

## Health Information Technology Oversight Council

Thursday, January 20, 2010

10:00 a.m. - 5:00 p.m.

Eola NW Viticulture Center, Salem OR

**Council Members Present:** Steve Gordon, Bob Brown, Brian DeVore, Gregory Fraser, Bill Hockett, John Koreski, Sharon Stanphill, Robert Rizk, Bridget Barnes (formerly Haggerty)

**Council Members Participating by Phone:**

**Ex-officio Members Present by Phone:** Mel Kohn

**Council and Ex-officio Members Absent:** Dave Widen, Judy Mohr-Peterson

**Staff Present:** Carol Robinson, Oliver Droppers, Kahreen Tebeau, Tom Wunderlich, Joe Jennings, Julie Harrelson, Chris Coughlin, Dave Witter, John Hall, Mindy Montgomery

**Guests Present:** Susan Otter, BJ Cavnor (via phone), Martin Taylor, Brian Ahier, Aaron Karjala, Ruby Haughton-Pitts

### Opening and Welcome, Current Landscape – Steve Gordon

Approval of Minutes from December 2<sup>nd</sup>, HITOC Meeting:

- Motion to approve: Steve Gordon; second: Bill Hockett, all in favor; approved without discussion.

Current Landscape Overview:

- Oregon is at cusp of the legislative session, facing a significant budget shortfall and with a new governor.
- In line with The Office of the National Coordinator for Health IT (ONC), Oregon's approach is to promote a market-based HIT strategy. There is a level of uncertainty affecting the market.
- Oregon will continue to be flexible and put our best thinking moving forward.

### Updates – Carol Robinson

Refer to meeting materials: "Medicaid HIT Stakeholder Internet Survey, November 2010, Executive Summary."

#### HITOC Membership Changes

- John Koreski was confirmed as a member of HITOC
- Bob Brown was re-appointed to a full term
- Marie Laper resigned from HITOC and with the Chair and Director expressing their gratitude for her service
- HITOC waiting for the governor's office to appoint a replacement for Marie's position

#### Medicaid HIT Project – Susan Otter

Refer to slide deck, slides 4-10

- First release of the Medical Assistance Provider Incentive Repository (MAPIR) will have functions to launch incentive program and pay providers. Second release will have additional administrative functions.
- Question: In the Medicaid HIT communications going out in February, will they provide clarity around eligibility or discretionary terms? Staff response: the MHIT Project will update the FAQ's on their website, including eligibility issues. Any suggestions are welcomed in terms of what might be included in this or future mailers.
- Question: Does the Medicaid HIT Project have an operational plan? Staff response: yes, the Implementation Advanced Planning Document (IAPD), which will be submitted to the Centers for Medicare and Medicaid Services (CMS) in February 2011.
- Foreseeable challenges in Oregon's Medicaid EHR incentive program:
  - Medicare Advantage: With the exception of specifically defined Medicare Advantage

organizations (Kaiser being the only one in Oregon), the incentive payments for Medicare are calculated on 75% of allowable charges for Medicare part B, not part C. A number of Oregon providers are Medicare Advantage providers who are not affiliated with a Medicare Advantage organization and bill under Part C, which will result in some Oregon providers not being eligible for the full amount of incentive payments allowable under Medicare. Oregon has one of the highest proportions of Medicare enrollees covered by Medicare Advantage. Staff will be conducting additional research on this to better estimate the scope of the problem and will be developing a communication with Oregon's congressional delegation about the concerns.

- Children's Health Insurance Program (CHIP): for Medicaid providers to reach the required 30% patient volume providers may only count Medicaid encounters, and cannot count CHIP encounters. In Oregon, it will be difficult for providers to distinguish between Medicaid and CHIP patients, as there is one OHP identification card for a more seamless approach to state-sponsored coverage. The MHIT Project has looked at other states' strategies for guidance and will be working with CMS to develop a reasonable formula that will ensure that the providers who are treating Oregon children will not be burdened with additional barriers to calculating their patient volume for incentive payments.
- Dentists: are eligible professionals under the Medicaid program, but there is not a stand-alone certified dental EHR product at this time. While Oregon dentists practicing in FQHCs could qualify with a dental module on a certified EHR system, those dentists who treat Medicaid patients outside of the FQHCs (approximately 100) will not be able to participate in the incentive program until an EHR product has been certified by an ONC-approved certification organization. State staff, O-HITEC and the dental community are all working to communicate the magnitude of this issue to ONC.
- Question: What questions were asked in the MHIT survey? Timing? System requirements? It would be helpful to know when providers plan to apply for the program, this year or next. Also the system requirements would affect the MAPIR program and its interoperability. Staff response: yes respondents were asked about timing but not about system requirements.

#### **O-HITECH Update – Ruby Haughton-Pitts**

Refer to slide deck, slides 11-15

- Question: what would HITOC like to see in the report? Response: How small offices with 1 to 4 providers are progressing, as these providers are a priority for Regional Extension Centers (REC). Response: O-HITEC will gather that data.
- Question: over what duration does O-HITEC hope to reach its goal of 3,200 providers? Response: the ONC extended the program in a Program Information Notice (PIN) issued in December 2010 extending the program to four years with more changes anticipated. Originally the program stipulated that the 90-10 federal funding would only be available for the first two years; the recent extension means 90-10 funding has been extended to the years three and four.
- It would be helpful to see a graph of the total number of member providers over time, cumulatively, along with the number of providers signing up each month, along with projections for future months; all in a single graph. (Projected members compared with actual members on a multi-line graph). Also, a list of goals and objectives for the next six months would be helpful.
- Brief discussion regarding critical access hospitals and how they are reported.

#### **How HITOC Work Fits into Governor Kitzhaber's Budget Priorities – Mike Bonetto, Governor's Health Policy Advisor**

Refer to slide deck, slides 16-29

- Oregon's budget climate is challenging, but presents an opportunity for change on a large scale.

- For the 2011-13 biennium, the charge: live within available dollars.
- 2011-13 budget: 40% gap in case service load budget, health care more than many other areas of the budget will be impacted by the loss of one-time federal stimulus revenue (see slides 22-24 for budget references).
- The Oregon Health Policy Board (HPB) has chartered a team to develop an implementation strategy for delivery reform, beginning with Medicaid enrollees; they will be meeting weekly during legislative session to suggest statutory changes and federal waivers.
- There have been some gaps in the necessary dialogue between the HPB planning and the HITOC/ HIT planning, and improvements in alignment should be expected. .

Discussion:

- Question: slide 27 identifies a number of objectives that aligned with objectives and goals put forward by HITOC. Do you see opportunities to map the technology opportunities to these particular goals? Response: mapping benefits of HIT/HIE onto goals of state delivery reform would be very helpful.
- Question: the HITOC Finance Workgroup is suggesting HITOC seek short term funding as one potential strategy option. Is it feasible to ask for this funding from the state? Response: It is feasible to make such a request, but try to quantify the importance of HIE and make your case well.
- Question: during budget discussions and any potential funding request, will legislators recognize that the anticipated savings of delivery reform are less likely to be realized without statewide HIE? Response: it will helpful for legislators if proponents of health IT and HIE are able to demonstrate that to the legislature.
- Question: Oregon is taking a federated approach to HIE. At what level will information get collected for Oregon’s delivery reform plan? Response: The state will seek to first use what data is available and then collect the data we will need.

**Orientation to Recommendations & HITOC Decisions** – Presented by Julie Harrelson

Refer to meeting materials: “HITOC Workgroups and Panels Met Schedule, September 2010 – January 2011”

Refer to slide deck, slides 30-41

- Numerous meeting of the HITOC Workgroups and Panels have been held over the last 3-4 months.
- Seeing risk trends over time is helpful with color-coding risks in terms of time priorities/sequencing would also be helpful. Linking mitigation strategies to these risks would be helpful.
- Question: can we make the assessment of the risks less subjective? Can we get more data? Response: we have contracted to do marketing research with consumers for communication strategies, to get better data on risk(s).

**Updates** – Carol Robinson, Joe Jennings, Greg Fraser

Refer to meetings: “Oregon ONC Implementation Requirements.”

Refer to slide deck, slides 43-48

**ONC Grant Implementation Requirements**

- Oregon’s official notice of award from ONC was received December 21, 2010, with Oregon being among the first 20 or so states to have their Strategic and Operational Plans approved.

**Coordination with Federal Grantee Partners**

- HITOC staff continues to have quarterly meetings with other federally funded HIT efforts in

Oregon.

### **Consumer Advisory Panel**

- The Consumer Advisory Panel has provided considerable feedback to the Legal and Policy Workgroup, reflected in recommendations being presented today to HITOC.
- Question: who is on the Panel? Staff response: the member roster is posted on the HITOC website. The Panel is made up of a diverse cross section of Oregonians from many consumer organizations, as well as individuals who volunteered to participate in this work. Additional outreach to ensure broad diversity of Panel members is occurring.

### **HITOC Ad Hoc Stakeholder Groups**

- Two ad hoc stakeholder groups have been established: E-Prescribing and Labs. The goal is to develop a measurement framework to assess progress in key priority areas identified by ONC, as well as to identify barriers and opportunities around e-prescribing and the electronic exchange of structured lab results in Oregon.
- The PIN from ONC last July included guidance from ONC, expecting states to be much more proactive in monitoring areas, including e-prescribing. The stakeholder groups will help Oregon develop metrics needed to track progress and potential strategies to address identified barriers.

### **ONC All-Grantees Conference**

- Mike Bonetto's earlier discussion about connecting the dots between improvements in health IT within the context of broader health reform is reminiscent of similar discussions that have occurred at the federal level. This is partially evidenced in the passage of the HITECH Act prior to the passage of Patient Protection and Affordable Care Act (PPACA). At the federal level, health IT is seen as foundational to health care reform.
- There is a lot of enthusiasm in Washington DC about Oregon's efforts around health IT and HIE.

### **ONC Challenge Grant efforts**

- ONC issued a Funding Opportunity Announcement (FOA) in December, titled ONC Challenge Grant. Each state could apply to each of the five identified challenge areas. The State HIT Coordinator and staff were involved in a number of planning conversations with key stakeholders in an effort to put forward one or more grant proposals. Unfortunately, Oregon did not submit an application. We did learn valuable lessons from this process and will be moving proactively to advance grant-worthy initiatives forward for other potential funding opportunities.

### **Panel Presentation & Discussion – Workgroup Leaders, Staff & Consultants**

Refer to meetings: "HITOC Workgroup and Panel Recommendation Brief, January 20, 2011," and "Accountability and Oversight for HIE in Oregon, Draft Proposal."

Refer to slide deck, slides 49-81

### **HIE Services & Technology Architecture Update – John Hall**

- Since the December 2<sup>nd</sup> 2010 HITOC meeting, the Technology Workgroup met 3 times, once alone and twice as a joint meeting with the Finance Workgroup.
- Some terminology has changed due to federal changes in terminology (Slide 52).
- There are potential opportunities, which may create value through ancillary services both for the state and private sector stakeholders.
- The joint Technology and Finance Workgroup discussions focused on potential ancillary services.
- Oregon will need to focus on small-practice providers. There may be some value in using open-source software to provide solutions for these providers.
- Interstate HIE efforts are developing nationally, but there is no formal structure for these

developments.

- ONC has issued a request for comment on Stage 2 Meaningful Use.

#### **Consent Policy – Chris Coughlin**

- The proposed consent policy is the same as it was at the December HITOC meeting: opt-out with exceptions. Specially Protected Health Information (SPHI) is defined by state and federal law. Implementation discussions have considered technical capability for opting out with granularity. Patients with SPHI can choose to opt-in to allow their health information to be exchanged.
- Clarification: “opt out” means either you declare you want to opt out of electronic exchange of your health information, or you have SPHI.
- Question: do we know about how SPHI is treated in other states? Staff response: As much as possible, we are tracking state consent policies as they are being adopted across the country. It is important to note that the consent policy under recommendation is about information used in the process of treatment, payment and health care operations (TPO). This policy does not include secondary use of health information, or emergency treatment.
- The policy within this framework will be further defined in rulemaking.
- Question: how will this policy be reviewed and refined in the future? Staff response: it is not known at this time, but rulemaking as a method rather than statute legislation should provide flexibility to refine as needed overtime.

#### **Accountability and Oversight – Chris Coughlin**

- The HIE Accountability and Oversight framework will go into a rulemaking process and is intended to be flexible. All entities accessing HIE services will be reviewed and qualified by the state through the qualification program in order to access these services. Entities will sign an agreement; the tiered system will be reviewed in terms of size, scope, function, and risk assessment of various entities.
- Within the recommendation is a phased qualification process for tier 1 with fewer requirements for lower tiers. This model emerged from the idea that a federated model could ensure confidence in all participants and Oregon citizens that health information is being exchanged in a responsible way.
- Question: is data transmission/technical standards included? Staff response: yes, the Electronic Healthcare Network Association Commission (EHNAC) standards cover both policy and technical considerations.
- Question: does tier 1 identification subject an entity to a full HIPAA audit, including breach notification? Staff response: Data treatment and recent changes to HIPAA requirements through the HITECH Act would be subject to review. Will need to further review and consider questions in order to develop an informed response. Final definition of tiers will happen in rulemaking.

#### **Sustainable Finance Plan – Dave Witter**

- Many states are focusing on developing a single statewide Health Information Organization (HIO), where as Oregon has adopted a federated approach to HIE.
- The Finance Workgroup reviewed cost estimates for Core Services and estimates were confirmed to be approximately correct based on vendor responses.
- A funding gap of approximately \$2 million has been identified per year Ancillary services were considered to fund this gap. The high-level finance plan identifies proposed plans for financing HIE services in the short and long term. Members of the Finance Workgroup expressed concern about Oregon’s current budget challenges and the probable atmosphere in the upcoming legislative session. After all considerations were carefully reviewed, it was decided that a \$3.25M request from State funds for the 2011-2013 biennium would be made. Additional funding strategies include pursuing philanthropic/grant funding opportunities.

- The benefits that accrue from HIE are considered broad based, with our approach for financing reflecting that consideration.

### Public Comment

- Dr. M. Saslow: in regard to stakeholder engagement efforts, the long-term care (LTC) sector of health care has not been properly considered as a stakeholder. Earlier in the meeting, the concept of a scorecard was introduced. If we don't find a way to engage Oregon's long-term care sector as a stakeholder, both as an industry and as a state government, we're not likely to make real progress. Without data on LTC, it will be difficult at best to measure any progress. If we are going to meet the accelerated pressure of the governor's office, we are going to be challenged and attention to LTC as a stakeholder will help meet those challenges.

### Final Discussion and Votes – Steve Gordon, Julie Harrelson

Refer to meetings: "HITOC Workgroup and Panel Recommendation Brief, January 20, 2011,"  
Refer to slide deck, slides 83-86

#### *Vote: Consent Policy and Implementation Proposal (see slide 85):*

- Greg Fraser makes a motion to approve the Consent Recommendation (to approve Opt-out with Exceptions Consent Policy and implementation plan proposal developed by the Legal and Policy Workgroup, with input from the Consumer Advisory Panel). Bill Hockett seconds the motion. The resulting vote is all members in favor (yea) and no members opposed (nay). The recommendation is approved without further discussion.

#### *Vote: Framework for the HIE Participant Qualification Program (slide 85):*

- Dr. Greg Fraser makes a motion to approve the Accountability and Oversight Recommendation (to accept the recommended framework for the HIE Participant Qualification Program, which will act as the primary vehicle for implementing Accountability and Oversight for HIE in Oregon). Bob Brown seconds the motion. The resulting vote is all members in favor (yea) and no members opposed (nay). The recommendation is approved without further discussion.

#### *Discussion of the Sustainable Finance/Business Plan (see slide 86):*

- Question: would users of ancillary services really pay for the benefits, or would they just pass along the costs? Business community will be unlikely to sign on if employers will bear the burden. Response: workgroups engaged in considerable discussion about who actually pays, where the value is derived, how this piece fits into broader changes in payment and delivery reform, and are there services that can generate revenue in the short term. The Finance Workgroup concluded that although there may be efficiencies that accrue at the provider level over time and savings that accrue at the payer level that should be passed on in lower premium costs to the consumer, the truest benefit of health information exchange is accrued at the patient level. However, when benefits can be better measured over time, we can better assess where participation fees might be assessed. There was a strong feeling among a broad set of stakeholders that a claims tax mechanism was the most fair and transparent way of funding the HIE effort.
- Question: the source of the health claims assessment tax in 2013; does our proposal suggest reallocating revenue from the premium tax that is currently allocated for Healthy Kids? Response: that is unknown at this time and would be up to the legislature where funds would potentially allocate from. The amount of \$3.25 million over the 2011-2013 biennium is better folded into another existing mechanism of collection, as it would not be cost effective to create an entirely new mechanism to collect this amount.
- Comment: we should check with consumers before making assumption that they would benefit,

and consumers aren't the only ones who benefit.

- We are voting on a high-level sustainable finance plan with near term and long term plans.
- We will provide updated financial plans in each annual update to ONC, requiring us to further refine our strategy as we monitor, learn and adapt, assuming things will change over time.

*Vote: Directional Correctness of High-level Sustainable Finance/Business Plan (see slide 86):*

Bob Brown makes a motion to approve the Sustainable Funding Plan Recommendation (to approve the funding plan for Core HIE services and developing sustainable revenues developed by the Finance Workgroup, with input from the Technology Workgroup). Robert Rizk seconds the motion. The resulting vote is all members in favor (yea) and no members opposed (nay). The recommendation is approved without further discussion.

**Oregon Health Authority, Oregon Health Policy Board and HITOC – Dr. Bruce Goldberg**

- We are in a fiscally challenging time, but it is one of the most exciting times to be working in health care policy. We are at a tipping point in health care because our size has made us unsustainable and we are going to change things.
- Oregon's Health Policy Board is reconsidering how we deliver care and is focused on meeting the Triple Aim; the ability to meet those objectives rests on information.
- The Health Policy Board will begin to look at how we can transform Oregon's Medicaid delivery system through a variety of ways, and use Medicaid changes as pilot(s) for broader system reform. Changes will include payment delivery and organization of services.
- An Insurance Exchange will only be effective if we have a health care marketplace that brings value.
- Consideration for HITOC: 1) Consider the possibility that an assessment on claims may not be politically feasible, so consider other strategies, and 2) Concern that cost-reduction goal cited in the Accountability & Oversight Program Brief within the context of the Triple Aim goal, particular the mention of potential cost reductions resulting from widespread HIE and not the other two goals of the Triple Aim.

Question posed to HITOC: Will the Consent Policy as recommended require legislation?

Discussion:

- Response: no change to consent law would be needed to move from faxes to electronic exchange. Rulemaking authority for HITOC or OHA on HITOC recommendations will need to be confirmed with Oregon Department of Justice.
- Question: What does Medicaid look like in 10 years and how does technology help? Response: We need to better integrate services and coordinate them in a single point of accountability using a regional population based system of delivery. Currently, health care incentives aren't aligned. If there is a single point of accountability for health and finances we will begin to align incentives.
- The next few years will involve rapid transformation.
- Question: How do long-term care and home health fit into the vision of 'the right care at the right time?' Response: these are avenues of care that may be underutilized. The delivery system reforms could allow a balance for proper utilization. Primary care needs to transform to patient schedules. If we don't get the right care at the right time we end up in the ER.

**4:50 pm Closing Comments – Steve Gordon and Carol Robinson**

- HIE will accelerate the state's goals for health reform.
- HITOC's February meeting will focus on further refinement of our discussion of governance.
- Meeting adjourned at 5:00pm.