



## Health Information Exchange Legal Work Group Meeting Minutes

**Date:** October 10, 2023

**Time:** 10:30 AM to 12:30 PM

**Location:** 2727 Mahan Dr. Tallahassee, FL 32308

**Members Present:** Will Armstrong, Melanie Brown-Woofter, William “Bill” Dillon, Ammon Fillmore, Samuel Lewis, Dr. David Shapiro, Andrew Sheeran, Kimberly Streit, Mary Thomas, Wences Troncoso, Jan Gorrie

**Agency Staff Present:** Pamela King, ABM Uddin, Corinne Slautterback, Erika Pearce, Suzanne Kirayoglu, Jaime Bustos, Sherina Gonzalez, Dylan Dunlap, Kim Allen-Davis, and Crystal Ritter

**Interested Parties Present:** Brian Smart, Chris Alworth, Robert Horst, Karen van Caulil, Joyce Case, Jordan Chastain, Ashley Tait-Dinger, Shranda Sipe, Dave Green, Florencia Miguez, Phil Greger, Reba Jackson, Alex Sweat, Linda Macdonald, Blair Barnhart, Jason Hand, Aaron Parsons, and 3 unknown call-in participants.

**Meeting Materials:** HIECC Meeting Packet. Copies of meeting materials are posted on: [Health Information Exchange Legal Work Group \(myflorida.com\)](https://myflorida.com/Health-Information-Exchange-Legal-Work-Group)

**Call to Order and Welcome:** Mr. Armstrong called the meeting of the Legal Workgroup to Order at 10:30 a.m. He welcomed everyone to the meeting and gave a brief overview of the meeting. Mr. Armstrong advised those present that the Agency has entered the Blackout period for the procurement of the 2023 Statewide Medicaid Prepaid Dental Program and that discussion about those proceedings is prohibited. After his overview, he asked that staff call the roll.

**Roll Call:** Ms. King took the roll, and noted there was a quorum present.

**Legal Work Group Overview:** Ms. King gave a Legal Work Group overview by providing the background behind the HIE Legal Work Group and the Health Information Exchange Coordinating Committee (HIECC). She discussed the duties of the HIE Legal Work Group and the rules they must follow in compliance with the Sunshine Law. Ms. King reviewed what Florida Health Information Exchange (Florida HIE) is and provided a high-level overview of the Florida HIE services, including recent statistics on the use of the Encounter Notification Services.

**Agency Updates:** Ms. King provided the Agency updates, noting that Jaime Bustos and Brock Juarez apologized for not being able to attend due to other obligations.



**HIE Background:** Ms. King shared the HIE Background, including the timeline of the establishment and growth of the Florida HIE since 2011 and a breakdown of the types of subscribers and data sources collaborating with the Florida HIE. Ms. King explained that the current vendor is transitioning due to the acquisition of the previous vendor. She noted this transition would create the need to modify the current HIE infrastructure and make changes to the current ENS agreement, policy around consent, and pricing model. Ms. King noted that the Agency intends to make an Invitation to Negotiate for HIE services since the current contract with PointClickCare ends in 2024.

**HIE Vendor Transition:** Mr. Horst, Mr. Smart, and Mr. Alworth gave a presentation on the HIE Vendor Transition. Mr. Horst provided a high-level overview of the strengths of the acquiring vendor, Point Click Care, discussed the extent of the PointClickCare national network, and compared the technology provided by PointClickCare versus the legacy vendor, Audacious Inquiry. Mr. Smart explained what changes would be made to the Florida HIE as a result of this transition. Ms. King asked for clarification on the consent model change, to which Mr. Smart responded that the new model would offer opt in for the data senders and opt out for the data receivers. This would allow for the sharing of substance use disorder data that could not be done before. Upon request by Ms. King, Mr. Smart also clarified that the interfaces for the data source connections would not change. With the new switch to the national model, patients would also be able to reach out directly to PointClickCare to have their data purged instead of having to go through their providers if they chose to opt out of sharing their data.

The representatives from PointClickCare discussed three (3) policies for consideration, including consent and handling of behavioral health data, interstate data exchange, and data retention. Currently, ENS requires full patient consent for all health information exchanges, but the system could not differentiate between behavioral health and general health data. The representatives answered a question about consent for sensitive data redisclosure, explaining that there is a banner in the system to identify the need for redisclosure. Mr. Fillmore expressed concerns with providers sharing Part 2 data, to which Ms. King and the representatives explained that the system is flexible enough to share different types of data. There was a question asking about how long data is available after consent is revoked, to which the representatives explained that there is a 72-hour timeframe once someone opts out of sharing data.

The PointClickCare representatives explained how interstate data exchange and data retention would change with this new model. In the new model, ADT data would be stored for up to two years but can be purged annually. Mr. Dillon expressed concern about inaccurate data on patients limiting their care. The vendor noted there are controls for this as users undergo training for the security flag features and the providers would need to provide formal information for concerns about a patient. Mr. Fillmore expressed concern over the risk of a data breach if the data is stored



for up to two years. Mr. Alworth highlighted the strong focus on security and risk management to ensure they are appropriately managing the risk, noted that all data is encrypted at rest and in transit and is HITRUST certified. They are aware of cyber liability and are able to handle it. Mr. Fillmore explained that the providers would be taking on more risk and business associates would need to accept liability. The Committee noted that the Agency should look at the contractual liability when considering a new contract. There was a question about what other states use this same data retention model, to which the representatives explained that Florida's two-year retention period would be the shortest amount of time compared to the 24 other states that use this same model. PointClickCare will provide additional data to the Agency on the length of time data is held in other states and the entities that govern those contracts. Mr. Smart noted that all of the other states follow the same policies regarding interstate exchange data retention, Part 2 data, and consent. Every health plan and 50% of hospitals in the United States are connected to the vendor's national network. PointClickCare has never had a security breach. Hospitals also have the ability to reach out if they do not feel comfortable with the two-year data retention period. Ms. King explained that the Advisory Council suggested the addendum include that the data should be retained for at least a year, but there is flexibility in the length of data retention after that.

### **Policies for Consideration:**

Ms. King went over the Policies for Consideration.

**Infrastructure and Data Retention:** Ms. King asked the group if there were any legal concerns the Agency should consider when moving from a Florida-centric model to the vendor's national network. Mr. Troncoso asked if Point Click Care's national network is HITRUST compliant and emphasized the need for everything to be HITRUST compliant. Mr. Horst confirmed that the platform has been HITRUST certified since 2018. The Legal Work Group asked questions about how PointClickCare documents compliance with individual state laws for highly sensitive data and how these state laws are vetted before information travels between states. PointClickCare has a legal team that is constantly reviewing state laws to manage these concerns. Mr. Dillon emphasized that the initial Florida HIE vision was to be part of a national exchange as long as it can be done securely.

The Legal Work Group asked questions relating to who owns the data, raising concerns about patient denial of care. PointClickCare emphasized the data retention and flagging features are designed to allow providers to have a better understanding of the patients and their past encounter history to help improve their care. They indicated that the solution has been successful in other states. They also noted that the flags are active for 18 months. Ms. King asked about the size of other states that are using these features. Mr. Horst explained that Oregon and Virginia have both uniformly adopted this across all of their emergency departments and Point Click Care would be



open to working with the Agency to design Florida-specific guidelines. The Legal Work Group asked if it was possible to query providers about what length of data retention would best suit their needs and Ms. King responded that a survey and listening sessions are currently being planned. The workgroup suggested that the Agency review the training materials that are given to the providers that direct them on how to use the security plans in this solution.

**Consent Process Modifications:** Ms. King reviewed moving from the current data source opt out model to an opt in consent model. The Legal Work Group advised that the Agency consider a comprehensive review on moving data sources from opt out to opt in as the change in the consent model has historically created confusion or push back from patients nationally. Mr. Fillmore explained that if there are changes to federal requirements around data sharing of substance use disorders, it may take time for hospitals to implement these changes. He also stated that providers may be leery of establishing a model for sharing substance use disorder until potential federal changes are implemented.

**Public Comments:** Mr. Armstrong requested input from the public. No public comments were provided.

**Meeting Summary:** Ms. King did a meeting summary. There was not enough time for specific recommendations for changes to the ENS agreement. Mr. Dillon noted that input on the actual ENS agreement recommendations may assist the Agency in getting clarity for their procurement for Florida HIE Services.

Ms. King noted the workgroup did not have any legal concerns with moving to a national model; there are concerns around data retention relating to liability and ensuring that patients are not denied care. The time commitment relating to switching consent models should be considered if the Agency decides to move to this model.

Another meeting should be scheduled in November to discuss specific changes to the ENS agreement.

New Action Items	Owner
Schedule a meeting date for the workgroup to review the suggested language for the ENS agreement.	ABM Uddin

**Adjournment:** With no further business to discuss, Mr. Armstrong requested a motion to adjourn. A motion was made and seconded, and the committee adjourned with no objections.