



**PA 24-19 (HIE) Recommendations
Workgroup**

September 26, 2024, 1:00 p.m.
Via Zoom

Welcome & Call To Order

AGENDA

PA 24-19 (HIE) RECOMMENDATIONS WORKGROUP

TOPIC	PRESENTER
Welcome & Call to Order	Dr. Deidre Gifford, OHS Commissioner
Approval of Minutes: August 27, 2024, Meeting	Dr. Deidre Gifford, OHS Commissioner
Health Care Provider Liability	Attorney Richard Gold
Regulations on State-wide HIE / Participating Organizations Contracting Requirements	Attorney Richard Gold
Sensitive Information (including Reproductive Health)	Attorney Richard Gold, Nichole Sweeney, CRISP Shared Service & Jenn Searls, Connie
Member Recommendations	Workgroup Members
Next Steps & Adjournment	Dr. Deidre Gifford, OHS Commissioner

Disclaimer:

The content of this presentation is provided for information purposes only. The information contained in this presentation is subject to change after agency review and may differ from any formal Regulations promulgated by OHS, or any Policies and Procedures approved by the agency. The information provided should not be relied upon as legal guidance.

Statewide HIE Regulatory and Policy Framework

- Health Care Provider Liability
- Regulations on State-wide HIE / Participating Organization Contracting Requirements
- Sensitive Information (including Reproductive Health Data)

Attorney Richard Gold

Health Care Provider Liability

HEALTH CARE PROVIDER LIABILITY

- During last legislative session, Section 17b-59e was amended by SB1
- Amendments deal with health care provider liability
- They read as follows:

HEALTH CARE PROVIDER LIABILITY CONT'D.

CGS §17B-59(d)

(d) Nothing in this section shall be construed to require a health care provider to share patient information with the State-wide Health Information Exchange if

- (1) sharing such information is prohibited by state or federal privacy and security laws, or
- (2) affirmative consent from the patient is legally required and such consent has not been obtained.

HEALTH CARE PROVIDER LIABILITY CONT'D.

CGS §17B-59(e)

(e) No health care provider shall be liable for any private or public claim related directly to a data breach, ransomware or hacking experienced by the State-wide Health Information Exchange, provided a health care provider shall be liable for any failure to comply with applicable state and federal data privacy and security laws and regulations in sharing information with and connecting to the exchange. Any health care provider that would violate any other law by sharing information with or connecting to the exchange shall not be required to share such information with or connect to the exchange.

Contract Required of Health Care Providers to Participate in the State-wide Health Information Exchange

CONTRACT REQUIRED OF HEALTHCARE PROVIDER TO PARTICIPATE IN THE STATE-WIDE HEALTH INFORMATION EXCHANGE

- After OHS issues and implements the regulations, Connie will work on drafting a new provider agreement
- OHS shall approve the new provider agreement in full
- Regulations will make clear that every licensed health care provider subject to the mandate shall be required to agree to the new provider agreement with Connie

CONTRACT CONT'D.

- Regulations will contain the subject areas that the provider agreement will address
 - Obligations of the Participating Provider
 - Obligations of the State-wide HIE
 - Representations and warranties of the Participating Provider
 - Disclaimer of Provider Liability
- New provider agreement will be similar to a Terms of Use agreement
- Craft a provider agreement that works for all healthcare organizations in the state

Reproductive Health Data

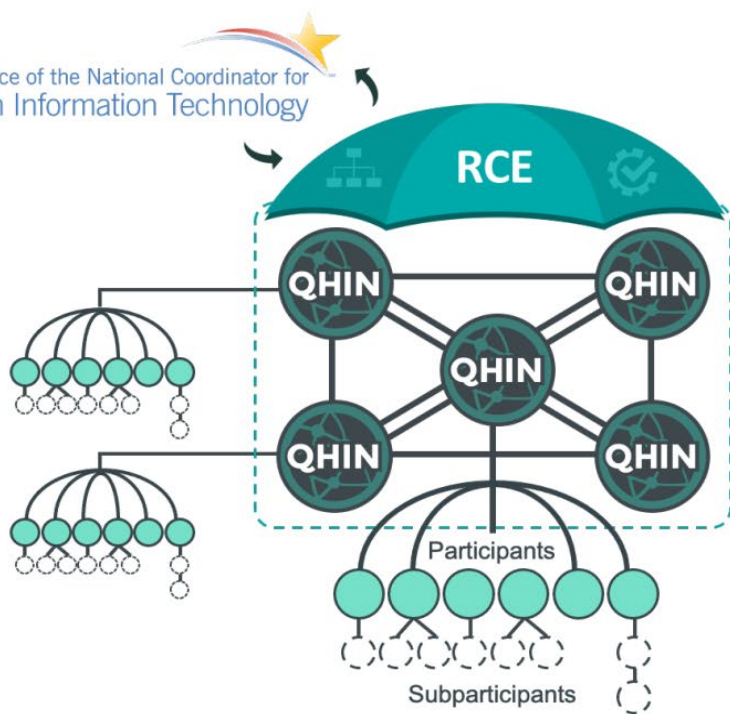
REPRODUCTIVE HEALTH DATA

- Reproductive health information
 - Compliance with federal and state laws and regulations
 - Office of Civil Rights of HHS' Final Rule
 - Connecticut's Public Act No 22-19 (effective July 1, 2022)
- Regulations shall prohibit the sharing of abortion health information outside of Connecticut through the State-wide HIE program
- Other reproductive health information

A decorative graphic consisting of a white dotted line that starts at the top right, moves left, then down, then left again, ending at a solid orange circle.

Maryland Reproductive Health Law Overview

September 26, 2024

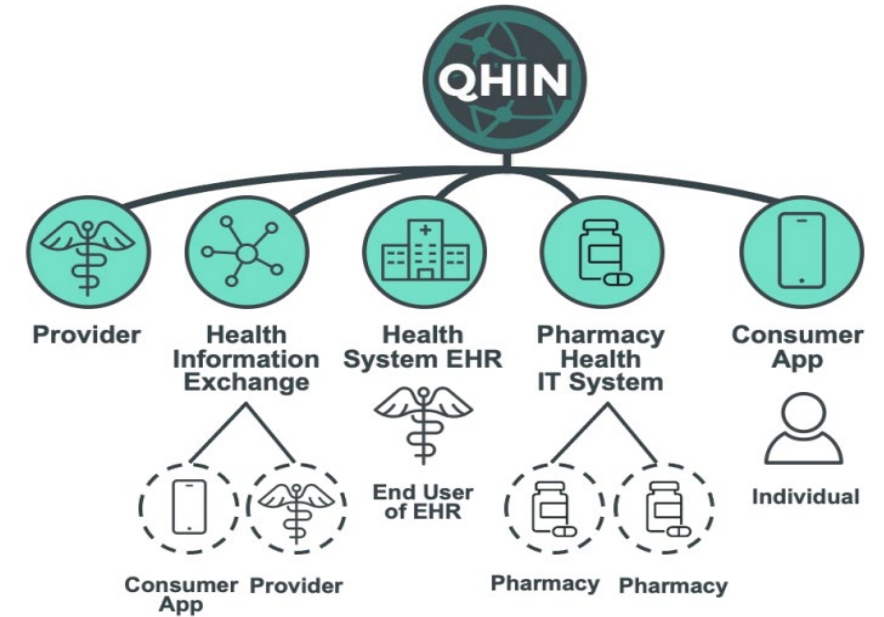


← ONC defines overall policy and certain governance requirements.

← RCE provides oversight and governing approach for QHINs.

← Qualified Health Information Networks (QHINs) connect directly to each other to facilitate nationwide interoperability.

← Each QHIN connects Participants, which connect Subparticipants.



TEFCA

- TEFCA is a **contractual and operational framework** for data sharing
- It's **NOT** a network or standards body
- It's **NOT** a technology, platform, or service
- It's **NOT** legally mandated



● Current National Networks

Data Use and Reciprocal Support
Agreement (DURSA)

Source: <https://ehealthexchange.org/dursa/>

commonwell®
HEALTH ALLIANCE

Source: <https://www.commonwellalliance.org/>

carequality

Source: <https://carequality.org/>



Information Blocking



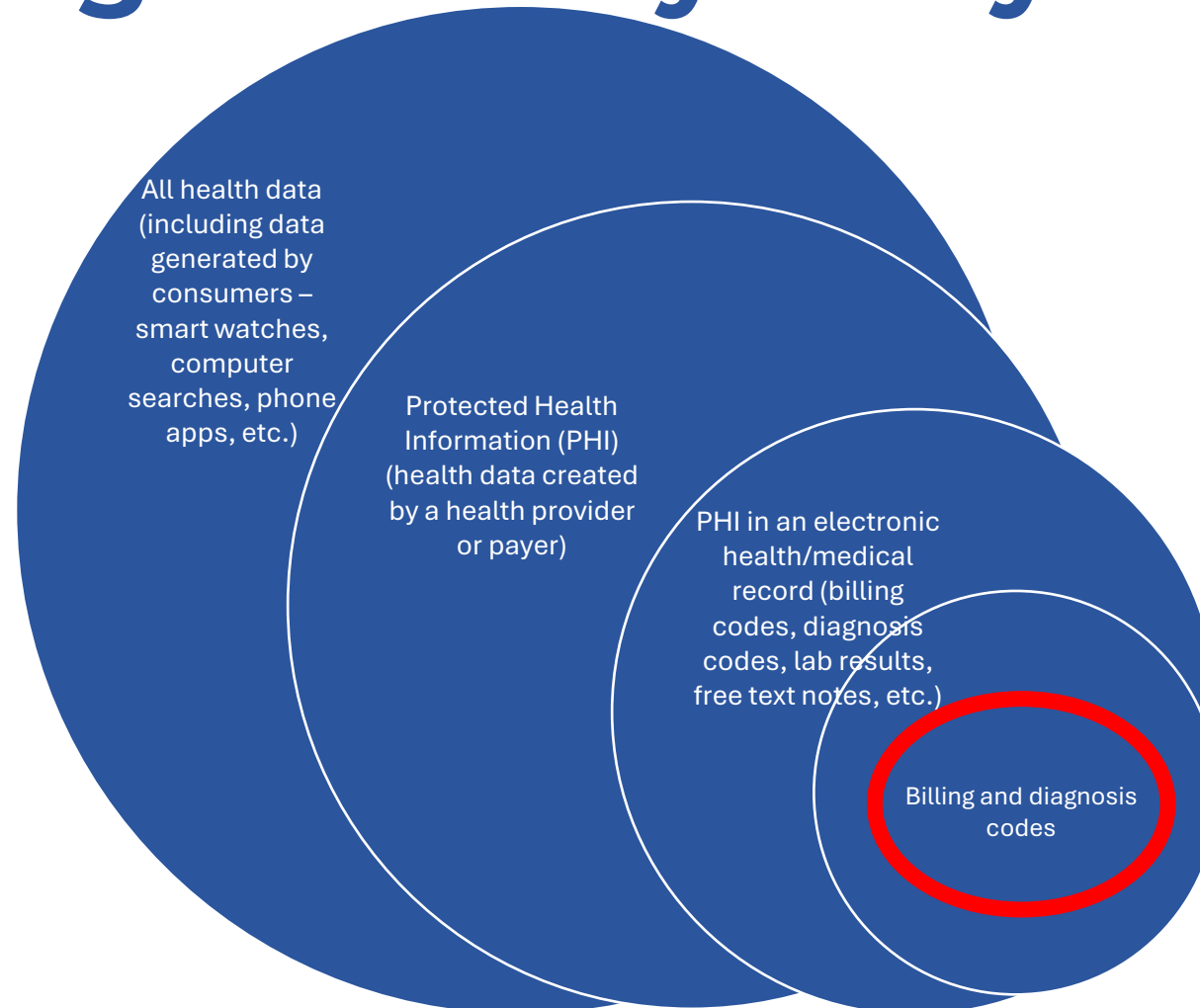


● Maryland Law

- **Md. Health. Gen. § 4-302.5 Language:**
 - A **health information exchange or electronic health network** may not disclose . . . sensitive health services as determined by the Secretary without patient consent
 - “Sensitive Health Services” are certain **code sets** the Secretary determines applicable
 - The Commission has authority to include **additional codes** related to services outside of abortion services
 - Health information exchanges **include electronic health records**
 - Law took effect December 2023; currently in an “implementation period”
- **Technological Implications:**
 - HIEs/EHNs must parse and filter data **based on the code set** provided by the Secretary and Commission
 - HIEs/EHNs must allow **affirmative patient consent**



● Data Regulated by Maryland Law





Finalized Maryland Codes

A. List of Medical Diagnosis Codes.

<i>International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM) Code</i>	<i>Description</i>
004-004.89	Complications following (induced) termination of pregnancy
007-007.4	Failed attempted termination of pregnancy
O31.3 -O31.33X9	Continuing pregnancy after selective reduction of one fetus or more
Z33.2	Encounter for elective termination of pregnancy

B. List of the Current Procedural Terminology (CPT®) Codes.

<i>CPT Code</i>	<i>Description</i>
59840	Induced abortion, by dilation and curettage
59841	Induced abortion, by dilation and evacuation
59850	Induced abortion, by 1 or more intra-amniotic injections, including hospital admission and visits, delivery of fetus and secundines
59851	Induced abortion, by 1 or more intra-amniotic injections, including hospital admission and visits, delivery of fetus and secundines; with dilation and curettage and/or evacuation
59852	Induced abortion, by 1 or more intra-amniotic injections, including hospital admission and visits, delivery of fetus and secundines; with hysterotomy (failed intra-amniotic injection)
59855	Induced abortion, by 1 or more vaginal suppositories (e.g. prostaglandin) with or without cervical dilation (e.g. laminaria), including hospital admission and visits, delivery of fetus and secundines
59856	Induced abortion, by 1 or more vaginal suppositories (e.g. prostaglandin) with or without cervical dilation (e.g. laminaria), including hospital admission and visits, delivery of fetus and secundines; with dilation and curettage and/or evacuation

59857	Induced abortion, by 1 or more vaginal suppositories (e.g. prostaglandin) with or without cervical dilation (e.g. laminaria), including hospital admission and visits, delivery of fetus and secundines; with hysterotomy (failed medical evacuation)
59866	Multifetal pregnancy reduction(s)

A. List of Healthcare Common Procedure Coding System (HCPCS) Level 2 Codes.

<i>HCPCS Level 2 Code</i>	<i>Description</i>
S0190	Mifepristone, oral, 200mg
S0199	Medically induced abortion by oral ingestion of medication including all associated services and supplies (e.g. patient counseling, office visits, confirmation of pregnancy by human chorionic gonadotropin (HCG), ultrasound to confirm duration of pregnancy, ultrasound to confirm completion of abortion) except drug/medications

B. List of Medication Codes.

<i>National Drug Code</i>	<i>Trade Name</i>	<i>Labeler/Manufacturer</i>
64875-0001-01	Mifeprex (oral mifepristone)	Danco
43393-001	Generic mifepristone tablets	GenBIOPro
43393-001-06	Generic mifepristone tablets	GenBIOPro
43393000106	Generic mifepristone tablets	GenBIOPro



● California Law

- **AB 352**
 - (a) . . . **provider of health care, health care service plan, pharmaceutical company, contractor, or employer** shall not ***knowingly*** disclose, transmit, transfer, share, or grant access to medical information in an electronic health records system or ***through a health information exchange*** that would identify an individual and that is related to an individual seeking, obtaining, providing, supporting, or aiding in the performance of an abortion that is lawful under the laws of this state to any individual or entity from another state, unless the disclosure, transmittal, transfer, sharing, or granting of access is authorized under any of the following conditions . . .
- ***Health care providers will need to evaluate:***
 - Is this information transmitted through an HIE?
 - Would the information identify an individual as getting or performing an abortion lawful in CA?



● Considerations

Locus of regulation (HIEs versus providers)

Maryland chose to regulate the HIE to ensure as much uniformity as possible and decrease provider burden

Applicability to all data exchange

Maryland's law includes all HIEs (including EHRs) in the state to prevent data leakage from other sources

Free text versus codes

Maryland's law revolves around codes to aid precise matching

Balancing impact on care

Clinicians have consistently stated that the Maryland law prevents appropriate care

Future flexibility

Maryland's law specifies that a Commission may include other codes (e.g., gender affirming care) in the future without a new law

Patient Understanding and Shared Decision Making



● Federal Law / Regulations

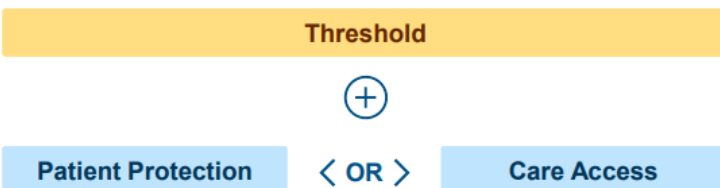
- Beginning January 2025, there will be a new section in **HIPAA** that would not permit disclosures where that information could be used to “investigate, use, or prosecute an individual, a health care provider, or a loved one” if the care was legal in the state in which it was received.
 - The new section would be implemented by requiring an attestation from the requestor when the request is for reasons other than treatment, payment, operations, or public health.
 - Regulation is currently being challenged in Texas.

Federal Law / Regulations

Proposed Information Blocking Exception

OVERVIEW

An actor's practice implemented to reduce the risk of potential exposure to legal action would not be information blocking when the actor's practice satisfies at least 2 conditions:



- **Threshold Condition Requirements:**
 - 1) Belief (an actor holds in good faith)
 - 2) Tailoring (of practice)
 - 3) Implementation (of practice) based on actor's
 - organizational policy – or –
 - case-by-case determination
- **Patient Protection Condition** – applicable to practices actor believes could reduce the patient's risk of potential exposure to legal action based on mere fact reproductive health care sought/received or a health history or condition for which reproductive health care often sought, received, or medically indicated
- **Care Access Condition** – applicable to practices actor believes could reduce potential exposure to legal action of health care providers or other persons who provide care or are otherwise involved in facilitating reproductive health care that is lawful under circumstances provided

Statewide HIE Regulatory and Policy Framework

- Connie and National Networks

Jenn Searls, Connie



Connie and National Networks

- Connie does query for and exchange documents via Common Well, eHealth Exchange, and Carequality for treatment purposes
- In addition, Connie responds to Individual Access queries via the Carequality framework (enables patients to use third party apps to access their information)
- Connie has not yet opted in to participating in TEFCA. When it does, it will do so through CSS as a sub participant in eHealth Exchange's QHIN
 - Participation in TEFCA is voluntary
 - Individual participating organizations will need to opt in to sharing their data via Connie for TEFCA

Questions?

Discussion...

Member Recommendations

Next Steps & Adjournment

Next Meetings }
October 22nd – 1:00
November 20th – 1:00