

MINUTES

BOARD OF DIRECTORS MEETING
151 CAPITOL STREET
AUGUSTA, MAINE
THURSDAY, JANUARY 28, 2016

The meeting of the Maine Health Data Organization (MHDO) Board of Directors began at 9:00 a.m. with the following Board members present: Lisa Harvey-McPherson, (Chair), Joel Allumbaugh, Patrick Denning, and Anita Knopp. Andy Ellis, Maryagnes Gillman, and Neil Korsen attended via telephone. Absent members were: Anne Head (Vice-Chair), Peter Gore, Jim Leonard, and Dave Winslow. Also in attendance were Karynlee Harrington, Acting Executive Director and Deanna White, Agency Assistant Attorney General.

Agency Business

Continued Reivew of Comments and Responses to Rule Chapter 120: Release of Data to the Public - The Board continued their review of the public comments and Agency responses for the proposed data release rule Chapter 120 from the previous Board meeting. (Refer to handout),

Comment 13 - After discussing the comment, the Board agreed with the proposed Agency action and the language in Section (3)(3)(I) will be clarified by removing the last sentence as shown:

A data recipient may not sell, re-package or in any way make MHDO Data available at the individual element level, unless the ultimate viewers of that data have applied to MHDO for this data, been approved for such access and signed an MHDO DUA.

~~Authorized Redistributors of the MHDO Data can use the MHDO Data for inclusion in a larger composite database or to produce reports that are publically released.~~

Comment 14 relates to Section (3)(3)(J) and Section (4)(2)(C). After a lengthy discussion a motion was made to keep the statement in the rule that the MHDO shall maintain ownership of the data. The motion was seconded and passed with a unanimous vote.

The Board agreed with the MHDO response to Comment 15 that language will be included in the MHDO Data Use Agreement requiring data recipients to indemnify data providers as stated in Section (4)(2)(H) of the rule.

Comment 16 is in regard to the opposition of releasing Social Security numbers for Level III data requests, as proposed in the rule. The Board discussed at length, the process of

the requester being required to make a valid case for their need to obtain identifiable data elements, and of the MHDO Subcommittee authorizing the approval of releasing the data only if the request meets strict requirements. A motion was made to accept the proposed MHDO action of no further action required. The motion was seconded and passed with two Board members in opposition.

After Karynlee explained her rationale for her suggested response to Comment 17, the Board agreed with the proposed action that no additional revisions are needed in Section (3)(3)(I). However, Karynlee will revise the MHDO Response to state that there is already language in the rule that requires data recipients to be authorized users, and to submit a signed Data Use Agreement. She will also include that the rule already addresses the issue that no PHI can be released for commercial redistribution.

Comment 18 requested a more robust governance process of the Data Release Subcommittee when approving data requests that include identifiable patient information. Karynlee stated that she has researched in-state and out-of-state institutional boards and they require a majority vote. A discussion ensued regarding the provision in Section (12)(3) that states the Executive Director may vote if the Committee is split or does not have a quorum. After a discussion amongst the board members a motion was made to delete the language regarding the Executive Director vote if there is no quorum, and to add language that any tie can be appealed to the full Board and will require a majority vote of the MHDO board. Karynlee will change the response to reflect the decision of the Board. The motion was seconded and passed unanimously. The Board agreed that Karynlee and Deanna will also change Section 11 of the rule appropriately to align with these changes.

Comment 19 refers to MaineHealth's comments from the first public hearing that occurred in December 2014, reiterating concerns surrounding the release of individually identifiable practitioner data and the importance of the MHDO ensuring the accuracy and reliability of that data. It was stated that the handling and the quality of identifiable data has improved over the years and submitters of practitioner identifiable practitioner data do have appeal rights, which follows the process in place before the decision to release this data is made. It was noted that where appropriate clarifications were made to the rule from the public comments submitted by MaineHealth in December 2014. The Board accepted the recommendation that no further clarification is necessary.

Vote to provisional adopt Rule Chapter 120: Release of Data to the Public - A motion was made and seconded to provisionally adopt Chapter 120 pending the final legal review of the AG's office with the approved changes based on the discussions at this meeting and the January 7, 2016 Board meeting. The motion passed unanimously.

Public Comment

No public comment was provided. The meeting adjourned at 10:30 a.m.