

Health IT Advisory Council

March 19, 2020



Agenda

Agenda Item	Time
Welcome and Call to Order	1:00 pm
Public Comment	1:05 pm
Review and Approval of Minutes –February 20, 2020	1:10 pm
Review HIT Advisory Council Charter	1:15 pm
Update: Medication Reconciliation and Polypharmacy Committee	1:45 pm
Review Consent Design Guiding Principles Public Comment	2:00 pm
Update: ONC Information Blocking Rule	2:45 pm
Announcements and General Discussion	2:55 pm
Wrap up and Meeting Adjournment	3:00 pm

Welcome and Call to Order

Public Comment

(2 minutes per commenter)

Review and Approval of:

February 20, 2020 Meeting Minutes

Review DRAFT HIT Advisory Council Charter

Sean Fogarty, OHS

Background

- The Health IT Advisory Council is a statute empowered committee
 - Created by Gen. Statute 17b-59f
- The Charter will:
 - Reflect responsibilities and authority of the Council
 - Establish operating and administrative guidelines

Draft Outline of Health IT Advisory Council Charter

- Article 1: Name
- Article 2: Purpose
- Article 3: Membership
- Article 4: Officers
- Article 5: Committees and Workgroups
- Article 6: Duties of the Council
- Article 7: Operating Procedures
- Article 8: Duties of OHS
- Article 9: Relationship of the Council to Other Key Entities
- Appendix A: Statute and Other References

Article 5: Committees and Work Groups

- **Section 1:** Council Chairs may establish committees and work groups and may appoint members and others to serve on those committees and work groups
 - Council Chairs will appoint committee or work group chairs who are responsible for organizing meetings with OHS staff support
 - Appointed chairs will report findings or recommendations to the Council
- **Section 2:** The Council shall establish a work group as the All Payer Claims Database (APCD) Advisory Group with designated representation
- **Section 3:** The Council may establish ad hoc work groups of limited duration on topics of specific concern
 - Members may recommend subject matter experts for participation
 - Council Chairs may appoint additional subject matter experts
- **Section 4:** All committees and work groups will prepare and ratify a charter similar to the Council charter

Article 6: Duties of the Council

- ***Advise and Consult*** with the Executive Director of OHS and the HITO to facilitate:
 - **Section 1:** The implementation and revision of the Statewide HIT Plan
 - **Section 2:** The development and implementation of the Statewide Health Information Exchange (HIE)
 - **Section 3:** Development of an annual report to the joint standing committees of the General Assembly related to human services and public health
 - **Section 4:** Federal and State funding requests to support HIT or HIE activities
 - **Section 5:** Maintenance and written procedures for the APCD
 - **Section 6:** Develop and issue RFPs for the HIE, if necessary
 - **Section 7:** Provide general support and advice as requested by the Executive Director of OHS and the HITO

Article 7: Operating Procedures

- **Section 1:** The Council is a standing advisory council; record retention will meet Connecticut statutory requirements
- **Section 2:** OHS may support remote participation
- **Section 3:** Meetings governed by Robert's Rules of Order, abbreviated; a majority of members constitutes a quorum; actions on agenda items require a majority of a quorum
- **Section 4:** Members can submit agenda items, including on the day of the meeting if the chairs agree
- **Section 5:** Meeting notifications and materials will be published and any changes will be emailed to members by 9am on meeting days
- **Section 6:** Votes will be posted on the OHS website within 48 hours
- **Section 7:** Draft minutes will be posted within 7 days, as will approved minutes

Operating Procedures Section 8: Member Participation

- Membership will be reviewed periodically, but no less than once each calendar year, by the Council and OHS to determine if membership is adequate to support the above stated purpose and goals of the Council.
- Members are expected to attend at least 60% of meetings within a calendar year and avoid unexcused absences of three consecutive meetings. Members shall notify the Council Co-Chairs if they will be absent for any meeting. Members should notify the Council Co-Chairs if they will be absent for any meeting.
- Failure to meet the attendance criteria shall result in a notice to the member from the Council Co-Chairs on behalf of the Council that a termination process is being initiated, allowing ten business days for the member to either commit to participation requirements or to be excused from the Council.
- If the member is non-responsive to the notice, the Co-Chairs will recommend removal of the member from the Council at the next Council meeting. In this event, the Council will deliberate and take such action as the Council deems appropriate. Any vacancy resulting from actions in this section will be filled as described in Article 3, Section 2 above.

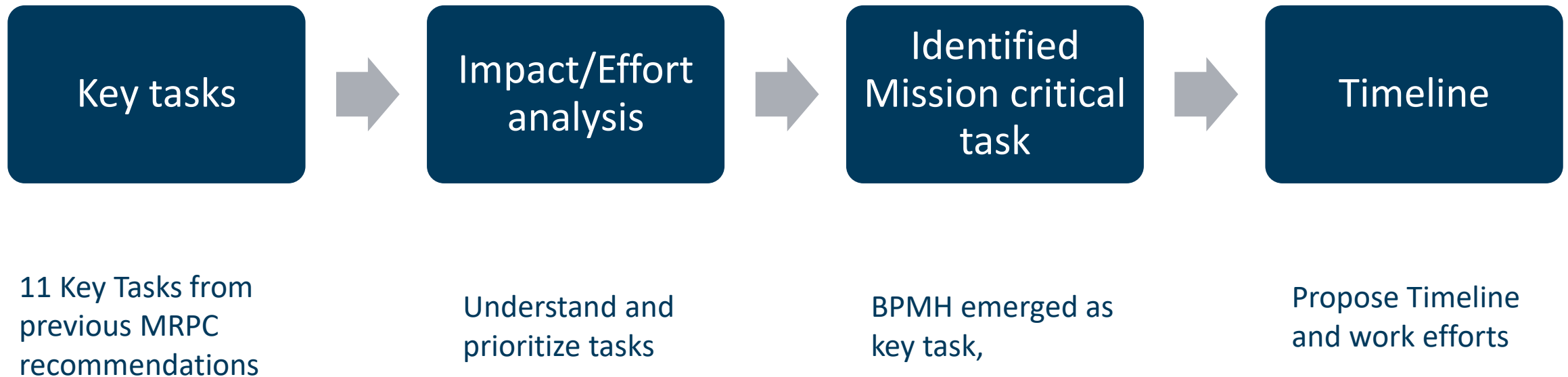
Update: Medication Reconciliation and Polypharmacy Committee

Co-Chair: Nitu Kashyap

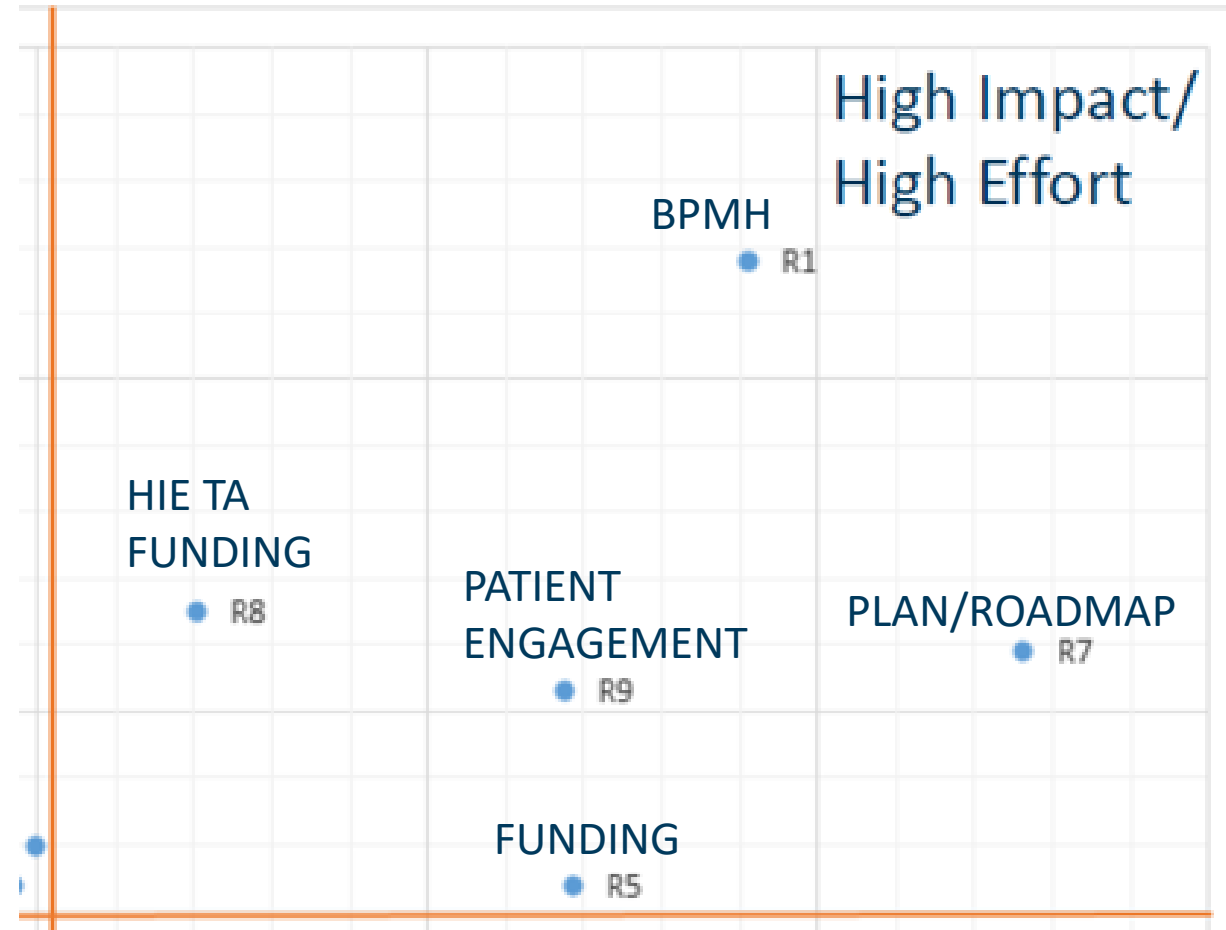
MRPC Medication Reconciliation and Polypharmacy Committee Activity

- MRPC has been meeting since November (5 meetings so far)
 - Charter adopted
 - Reviewed membership and organized around two co-Chairs
 - Conducted an impact and effort survey
 - CancelRx survey
 - Plan/roadmap development
 - Completed a funding proposal

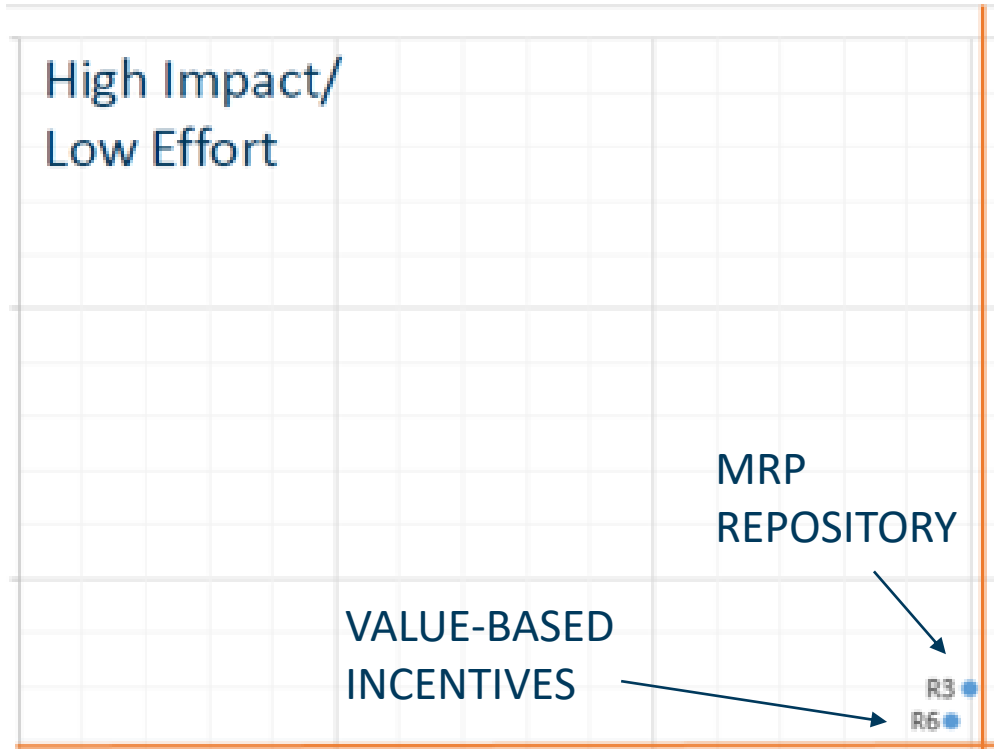
Recap of Previous Meetings



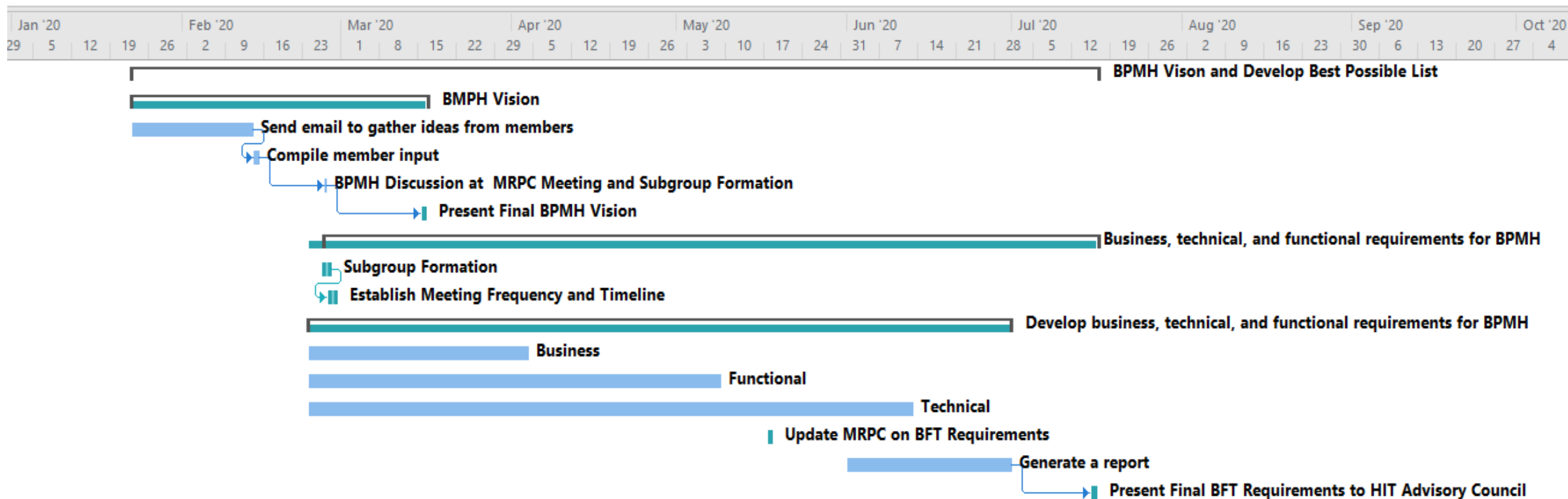
High Impact/ High Effort	Average Impact	Impact SD	Impact Range	Impact N/A Response	Average Effort	Effort SD	Effort Range	Effort N/A Response
1. Define vision for best possible medication history (BPMH) and develop methods of achieving a best possible medication list	6.18	1.24	(3,7)	0	5.41	1.87	(2,7)	0
5. Conduct an analysis of potential funding sources and then seek funding to assist in the continued additional planning, design, development and implementation of opportunities to help improve attainment of the BMPH and to appropriately and safely reduce polypharmacy and reduce potentially inappropriate prescriptions.	5.24	1.68	(3,7)	0	5.19	1.28	(3,7)	1
7. Create a medication reconciliation implementation plan and technology roadmap which includes business, functional and technical requirements.	5.59	1.62	(2,7)	0	5.76	1.39	(3,7)	0
8. Utilize HIE funding as made available to partnering organizations to develop medication reconciliation tools as part of the onboarding and technical assistance provided, including education, training, and implementation assistance relating to medication reconciliation.	5.65	1.17	(3,7)	0	4.71	1.21	(3,7)	0
9. Identify, design and implement appropriate tools and methods to engage patients and providers in collaborative medication reconciliation and deprescribing.	5.53	1.59	(3,7)	0	5.18	1.55	(2,7)	0



High Impact/ Low Effort	Average Impact	Impact SD	Impact Range	Impact N/A Response	Average Effort	Effort SD	Effort Range	Effort N/A Response
3. Develop a medication reconciliation repository and a communication plan to dispense evidence-based, best practice tools, technical and safety advisories, Subject Matter Experts (SMEs) and policy and regulatory guidance to patients, providers, pharmacies, governmental agencies and other stakeholders.	5.29	1.49	(2,7)	0	4.50	1.67	(2,7)	1
6. Identify possible incentives, in addition to current value-based care initiatives, for medication management, medication reconciliation, and the reduction of potentially inappropriate medications.	5.24	1.82	(2,7)	0	4.47	1.62	(2,7)	0



BPMH Proposed Timeline



Milestones Related to Med Rec

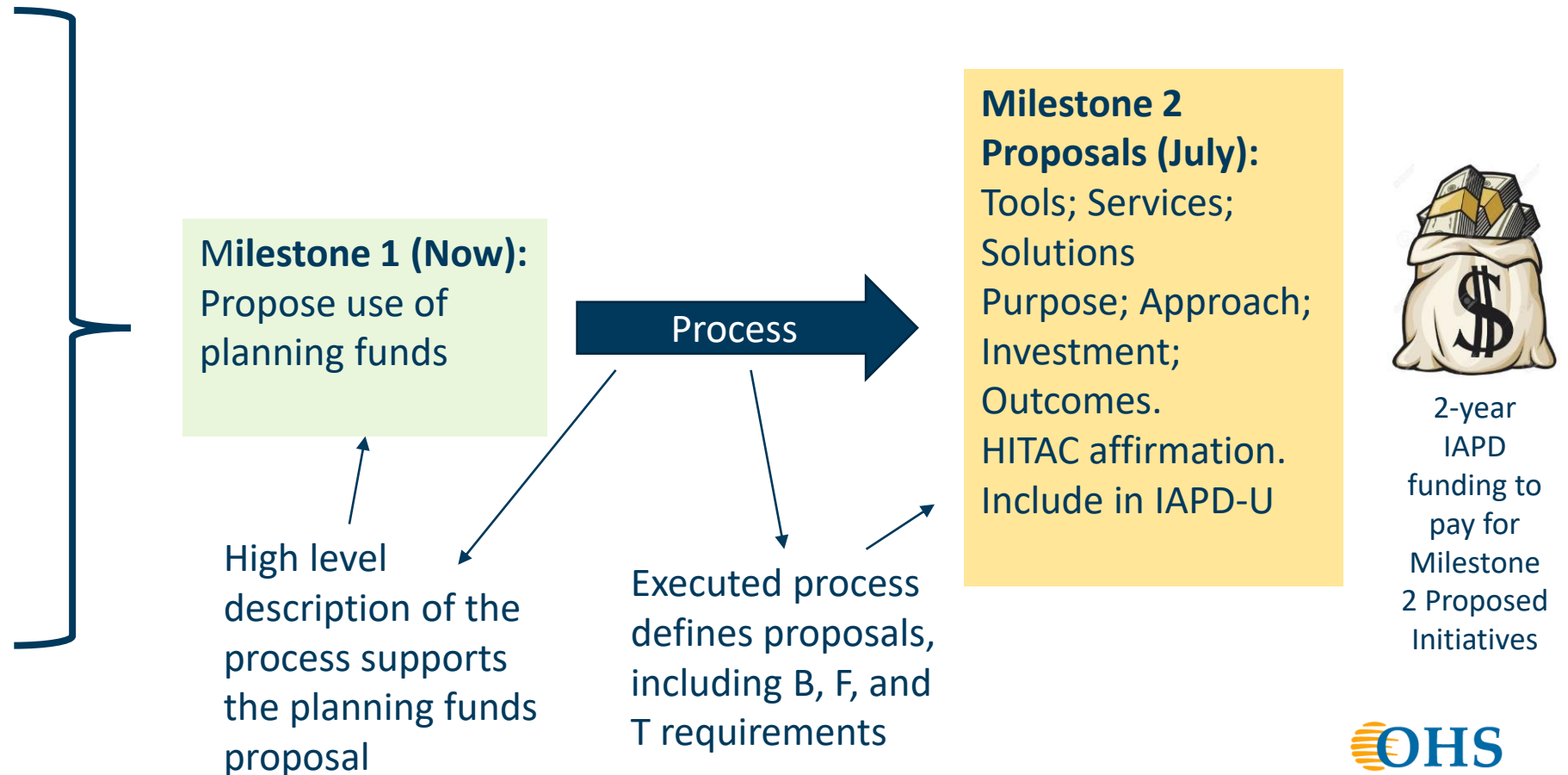
- ❑ OHS, in consultation with MRPC, proposes uses for the \$100K planning funds in IAPD:
 - *Necessary for DSS/OHS to release funds for use*
- ❑ MRPC recommends a medication reconciliation approach:
 - *Outlines a concrete proposal for investment in tools, services or solutions that address med rec priorities in CT*
 - *Should outline purpose, approach, estimated investment, measurable outcomes*
 - *Requires HIT Advisory Council affirmation*
 - *Requires DSS and OHS approval to include in an IAPD-U*

HIE Milestones - Draft 1/17/20 v1								
Objective	Milestone	Target Date	DSS/OHS MoA	Investment Committee	HIA, Inc.	HIE Team	Advisory Boards	% of DSS/OHS MoA Budget
Statewide Medication Management System (SMMS)								
In consultation with the Medication Reconciliation and Polypharmacy Committee (MRPC), develop and execute proposals to improve the management of medications	DSS joins MRCP	Feb-20	✓					
	MRPC recommends med rec approach	Jul-20					✓	
	SMMS concept approved w/DSS & OHS	Aug-20	✓					3%
	SMMS implementation proposal approved	Dec-20	✓		✓			

The Near-term Opportunity

Recommendations:

1. BPMH
2. Patient Engagement
3. Med-rec Process
4. Team approach
5. CancelRx
6. Deprescribing
7. Technology
8. SUPPORT Act
9. Policy Alignment
10. IAPD Funding
11. MRPC



Review Draft Consent Design Guiding Principles Public Comment

Dawn Bonder, CedarBridge

PROCESS

- DRAFT Consent Guiding Principles, affirmed by the Health IT Advisory Council in December 2019, were posted on the OHS website on February 14, 2020 along with background and a request to provide feedback by March 15, 2020.
- Emails sent with background information and a request to provide input by March 15, 2020.
 - Emails sent to all OHS Listservs – 460 subscribers
 - Emails sent to the 609 subscribers to the OHS Newsletter

FEEDBACK RECEIVED

- OHS received 10 comments
- **Common Themes:**
 - Guiding principles should be more patient-centered
 - Guiding principles do not address utilization and monetization of patient data
 - No specific guiding principle regarding data security
 - Concerns regarding how HIPAA requirements with state agencies and other downstream data recipients fit with guiding principles
 - Guiding principles do not address the opportunity to opt-in or opt-out of having data shared with HIE/shared from HIE
 - HITAC should have more consumer/patient members and should reflect the racial and ethnic backgrounds of Connecticut residents

NEXT STEPS

- CedarBridge Group will support OHS in reviewing and responding to submitted comments
- Recommendations for next steps will be presented to the Council at your April meeting.

ONC Information Blocking Rule

ONC Interoperability Rule

❑ 21st CURES Act Interoperability Rule published March 9, 2020:

- Provides clarity around patient access, privacy, including API's
- Revises HIT certification requirements, including a new definition of Electronic Health Information (EHI)
- Clarifies information blocking, and outlines exceptions to accessing, requesting or using EHI

❑ Information Blocking includes eight specific exceptions:

❖ Exceptions that involve not fulfilling requests to access, exchange, or use EHI:

- Preventing Harm: reasonable and necessary practices to prevent harm to a patient or another person
- Privacy: to protect an individual's privacy.
- Security: to protect the security of EHI.
- Infeasibility: the request is infeasible.
- Health IT Performance: reasonable and necessary measures that make HIT temporarily unavailable

❖ Exceptions that involve procedures for fulfilling requests to access, exchange, or use EHI:

- Content and Manner: defines conditions whereby the “what” and “how” of a request may be adjusted
- Fees: defines conditions whereby fees may be charged
- Licensing: defines conditions whereby license fees or royalties for may be charged

Announcements and General Discussion

Allan Hackney, Council Members

Wrap up and Next Steps

Contact Information

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Health IT Advisory Council Website:

<https://portal.ct.gov/OHS/HIT-Work-Groups/Health-IT-Advisory-Council>

Appendix:

ONC Information Blocking Exceptions

Information Block Exceptions

Exceptions that involve not fulfilling requests to access, exchange, or use EHI



Preventing Harm Exception

It will not be information blocking for an actor to engage in practices that are reasonable and necessary to prevent harm to a patient or another person, provided certain conditions are met.

Objective of the Exception:

This exception recognizes that the public interest in protecting patients and other persons against unreasonable risks of harm can justify practices that are likely to interfere with access, exchange, or use of EHI.

Key Conditions of the Exception

- The actor must hold a reasonable belief that the practice will substantially reduce a risk of harm;
- The actor's practice must be no broader than necessary;
- The actor's practice must satisfy at least one condition from each of the following categories: type of risk, type of harm, and implementation basis; and
- The practice must satisfy the condition concerning a patient right to request review of an individualized determination of risk of harm.

Information Blocking Exceptions

Exceptions that involve not fulfilling requests to access, exchange, or use EHI



Privacy Exception

It will not be information blocking if an actor does not fulfill a request to access, exchange, or use EHI in order to protect an individual's privacy, provided certain conditions are met.

Objective of the Exception:

This exception recognizes that if an actor is permitted to provide access, exchange, or use of EHI under a privacy law, then the actor should provide that access, exchange, or use. However, an actor should not be required to use or disclose EHI in a way that is prohibited under state or federal privacy laws.

Key Conditions of the Exception

To satisfy this exception, an actor's privacy-protective practice must meet at least one of the four sub-exceptions:

1. **Precondition not satisfied:** If an actor is required by a state or federal law to satisfy a precondition (such as a patient consent or authorization) prior to providing access, exchange, or use of EHI, the actor may choose not to provide access, exchange, or use of such EHI if the precondition has not been satisfied under certain circumstances.
2. **Health IT developer of certified health IT not covered by HIPAA:** If an actor is a health IT developer of certified health IT that is not required to comply with the HIPAA Privacy Rule, the actor may choose to interfere with the access, exchange, or use of EHI for a privacy-protective purpose if certain conditions are met.
3. **Denial of an individual's request for their EHI consistent with 45 CFR 164.524(a)(1) and (2):** An actor that is a covered entity or business associate may deny an individual's request for access to his or her EHI in the circumstances provided under 45 CFR 164.524(a)(1) and (2) of the HIPAA Privacy Rule.
4. **Respecting an individual's request not to share information:** An actor may choose not to provide access, exchange, or use of an individual's EHI if doing so fulfills the wishes of the individual, provided certain conditions are met.

Information Blocking Exceptions

Exceptions that involve not fulfilling requests to access, exchange, or use EHI



Security Exception

It will not be information blocking for an actor to interfere with the access, exchange, or use of EHI in order to protect the security of EHI, provided certain conditions are met.

Objective of the Exception:

This exception is intended to cover all legitimate security practices by actors, but does not prescribe a maximum level of security or dictate a one-size-fits-all approach.

Key Conditions of the Exception

- The practice must be:
 1. Directly related to safeguarding the confidentiality, integrity, and availability of EHI;
 2. Tailored to specific security risks; *and*
 3. Implemented in a consistent and non-discriminatory manner.
- The practice must either implement a qualifying organizational security policy or implement a qualifying security determination.

Information Blocking Exceptions

Exceptions that involve not fulfilling requests to access, exchange, or use EHI



Infeasibility Exception

It will not be information blocking if an actor does not fulfill a request to access, exchange, or use EHI due to the infeasibility of the request, provided certain conditions are met.

Objective of the Exception:

This exception recognizes that legitimate practical challenges may limit an actor's ability to comply with requests for access, exchange, or use of EHI. An actor may not have—and may be unable to obtain—the requisite technological capabilities, legal rights, or other means necessary to enable access, exchange, or use.

Key Conditions of the Exception

- The practice must meet one of the following conditions:
 - » Uncontrollable events: The actor cannot fulfill the request for access, exchange, or use of electronic health information due to a natural or human-made disaster, public health emergency, public safety incident, war, terrorist attack, civil insurrection, strike or other labor unrest, telecommunication or internet service interruption, or act of military, civil or regulatory authority.
 - » Segmentation: The actor cannot fulfill the request for access, exchange, or use of EHI because the actor cannot unambiguously segment the requested EHI.
 - » Infeasibility under the circumstances: The actor demonstrates through a contemporaneous written record or other documentation its consistent and non-discriminatory consideration of certain factors that led to its determination that complying with the request would be infeasible under the circumstances.
- The actor must provide a written response to the requestor within 10 business days of receipt of the request with the reason(s) why the request is infeasible.

Information Blocking Exceptions

Exceptions that involve not fulfilling requests to access, exchange, or use EHI



Health IT Performance Exception

It will not be information blocking for an actor to take reasonable and necessary measures to make health IT temporarily unavailable or to degrade the health IT's performance for the benefit of the overall performance of the health IT, provided certain conditions are met.

Objective of the Exception:

This exception recognizes that for health IT to perform properly and efficiently, it must be maintained, and in some instances improved, which may require that health IT be taken offline temporarily. Actors should not be deterred from taking reasonable and necessary measures to make health IT temporarily unavailable or to degrade the health IT's performance for the benefit of the overall performance of health IT.

Key Conditions of the Exception

- The practice must:
 1. Be implemented for a period of time no longer than necessary to achieve the maintenance or improvements for which the health IT was made unavailable or the health IT's performance degraded;
 2. Be implemented in a consistent and non-discriminatory manner; and
 3. Meet certain requirements if the unavailability or degradation is initiated by a health IT developer of certified health IT, HIE, or HIN.
- An actor may take action against a third-party app that is negatively impacting the health IT's performance, provided that the practice is:
 1. For a period of time no longer than necessary to resolve any negative impacts;
 2. Implemented in a consistent and non-discriminatory manner; and
 3. Consistent with existing service level agreements, where applicable.
- If the unavailability is in response to a risk of harm or security risk, the actor must only comply with the Preventing Harm or Security Exception, as applicable.

Information Blocking Exceptions

Exceptions that involve procedures for fulfilling requests to access, exchange, or use EHI



Content and Manner Exception

It will not be information blocking for an actor to limit the content of its response to a request to access, exchange, or use EHI or the manner in which it fulfills a request to access, exchange, or use EHI, provided certain conditions are met.

Objective of the Exception:

This exception provides clarity and flexibility to actors concerning the required content (i.e., scope of EHI) of an actor's response to a request to access, exchange, or use EHI and the manner in which the actor may fulfill the request. This exception supports innovation and competition by allowing actors to first attempt to reach and maintain market negotiated terms for the access, exchange, and, use of EHI.

Key Conditions of the Exception

- **Content Condition:** Establishes the content an actor must provide in response to a request to access, exchange, or use EHI in order to satisfy the exception.
 1. Up to 24 months after the publication date of the Cures Act final rule, an actor must respond to a request to access, exchange, or use EHI with, at a minimum, the EHI identified by the data elements represented in the United States Core Data for Interoperability (USCDI) standard.
 2. On and after 24 months after the publication date of the Cures Act final rule, an actor must respond to a request to access, exchange, or use EHI with EHI as defined in § 171.102.
- **Manner Condition:** Establishes the manner in which an actor must fulfill a request to access, exchange, or use EHI in order to satisfy this exception.
 - » An actor may need to fulfill a request in an **alternative manner** when the actor is:
 - Technically unable to fulfill the request in any manner requested; *or*
 - Cannot reach agreeable terms with the requestor to fulfill the request.
 - » If an actor fulfills a request in an alternative manner, such fulfillment must comply with the order of priority described in the manner condition and must satisfy the Fees Exception and Licensing Exception, as applicable.

Information Blocking Exceptions

Exceptions that involve procedures for fulfilling requests to access, exchange, or use EHI



Fees Exception

It will not be information blocking for an actor to charge fees, including fees that result in a reasonable profit margin, for accessing, exchanging, or using EHI, provided certain conditions are met.

Objective of the Exception:

This exception enables actors to charge fees related to the development of technologies and provision of services that enhance interoperability, while not protecting rent-seeking, opportunistic fees, and exclusionary practices that interfere with access, exchange, or use of EHI.

Key Conditions of the Exception

The practice must:

- Meet the basis for fees condition.
 - » For instance, the fees an actor charges must:
 - Be based on objective and verifiable criteria that are uniformly applied for all similarly situated classes of persons or entities and requests.
 - Be reasonably related to the actor's costs of providing the type of access, exchange, or use of EHI.
 - Not be based on whether the requestor or other person is a competitor, potential competitor, or will be using the EHI in a way that facilitates competition with the actor.
- Not be specifically excluded.
 - » For instance, the exception does not apply to:
 - A fee based in any part on the electronic access by an individual, their personal representative, or another person or entity designated by the individual to access the individual's EHI.
 - A fee to perform an export of electronic health information via the capability of health IT certified to § 170.315(b)(10).
- Comply with Conditions of Certification in § 170.402(a)(4) (Assurances – certification to “EHI Export” criterion) or § 170.404 (API).

Information Blocking Exceptions

Exceptions that involve procedures for fulfilling requests to access, exchange, or use EHI



Licensing Exception

It will not be information blocking for an actor to license interoperability elements for EHI to be accessed, exchanged, or used, provided certain conditions are met.

Objective of the Exception:

This exception allows actors to protect the value of their innovations and charge reasonable royalties in order to earn returns on the investments they have made to develop, maintain, and update those innovations.

Key Conditions of the Exception

The practice must meet:

- The negotiating a license conditions: An actor must begin license negotiations with the requestor within 10 business days from receipt of the request and negotiate a license within 30 business days from receipt of the request.
- The licensing conditions:
 - » Scope of rights
 - » Reasonable royalty
 - » Non-discriminatory terms
 - » Collateral terms
 - » Non-disclosure agreement
- Additional conditions relating to the provision of interoperability elements.