



# WISHIN

WISCONSIN STATEWIDE HEALTH INFORMATION NETWORK

## IMPACT OF CURRENT WISCONSIN MENTAL HEALTH LAWS ON WISHIN'S PHASE II EXCHANGE

Technical Advisory Committee Presentation : August 22, 2011



## INTRODUCTION

- On July 20, 2011, WISHIN’s Policy Advisory Committee discussed Wisconsin consent laws that are barriers to WISHIN’s plans for a Phase II “pull-type” exchange.
- On July 27, 2011, the Policy Advisory Committee presented a summary of its analysis, including three options for Consent Management, to the WISHIN Board. The Board was informed that the Technical Advisory Committee will further review and evaluate the three options.
- A recommendation and presentation from the Technical Advisory Committee is required by September 13, 2011 (next Technical Advisory Committee meeting).



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## POLICY ADVISORY COMMITTEE SUMMARY

1. WISHIN's Phase I exchange model, which is based on a "push" mechanism, is compatible with existing consent laws.
2. WISHIN's Phase II exchange model, which is based on a "pull" mechanism, is not compatible with Wisconsin's current mental health consent laws. WISHIN should plan for technology and operations in Phase II that support current Wisconsin laws.



## WISCONSIN MENTAL HEALTH CONSENT LAWS

- Wisconsin’s mental health consent laws were not written with a “pull-type” exchange in mind. Providers must specify what information is being disclosed, to whom, and for what purpose.
- Wisconsin’s protections for mental health information are defined not by the type of information, but rather by who creates the information. For example, a record of a primary-care physician who diagnoses and treats mild depression is not subject to Wisconsin’s mental health consent law, while a record of a psychiatrist who diagnoses and treats mild depression is subject to the law.



## CONSENT MANAGEMENT OPTIONS

- **Option 1:** Exclude mental health providers (i.e., those subject to the mental health consent laws) from participating in WISHIN's Phase II exchange.
- **Option 2:** Include mental health providers, but exclude §51.30 “treatment records” from WISHIN's Phase II exchange.
- **Option 3:** Create consent management process to allow mental health providers to participate in Phase II exchange and allow §51.30 “treatment records” to be exchanged.



## OPTION 1: CONSIDERATIONS

- **Option 1:** Exclude mental health providers (i.e., those subject to the mental health consent laws) from participating in WISHIN's Phase II exchange.

### Benefits

- Low operational and technical cost for WISHIN and participants when compared to Options 2 & 3.

### Challenges

- Limiting large segments of healthcare information from inclusion in HIE will diminish the usability of the data, and HIEs. Many providers would be excluded, including those who practice as part of IDNs and a substantial percentage of hospitals (approximately 31 GMS hospitals in Wisconsin).



## OPTION 2: CONSIDERATIONS

- **Option 2:** Exclude §51.30 “treatment records” from WISHIN’s Phase II exchange.

### Benefits

- Low operational and technical cost for WISHIN and participants when compared to Option 3, but higher when compared to Option 1.

### Challenges

- Some of the providers may not be compliant or cooperate to exclude “treatment records.”

### Technical Considerations

- Is it possible to “filter” data ( §51.30 “treatment records” ) that are made available for query?



## OPTION 3: CONSIDERATIONS

- **Option 3:** Create consent management process to allow mental health providers to participate in Phase II exchange and allow §51.30 “treatment records” to be exchanged.

### Benefits

- All providers are eligible to participate.

### Challenges

- High operational and technical costs for WISHIN and participants when compared to Options 1 & 2. This may discourage participation in WISHIN.
- Unclear if it is technically or procedurally possible that information re-released in a pull-type exchange can be compliant with §51.30 and §DHS 92.03.

### Technical Considerations

- How will consent be obtained when §51.30 “treatment records” are queried?



# PROPOSED TECHNICAL COMMITTEE NEXT STEPS

- Does the Technical Committee recommend an evaluation of all Options?
- Decide who will complete the evaluation of Option(s):
  - Technical Committee?
  - Technical Workgroup?
  - Ad-Hoc Workgroup?
- Evaluate Option(s) and provide feedback, including:
  1. Identify technical feasibility of each option, especially estimated costs for WISHIN and participants
  2. Prepare document, including recommendations, to be presented to the Technical Committee on September 13, 2011
  3. After a Consent Management approach is approved, work with Policy Workgroups to articulate specifications for Phase II RFP