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December 14, 2015

Karynlee Harrington  
Acting Executive Director  
Maine Health Data Organization  
151 Capitol Street  
Augusta, ME 04330

Dear Ms. Harrington:

Compass Health Analytics appreciates the opportunity to submit the following comments on the recently proposed Maine Health Data Organization (MHDO) Data Release Rule which repeals and replaces existing MHDO Rule Chapter 120 concerning *Release of Data to the Public*. We applaud MHDO's efforts to update this important rule.

We understand the importance of striking an appropriate balance between allowing access to the information (without which it has no value) and protecting personal health information (PHI), which cannot be compromised legally or morally. Below we address two issues on which we believe publicly beneficial use of the data can be increased without compromising patient privacy.

1. Inclusion of a member identifier (encrypted) in Level I:

Because individual patient identifiers are missing from the set of elements proposed for Level I release, users will not have the ability to identify multiple eligibility records that pertain to the same person. Counting each record as a separate person will yield inflated population estimates. This in turn reduces apparent per-person rates, which are fundamental to most analysis: rates of occurrence of events, rates of spending, etc.

The APCD has the potential to enhance public understanding of the delivery and cost of healthcare in Maine. Decisions made based on the APCD can have very broad impact. Compass is concerned that the data elements proposed for Level I release are likely to deliver inaccurate results, leading to suboptimal decisions and poor outcomes. While we endorse the effort to protect the privacy of individuals, we feel that the very small increase in risk associated with including encrypted identifiers in Level I is easily offset by the increased accuracy of analysis. Slightly reduced detail on geographic location could be considered as a way to reduce any such risk.

2. New report approval requirements:

Both the current rule and the proposed rule require that the Data User submit copies of any report generated from MHDO data to the MHDO for review at least 20 days prior to release. This rule is a barrier to many business uses in today's fast-paced environment, and would require substantial resources at the MHDO. We propose that MHDO follow the CMS policy as described here (<https://www.cms.gov/Research-Statistics-Data-and-Systems/Computer-Data-and-Systems/Privacy/Researchers.html>, accessed 12/11/2015):

*The User agrees that any use of CMS data in the creation of any document (manuscript, table, chart, study, report, etc.) ... must adhere to CMS' current cell size suppression policy. This policy stipulates that no cell (e.g. admissions, discharges, patients, services) 10 or less may be displayed. Also, no use of percentages or other mathematical formulas may be used if they result in the display of a cell 10 or less. The users agrees by signing the DUA that they will agree to abide by these rules and, therefore, will not be required to submit any written documents for CMS review.*

The current rule 120 waives the requirement for 20-day review when there are multiple reports of a similar nature (pp 14, 9(B)(2)(b)(viii)). The proposed rule does not seem to contain the same provision (Section 4, 2J). We suggest that if the requirement to submit reports is going to stand in any form, the provision regarding multiple reports of a similar nature be reinstated.

Thank you for the opportunity to submit these comments. Please do not hesitate to contact me directly at (207) 523-8650 or [jh@compass-inc.com](mailto:jh@compass-inc.com) for clarification or additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'JPH', is centered below the text 'Sincerely,'.

James P. Highland, PhD  
President