Better Care Coalition

February 2018

Modernize Minnesota's Health Records Act

Executive summary

Minnesota's Health Records Act (MHRA) should align with federal laws and standards that govern health data privacy practices just like it does in 48 other states. Existing state law is a barrier to the exchange of clinical information because its requirements go beyond those of the federal Health Insurance Portability and Accountability Act (HIPAA). By updating state law, caregivers could access potentially life-saving information needed to deliver the best care possible. This would also lead to higher patient satisfaction and lower health care costs by reducing duplicative procedures and tests.

This legislation is supported by a broad list of Minnesota health care organizations, payers, business groups and consumers, including the Minnesota Hospital Association, the Minnesota Medical Association, the Minnesota Council of Health Plans, the Minnesota Chamber of Commerce, the Minnesota Business Partnership and consumer health advocacy organizations.

Our goal

Amend Minnesota's Health Records Act (MN Stat.144.291-.298) to align with federal laws and regulations including HIPAA, the HITECH Act and the Omnibus Privacy Rule to allow for the clinically appropriate exchange of health information for purposes including treatment, payment and health care operations. Minnesota is one of only two states that imposes this restriction.

The Better Care Coalition is a group of Minnesota health care professionals, health care consumers and business organizations committed to providing better care coordination, a better patient experience and more efficient care delivery by modernizing Minnesota's Health Records Act.

Why we support it

Patient-centered: The overwhelming majority of patients want and expect their health information to be shared with their care team. Aligning MHRA to HIPAA will help avoid duplicative procedures while facilitating informed decision-making about care and treatment options. Our current system assumes "no" when patients and families expect "yes."

Physicians, nurses and other health care staff have routinely identified challenges with obtaining patient consent as required under MHRA in being able to access electronic health record information.

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Reduces costs: The ability to share health information with permitted entities like health care providers, insurance carriers and care coordinators is critical in helping consumers and lawmakers reduce the cost of health care.

In 2012, Allina Health analyzed ER visits over a six-month period at four of its hospitals that had timely access to health records[1]. Allina found 28 cases of drug-seeking behavior by individuals at multiple hospitals; preventing prescription drug misuse can be lifesaving. Allina also estimated that 560 diagnostic procedures that would have been duplicative or unnecessary were prevented. Conservatively, this represents at least $175,000 in prevented insurance claims, as well as additional savings for patients who could have been required to meet cost-sharing, deductible or other out-of-pocket expenses had these procedures been performed.

Promotes innovation: The ability to leverage clinical information is critical for quality improvement and clinical practice improvement activities.

Consumers are seeking a more retail-like experience, even within health care. The opportunity to innovate with new technology is unnecessarily complicated within Minnesota's consent infrastructure that exists under current state law. Additionally, achieving true interoperability of electronic medical records is contingent on the ability to exchange clinical information.

This legislation would not weaken the privacy or security of protected health information

Federal regulations, including HIPAA, the HITECH Act and the Omnibus Privacy Rule govern when, where and to whom health information can be shared. Those federal laws carry serious civil and criminal penalties when their requirements are not met. State regulations, including penalties for unauthorized release or access under MN Stat. 144.298, would not be impacted by this change.

Examples from patients and providers

MHRA creates burdens and barriers to optimal patient care that would not exist if we could share information as permitted under federal law.

- A patient with a chronic or complex medical condition who has a primary care provider and several specialty care providers across different health systems is required to sign and return consents to each health care provider to make sure her health care team can get the information needed from other providers on that team. This unfairly places the burden of coordinating medical information on patients and families, adding to the stress of being ill or caregiving.

- An emergency medical services (EMS) provider responds to treat a patient and is transporting him to a hospital. Without first obtaining the patient's consent, the EMS provider has difficulty obtaining feedback from the recipient hospital that could inform clinical practice improvement and improve outcomes for the patient, such as how to know when to administer oxygen on the way to the hospital.

- A primary care provider and an oncology clinic each must obtain consent to share patient information for the purposes of care coordination and continuity.

- Parents of a new baby change health care providers. Because previous health records are not shared, the baby must undergo duplicative tests, X-rays and needle sticks that are distressing to both baby and parents.

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[1] "Applied Clinical Informatics," February 2014.