Are the Scales out of Balance? Privacy and Information Exchange

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Health Policy Fellowship Class of 2013 -2014

Abstract

The vulnerability of electronic data gives people pause about the security of sensitive information – especially health care information. The Centers for Medicare and Medicaid Services (CMS) has mandated implementation of electronic medical records by 2015. There must be a balance between information exchange and security and patients’ control over electronic health records (EHR) and protected health information (PHI).

There have been an increasing number of PHI breaches over at least the last three years. A lawsuit was filed in California this year claiming that over 6,000,000 individual records were compromised in one event alone. The majority of breaches involved computerized records.

Strategies to build consumer trust and assure confidentiality include the following:

- **Build Consumer Trust.** Clearly set out a framework for privacy and security which includes parameters for access, use, and disclosure of PHI.

- **Consumer Privacy.** Set limits on government access to personal information and strengthen de-identification standards.

- **Consent.** Patients should have the right to choose how their PHI is to be accessed, by whom, and how it is used and disclosed.

- **Enforcement of penalties.** More forceful judgments and greater attention to prosecutions would focus attention on the need to follow the laws that protect individual rights to privacy.

- **States’ Roles.** HIPAA and HITECH could be considered as providing a ‘floor’ and states could choose to improve or strengthen the policies where gaps occur.

- **Involvement of the Open Source Community.** The open source community harbors no bias as all collaboration and evaluation is done transparently, resulting in a computer program that has been extensively peer reviewed and tested.