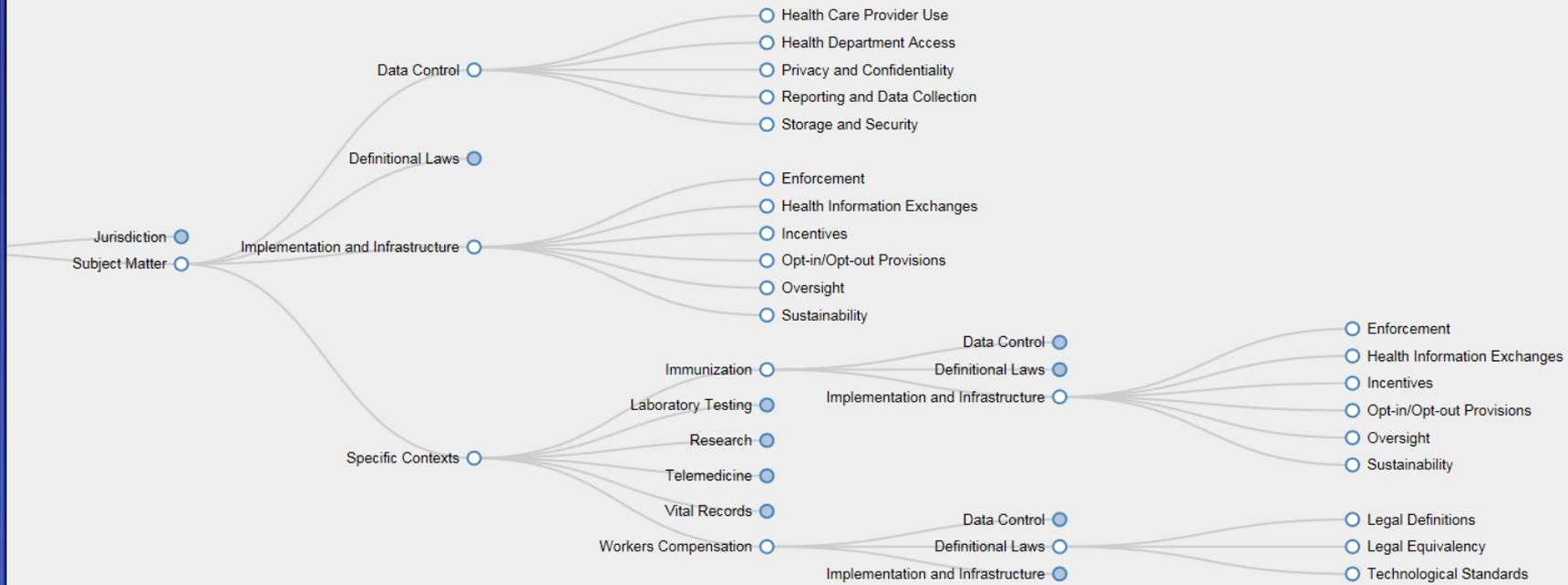
- ❑ **Health Information Technology for Economic and Clinical Health Act of 2009 and federal rules provide monetary incentives for “meaningful use”**



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**

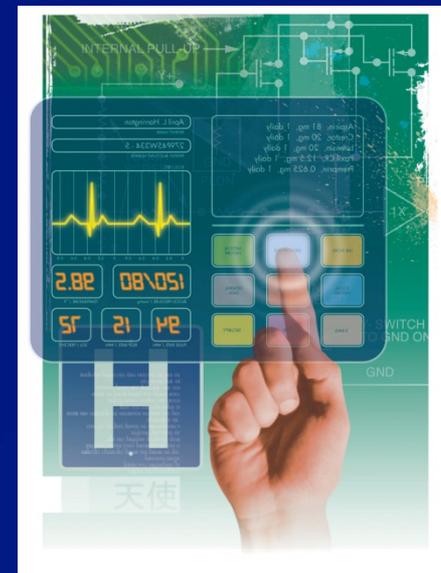
Phase I: EHI Meta-Assessment

□ 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!

phlawprogram@cdc.gov

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

4770 Buford Highway NE, Mailstop E-70, Atlanta, GA 30341

Telephone: 1-800-CDC-INFO (232-4636)/TTY: 1-888-232-6348

E-mail: OSTLTSfeedback@cdc.gov

Web: <http://www.cdc.gov/stltpublichealth>

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