



Legal Work Group Meeting Minutes

Date: November 17, 2023

Time: 10 am to 12 pm

Location: 2727 Mahan Dr., Tallahassee, FL 32308

Members Present: Will Armstrong, William Dillon, Ammon Fillmore, Samuel Lewis, Dr. David Shapiro, Kimberly Streit, Kimberly Tendrich, Mary Thomas, and Wences Troncosco

Agency Staff Present: Pamela King, ABM Uddin, Corinne Slautterback, Dylan Dunlap, Kim Davis-Allen, Crystal Ritter, Meredith Hayes, Erica Pearce, Andrew Sheeran, Suzanne Kirayoglu, Jamie Bustos, and Hanna Neustadter

Interested Parties Present: Chris Alworth, Brian Smart, Ashley Tait-Dinger, Blair Barnhart, and Sharanda Sipe

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

Welcome and Call to Order: Mr. Armstrong welcomed everyone and called the meeting to order at 10:01 a.m. He asked that Agency staff to call the roll.

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

Review and Approval of Minutes: Mr. Armstrong asked members if they were able to review the previous meeting minutes and if there was a motion to approve. Dr. Shapiro motioned to approve the minutes. Mr. Dillon seconded the motion which was carried unanimously.

Previous Action Item Review and Status Update: Mrs. King discussed the previous action items. The only action item noted in the previous minutes was the scheduling of this meeting, which was completed. Staff highlighted a couple of follow-up items from the previous meeting not captured as action items. There was conversation about the vendor's process for affirming the ability to share data between entities that are supported by the PointClickCare (PCC) framework related to consent for sensitive information being shared across state lines. These questions may be answered by the "Sensitive Information Policy" in the Agreement. At the Health Information Exchange Coordinating Committee (HIECC) meeting this Wednesday, the Consent Policy portion of the meeting was referred back to the Legal Work Group so there may be a need to hold another meeting unless the Agency feels they have gained enough information from both groups to move forward. The Agency was asked if they could get feedback from current users on their HIE needs. Staff clarified that a survey was sent to all data sources and



subscribers and that they conducted listening sessions, which provided helpful information to the Agency. Mrs. King further noted concerns to be addressed by the HIECC and Legal Work Group about the sharing of mental health data across state lines. Due to state laws about sharing mental health data, it would be hard to share this data between states without a consent to share model. However, that could potentially limit the data the Department of Health would have access to for their syndromic surveillance programs and registries. She encouraged the group to consider whether they want more mental health data or interstate data when moving forward.

Vendor Transition Proposed Addendum Review: Mr. Armstrong discussed the purpose of the meeting was to look at vendor suggested edits to the Encounter Notification System (ENS) Agreement to enable data retention, interstate data sharing, and handling patient consent to share sensitive information. No recommendations from this committee will be implemented into a new agreement until the completion of the procurement process for the Florida HIE services in 2024. However, the committee's input will help inform the Agency as they move forward with the procurement process.

Mr. Smart provided an overview on the current patient consent model and their proposed changes to the consent model. He noted that ENS today requires patient consent for all exchange because they cannot distinguish sensitive information from general health information. Dr. Shapiro asked if "providers" referred to individuals or organizations. Mrs. King explained that it can refer to both. Anytime the data is received, they must obtain consent. Mr. Smart explained that the new consent model would take pressure off the subscribing entities to obtain consent and put more responsibility on data sources. This consent change would allow more Part 2 SUD treatment facilities to participate. He also noted that the consent to share model would also provide patient more control over their data.

Mr. Alworth explained that under state and federal law, the patient is the owner of the medical records. The legacy vendor Audacious Inquiry created this current ENS Agreement. He noted the recommended changes are designed to create the least amount of friction in a transition to the PCC Network. Mr. Alworth discussed the proposed changes outlined in the meeting materials. Mrs. King asked about the Service Order Form section on page 2, but Mr. Alworth clarified that this would be discussed in the Addendum Attachment.

Mr. Smart recognized the problem previously discussed by Mrs. King in the event that multiple people opt out and there is a lack of syndromic surveillance data. PCC has made opt-out options in other states where they were able to flag and separate the data. So, if consent was revoked, the data could still be sent to the Department of Health for syndromic surveillance purposes only.

Mr. Smart and Mr. Alworth displayed a red-line version of the ENS Agreement to discuss the exact proposed changes to the ENS agreement, in alignment with the changes noted in the document with specific overview changes to the agreement. Mr. Alworth explained that the vendor will retain the audit train for terminated participants for years from the termination or as required by the vendor. Mr. Armstrong asked about the retention policy suggested clarifying the language surrounding the retention policy in the ENS Agreement. Mr. Armstrong and Mr. Alworth agreed that they should follow whichever time period is longer.



Mr. Alworth explained that the changes on page 9 addressed putting the consent responsibility on the data source and not the receiver. On page 14 they noted that the business associate language was changed to reflect that business associates can subscribe directly to PCC to access data if they are outside of the state, as long as they have a proper business associates' agreement with a covered entity and can prove they have proper security measures in place within their IT infrastructure.

On Page 17 they added the PCC Network to their definition of Network. Mrs. King asked why they added this. Mr. Alworth explained they wanted to minimize the number of changes throughout the document and wanted to incorporate the PointClickCare Network name into the document. Mr. Armstrong asked a clarifying question about the definition of Network and they agreed to keep the change. Mr. Lewis asked why the word "interstate" was added when the network would allow for both interstate and intrastate data exchange. Mr. Alworth explained the network inherently allows intrastate exchange but now also adds interstate. Mr. Lewis did not want to narrow the definition too much to prevent intrastate exchange and suggested they write interstate and intrastate. Mr. Armstrong mentioned they already defined the PCC network as being interstate, so it was redundant being mentioned again here.

The group had a discussion about the changes on page 19 that added Canada as a location for intermittent access to PHI. On page 22 they addressed the consent model. This adds the requirement for authorization on the sender of data (record holder) as opposed to the recipient of the data. On page 32 a change was added, allowing law enforcement access to data during a declared emergency using AHCA's E-PLUS service. Mrs. King clarified that the E-PLUS system is only used during emergencies. Mr. Smart emphasized that it was a query-based system and that it is used to identify missing persons. Mr. Dillon suggested adding a definition of E-PLUS in that section to clarify what the system is for people reading it. Mr. Smart then did an in-depth overview of the changes made in Attachment A1 and discussed Florida policies regarding sensitive information. Dr. Shapiro asked if they were specifically talking about Florida law and how a reader would be able to reference the actual law. The Legal Work Group agreed it would be beneficial to cite the exact law being referenced so someone could find it if needed.

Ms. Thomas asked if they were going to change the definitions around interstate and intrastate, would these need to be changed as guidelines around sharing behavioral health data change? Mrs. King explained that these changes would be contingent on PCC being selected as the HIE vendor in the future. Mrs. King emphasized that they must decide what Florida wants. Ms. Thomas asked if patients could choose if they want only hospitals to get data and not a primary care physician or if it was generalized consent. Mrs. King explained Florida allows for specialized consent, but every provider's office is slightly different. Ms. Thomas requested the redlined document from the vendors at the next meeting.

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

Meeting Summary: Mrs. King provided a summary of the new action items.



New Action Items	Owner
Clarify language on how long meta data will be retained if policy varies to whichever is longer or shorter	PCC Team
Add clarity for interstate and intrastate exchange with the PCC network's definition	PCC Team
Add definition of E-PLUS in business associates' section for clarification	PCC Team
Directly cite the exact Florida law being referenced in substance abuse section in Attachment A1	PCC Team
Need to determine direction for infrastructure before changing language in agreement	Pamela King

Adjournment: With no further business to discuss, Dr. Shapiro moved to adjourn, and Mr. Dillon seconded the motion. The motion was approved unanimously, and the committee adjourned.