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# Privacy and Security Solutions for Interoperable Health Information Exchange

## INTERIM IMPLEMENTATION PLANS REPORT

Subcontract No. RTI Project No. 9825

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# 1.Background

## 1.1 Purpose and Scope of this Report

The purpose of this report is to serve as the Interim Implementation Report deliverable submitted by NJ-HISPC as required by the project contract. This report describes the process that the implementation team has and will follow to create the final detailed project plans that may be necessary to carry out the final implementation phase of the NJ-HISPC project. This report will identify the framework by which the NJ-HISPC implementation team plans to evaluate, plan, prioritize and implement, in so far as possible, the solutions that may eliminate the barriers to interoperability of EHR. It is expected that, although the scope of this interim report does not include a comprehensive project plan for each solution, it does identify the methodology that will be used by the NJ-HISPC implementation team to create and document a detailed project plan for each suggested solution. The actual, detailed project plans, then, will be further developed through subsequent working sessions of all of the NJ-HISPC working groups and in consultation with all necessary stakeholders.

## 1.2 Key Assumptions and Limitations

Key assumptions upon which this report is based include:

- As the starting point for effective implementation, a detailed project plan must be created for each suggested solution that NJ-HISPC has identified, in order to help determine whether and how implementation will or may occur. As the suggestions for solution had previously been grouped into the following categories, those categories will be sustained throughout implementation as a means to help organize the implementation work into similar subject areas. Thus, the plan for this aspect of our work will enable a continuity of focus from identified barriers to possible solutions to feasible plans to remediate the impact of the barriers where possible. It is felt that this process may help facilitate implementation of any solutions, especially since similarly-grouped solutions may require similar resources and tasks and, thus, may lead to consolidation and efficiencies in our implementation efforts. The categories into which all solutions are grouped are: Interoperability, Workflow, Federal and State Law, HIPAA Security and Privacy, and Education.
- That a detailed project plan must include consideration of the 11 elements identified by RTI (as reportable for this project phase), as well as the answer to the question whether the proposed solution is single- or multi-state based. In addition, as part of the process of evaluating each proposed solution, its ***importance*** in combating barriers to interoperability of EHR (relative to the other suggested solutions), its ***ease of accomplishment***/feasibility (of implementation), and the relative ***order*** in which the team will endeavor ***to complete***

implementation (of all solutions) must also be determined and incorporated into the overall implementation plan.

- The capturing and recordation of data as described in the prior bullet will result in a process that assists the NJ-HISPC and stakeholders to develop workable project plans for each suggested solution.
- The continued evaluation of solutions during this implementation phase reveals that certain solutions were suggested that can or will combat more than one barrier to interoperability of EHR. Where an implementation project plan for a given solution will be the same (when that solution is applied to a different barrier), duplicative solutions should be eliminated to ensure project planning efficiency. Nonetheless, in those instances, the implementation team will continue to track all barriers attributable to each solution; and will modify a project plan for a solution, as necessary, to accommodate any different problems/needs that are presented by different barriers attributable to that solution.
- The process for creating detailed project plans described in prior bullets can best occur with input from a wide variety of industry stakeholders. This will ensure that that plan is properly developed, includes all necessary steps for implementation, and appropriately considers all relevant factors that might impact the implementation process.
- The decision whether a given suggested solution will be pursued to implementation and deployment, as well as the extent and means by which implementation will occur, may change as discussion around the importance and feasibility of its implementation progresses.
- It is possible that, through the project planning process, certain suggested solutions will be determined to be infeasible to implement, or may otherwise be determined not to be implemented for a myriad of compelling reasons. However, a detailed project plan for each solution that *is* expected to be implemented will ultimately result from the final work of the implementation team and NJ-HISPC.
- It is expected that prioritization and other decisions made through the implementation project work will be documented through the project planning process, in order to produce sufficient guidance for the implementation team and others to pursue completion of implementation at the conclusion of NJ-HISPC.

## *1.3 The Way Forward in New Jersey*

The HISPC project has had a profound impact on the overall level of interest in the promise of administrative simplification and EHR. While HISPC has joined many otherwise divergent interests in a study of the impact of HIT on the universally recognized significance of privacy and security, it has also triggered an immediate commitment to move forward with EHR in New Jersey.

In the last six months new alliances for the development of Regional Health Information Organizations (RHIOs) have formed; collaborations to submit applications for AHRQ HIT ambulatory care grants have formed; the New Jersey Assembly has taken testimony

on NJ-HISPC, RHIOs, HIT and EHR; the New Jersey Department of Human Services was awarded a CMS grant to establish the first Medicaid EHRs for minors; we have adopted statewide enumeration guides for use in selecting NPIs; we have adopted rules for inclusion of NPIs on all paper medical forms and on all provider license applications; and we have formed strategic partnerships in many areas for the further development of a self-sustaining RHIO and EHRs.

Now that NJ-HISPC is in the implementation planning phase of this project, it is critical that we examine our history, goals and expectations and determine the best way to proceed.

The people and the government of New Jersey have always believed in the principle that progress through technological advancement will result in cost savings and improvements in the quality of health care. Witness our cutting edge HINT study in 1993 that was able to academically quantify the savings that could be realized through the introduction of electronic systems into medical office administration and management. Many of the conclusions reached in the pioneering HINT study became the foundation upon which HIPAA's Administrative Simplification was based. In 1999, New Jersey adopted the Health Information Electronic Data Interchange Technology Act (PL 1999, c. 154 and 155), (referred to as "HINT") which directed DOBI to adopt rules for the use and implementation of the HIPAA transaction and code sets in New Jersey. Recently, HINT was amended to permit DOBI to adopt rules for the development and use of EHR. See PL 2005, c. 352, sec. 18 et seq.

Unlike most states and the federal structure, the jurisdiction to adopt rules for the deployment and use of electronic transaction and code sets as well as EHR is not placed with those agencies that generally regulate health care providers. Rather, HINT is directly linked to the payment of claims by state based health care payers and is part of the fabric of the state's prompt payment and clean claim laws. Thus, DOBI is the agency directed to adopt rules in furtherance of HIPAA Administrative Simplification and EHR and to foster the use of electronic technology in the health care field with DOHSS acting in a consultative role. As a consequence, New Jersey has addressed many of the issues encountered in this process from practical business juxtapositions. We tend to use the good offices of state government to seek our ways to bring the all the competing interests together in a cooperative working structure to find mutually acceptable ways to achieve common goals for the benefit of all. Most of all, we seek to find economically self-sufficient common ground for all parties in a health care transaction that will foster the goals of HIT.

While New Jersey has always been forward looking and progressive, our consideration of the practical need to find financially sound solutions and structures for HIT has restrained our early involvement in the RHIO arena, unlike some other states. Before adopting rules for the use of EHR, we have sought to identify a return on investment for all – individual and large providers, payers, and the taxpayers – as well as a business model that will be financially sound and capable of sustaining itself. This does not mean that we have done nothing to hasten the timely and productive use of HIT. We have on a regular basis in the

last several years used the NJ DOBI Task Force to mobilize all stakeholder parties to a health care transaction into joint ventures, such as our NPI initiative.
Now we find ourselves at pivotal moment! The HISPC project has generated substantial interest and desire in all facets of the health care industry to take the next necessary steps in the long and difficult metamorphosis from paper based record systems to universal EHR. As we go forward and as we consider the impact and application of the various implementation plans that we will be considering, out considerations should be measured against the following basic questions:

- Will the implementation plan encourage and facilitate the development and deployment of EHR in New Jersey?
- Will there be a proper balance between the essential requirements of individual privacy and security in the individuals' protected health information with the equally compelling imperative that critical health information must be readily available when and where needed to save lives?
- Will the plan impose an unfair economic burden on any party?
- Can we demonstrate that the plan will have a return on investment for all parties?
- Are all parties committed to the success of the plan?
- Does our plan create an infrastructure and a business model that will each stand on its own without constant or periodic infusions of outside capital?
- Will our plan allow us to proceed deliberately and in concert with the needs of consumers, industry best practices, federal standards, regional standards and protocols?
- Have we considered what assets and resources already exist that can be used in furtherance of our plan development and deployment?
- Have we learned from the successes and mistakes of others?

With these questions in mind and always concerned about the essential aspects of privacy and security of protected health information, we should consider taking the following steps forward in furtherance of any solutions' implementation plans:

1. Obtain knowledge of all electronic health information networks currently operating in this state. We need to determine the full extent and nature of all HIT resources, what information is being exchanged, what formats and granular structure are in use, whether we can join any of these networks to obtain more regional usage, and whether the parties are willing to share assets and lessons learned with others. In short, we need to know what resources and people are available and their willingness to join in a common undertaking. Recently, NJ-HISPC has learned that there may be an opportunity to apply unspent funds after the delivery of all NJ-HISPC contract requirements to undertake step(s) suggested by the NJ-HISPC final implementation plan. If this opportunity develops and if some funds remain unspent, NJ-HISPC believes it is vital that we gain a full and complete understanding of all the assets and resources currently in use in this state.
2. Our implementation plan should allow us to continue to work with the New Jersey Hospital Association, Horizon Blue Cross Blue Shield of New Jersey and many other interested parties to develop, if possible, a business plan for a self-sufficient RHIO in New Jersey.

3. Our implementation plan should, if feasible within the current economic condition of the state budget, recommend that appropriate sufficient funds be appropriated for use by state governmental agencies to gather all stakeholders into working groups to develop and deploy HIT systems; to seek out and work with others to acquire and match federal and private foundation funds for EHR and RHIO development; to undertake all necessary steps to develop and increase public awareness of the benefits of EHR to all members of society; to participate in all necessary federal and regional activities and forums in recognition that all HIT systems and formats must be consistent with federal standards, as well as that many of the applied solutions will be regional in nature; and to fund Thomas Edison State College to continue to assess the academic studies necessary to determine the effectiveness of HIT.
4. The plan should clearly demonstrate the return on investment for payers to be realized by the EHR systems. Even though it is often stated as a fact that HIT can reduce costs by eliminating the incidence of unnecessary and redundant medical tests, there have been no processes suggested that would demonstrate the means by which payers would be able to actually see a reduction in these wasted funds. Hence, the plan should explore the development of specific ways to actually reduce and/or eliminate unnecessary testing. One such model would employ a single web portal where all medical tests could be ordered by all providers. The order form would be patient centric and would be immediately linked to a central index of medical tests already performed, and the results of those tests. If no new medical necessity or clinical conditions existed, and the results of the previous test are still valid, authority to perform a new test would be withheld. Such a model, while not the only one, could be developed using the state's ability to regulate state based payers and the structure related to the payment of medical claims.
5. Rather than trying to create a costly and single system to accomplish all our goals at one time, the plan should take those basic and sequential steps that are attainable within a reasonable time, are economically feasible and do not raise unreasonable expectations of the participants. There are many currently operating networks functioning in New Jersey. Medical data elements and test results are already being digitized in formats that can be capable of transmission from hospitals, testing centers and laboratories into the offices of individual and group providers. We should look to join all currently available assets where possible. Once we are comfortable with the simple task of moving test results among all the essential parts of our health care delivery systems, we should then advance to move difficult issues, such as interoperable EHR. This does not mean that we should adopt a rigid incremental approach, but simply that our progress should be measured and not raise unreasonable expectations.
6. The plan should require that we assemble the necessary parties to determine the costs and savings that might be realized by introduction of EHR into the New Jersey State Health Benefits Plan and the state funds expended in the delivery of charitable and uninsured medical care, Medicaid and Medicare.
7. The plan should require that we continue to stress the important of EHR to society as a whole and to each of us individually. It is essential that all aspects of

society recognize the need for these systems and our plan should aggressively engage all concerned. Most of all, we should emphasize that these systems will preserve the privacy of PHI in a secure environment that is safe from misuse. Fundamentally, we should be able to demonstrate with clarity what mechanisms will be used to ensure privacy and security.

None of these steps are difficult or overly expensive, yet each will have a significant impact on the attainment of our goals.

# 2. Summary of Interim Analysis of Solutions Report

## *2.1 List / Summaries of Solutions for Implementation Plans Included in Report*

In the Interim Analysis of Solutions Report, the NJ-HISPC SWG identified five solution categories that will assist in developing the implementation plans for electronic information exchanges as required by the contract. The solutions categories are as follows:

1. Interoperability,
2. Workflow,
3. Federal and State Law,
4. HIPAA Security and Privacy,
5. Education.

1. Under Interoperability, which we defined as the ability of products, systems, or business processes to work together to accomplish a common task, the solutions working group identified the functionality needed to implement electronic systems in the near future. Key solutions in this area include the development of:

- Minimum encryption standards for data in an EMR system, in email exchanges, and web portals
- Statewide mandated uniform security protocols and HIPAA minimum necessary policies and procedures for use in all health care institutions
- Minimum authentication standards and ability to stratify access to information in EMR system
- Statewide approved and mandated algorithm for the de-identification of data
- Standard Business Associate Agreement
- Secure abililty for provider remote access to EMR
- Definitions of access privleges for all categories of users

2. The Workflow category is defined by us as the movement of documents and/or tasks through a work process. More specifically, workflow is the operational aspect of a work procedure. Under this category, the primary solution identified by the SWG was the development of community standards and best practices. These guidelines would be developed through the use of community forums. Specific topics that would be discussed in the forums and responses later analyzed to create standards, include:

- Standardized request form to share medical information
- Standard forms of identification
- Verification of clinicians
- RHIO or patient centric portal
- Secure, encrypted email
- User access agreements
- Standard procedures for law enforcement obtaining PHI
- Business Associate Agreements / Confidentiality Agreements
- Pharmacy, marketing, employer, and public health issues

3. We have noted that the primary issue in need of a solution under the Federal and State Law area is the level of confusion, misunderstanding, lack of knowledge, and multiple interpretations of laws concerning the sharing of health information by stakeholders. The SWG and NJ-HISPC recommended a state initiated analysis of existing federal and state laws covering the following topics:

- Information sharing between state and local health authorities
- Sharing of information to identify lead poisoning cases and risk factors
- Medicaid law reform to permit data sharing
- IRB web portal
- State permission for data sharing / types of authentication
- Sharing of mental health information
- State / interstate data sharing agreements
- Comprehensive consent form for research
- Statewide health data information exchange
- Temporary access for first responders
- Family access to medical records

The SWG also recommended that baseline policies and procedures be put in place outlining federal and state law requirements and mandates relating to the secure exchange of health information. Finally, an educational campaign should be launched on federal and state laws and regulations to deal with the differing perceptions between providers, payers, and consumers and provide a uniform collection of information for distribution to NJ stakeholders.

4. Our variations assessment demonstrated that currently there is a great deal of confusion, misunderstanding, lack of knowledge, and breadth of interpretation of the HIPAA requirements in New Jersey. Once again, the failure to understand the application of current laws and regulations is a major barrier to progress.

The HIPAA security and privacy solutions will consist of several activities, as follows:

- Additional investigation of areas of confusion among stakeholders not involved in the variations assessment. Some key areas are:
    - Patient rights understanding and education

    - Law enforcement – both HIPAA and NJ law impacts; understanding and education
    - Minimum necessary understanding and education
    - De-identification understanding and education
    - Use and disclosure of sensitive data – both HIPAA and NJ law impacts; understanding and education, including when authorization for disclosure is required and when not
    - Standard consent/release/authorization documents and management process defined and implemented
    - Standard forms and checklist for employee return to work
    - Standard authorization forms and authorization management defined and implemented.
- There needs to be consensus as to statewide, baseline policies and procedures in place for the HIPAA security and privacy mandates and requirements which should be documented, memorialized and agreed to by all stakeholders. There needs to a recognition that there are benchmarks that form the fundamentals of privacy and security and its application.
- Education, and continuing education, on the HIPAA law and regulations, and consensus policies and procedures to dispel myths needs to take place, dealing with cultural issues, and the differing perceptions between and among the provider and payer stakeholders, and how they may differs from consumer perceptions.

5. The NJ-HISPC SWG and NJ-HISPC agree that the NJ-HISPC education solutions are initial and critical foundation blocks to HIE and interoperability in New Jersey. An education package needs to be developed to assist with dispelling cultural and perception barriers. The federal / state / HIPAA laws and regulations and New Jersey consensus drawn and approved policies and procedures need to be explained to the consumer and provider stakeholders, as well as all the other NJ-HISPC stakeholders for statewide understanding.

The NJ-HISPC implementation plan will make use of many outreach and education approaches, including individual meetings, community and town hall forums, teleconferences, newsletters, brochures, and website/portal posting to present information about the following specific topics:

- Notice of Privacy Practices
- Consent
- Authorization
- Minimum Necessary
- De-identification
- Law Enforcement

## *2.2 Descriptions of Solutions Presently Implemented in New Jersey*

A number of state and private projects working on sharing medical and administrative data electronically are currently underway. Many of these are in the planning or pilot stages. The NJ-HISPC team expects to gather more information about these efforts to identify solutions which might be expanded and utilized in statewide efforts. Some of the statewide efforts are focused on emergency preparedness, and these efforts are identifying barriers between agencies and creative ways to address them while maintaining essential safeguards on personal information.

# 3. Review of New Jersey Implementation Planning Process

## *3.1 Organization of New Jersey Implementation Planning Workgroup*

### 3.1.i NJIPW Charge

It is the charge of the NJIPW to identify, critically analyze and facilitate the creation of a workable implementation project plan or plans for each of those suggestions for solution to barriers for interoperability of EHR that were identified by the NJ-HISPC. This implementation plan must recognize the necessity of obtaining funding, political and industry commitment, the results of pilot efforts underway in New Jersey, and the need to educate providers and consumers about the protections which will be offered for privacy and security while implementing new practices.

### 3.1.ii NJIPW Leadership

The NJIPW is co-chaired by Kim Bratton-Musser and Deborah Cieslik. Both were critical contributors to the Solutions Working Group. The NJIPW leadership team also includes all individuals named as presenters of this interim report. Also, the project manager, assistant project managers and all necessary members of NJ-HISPC have actively participated in the work undertaken in furtherance of this report.

### 3.1.iii NJIPW Membership

Furthermore, the NJIPW as a whole consists of the broadest possible collaboration of industry stakeholders. All individuals, agencies and organizations that have thus far participated in the NJ-HISPC are represented on the NJIPW, as well as other individual stakeholders who have indicated a willingness to assist with the implementation process. Key members of the NJVWG, NJLWG and NJSWG continued work on the project in preparation of this interim report; and are expected to continue their participation as

members of the implementation team throughout the implementation process. This report draws on the input provided by the stakeholders involved in solution development, since many constraints of implementation were initially discussed as part of the solution development process.

#### 3.1.iv NJIPW Stakeholder Representation

Among the different stakeholder representatives identified for participation on the NJIPW are: payers, providers, clinicians, technology companies and consultants, medical schools, state government, educators, and consumers. Also, NJ-HISPC in conjunction with NJ DOBI and other state agencies is planning to conduct an open conference in late March or early April 2007 with all interested parties and stakeholders to provide them with an opportunity to present their opinions in person or in writing regarding the barriers, solutions and implementation plans set forth in our work. We intend to publish open invitations to all interested parties and stakeholders. The goal is to proactively demonstrate the transparency with which NJ-HISPC has done its work and to gain the insight from others regarding the application of the proposed implementation plans.

## *3.2 New Jersey Process to Formulate, Determine Feasibility of Implementation Plans*

NJIPW is actively engaged in an ongoing effort to facilitate and organize an evaluation of the suggested solutions that will lead to the creation of a detailed project plan for implementation of each solution that is expected to be completed collectively by all stakeholders/members of NJ-HISPC. Members of the NJIPW are assigned to and asked to volunteer with respect to specified solutions – to assist in the evaluation and identification of the project planning elements required by RTI and pertinent to implementation of those assigned solutions. This ensures that all suggested solutions are evaluated fully, and that a final implementation project plan is similarly created for each. As described previously, a meeting is expected to be held for all stakeholders, at which they will be introduced to the tool, designed by NJIPW leadership, to uniformly document the results of their evaluation and implementation project planning. It is expected that the NJIPW leadership will walk the full team membership through the 'creation' of at least one, whole project plan (for one suggested solution), in order to fully demonstrate how the tool is expected to be used, as well as what type of information/detail is expected to be gathered in delivering an implementation plan through the tool. The whole team will then be asked to similarly complete an implementation project plan for each of their assigned solutions. The resultant data will be gathered and evaluated by NJIPW leadership; at which time recommendations will be made as to prioritizing the order of actual implementation work to be pursued. Factors to be considered in determining the relative order of work (in implementing solutions) may include, but not be limited to, the prevalence/importance of the barrier sought to be solved, the cost to implement, the resources needed to implement, the ease/difficulty of implementation, the importance of the solution to interoperability, the time needed to implement, the commitment of key stakeholders to implement, and other relevant factors.

It is expected that the recommendations for order of work, as well as all data assembled in creation of the aforesaid plans, will be shared with the whole NJIPW team prior to publication in the final implementation report.

## *3.3 New Jersey Implementation Plans, Organization, Prioritization, and Presentation*

NJIPW continues to orchestrate a team of experts with various healthcare backgrounds to be design and implement plans that are cohesive and achievable. NJIPW plans to continue to accomplish this by identifying and prioritizing solutions in such a way that will facilitate a phased approach into the final implementation plan. This phased approach will allow short term wins to be accomplished, which will lead to the building of project momentum and team excitement.

NJIPW will create an ongoing condensed version of the full final project plan and an overview explaining the implementation process and the way in which their support and guidance would be solicited throughout implementation. By doing this NJIPW allows the stakeholders to build ownership and buy-in of the process prior to the inception of the implementation process.

NJIPW will present feedback to stakeholders, which will include a rather large audience, by providing consistent updates, project status reports and soliciting their feedback on the distributed materials to ensure that stakeholders understand the recommendations or goals needing to be accomplished. By continuing to use this project methodology the NJIPW will be able to continue to engage the stakeholders, leading to continued project buy-in and participation.

## *3.4 Specific Planning Methods and Tools*

As described above, the implementation team has created this interim implementation plan and intends to facilitate the creation of a detailed project plan for the implementation of each suggested solution identified in the project. That detailed plan developed for each solution will include consideration of the 11 elements identified by RTI, as well as the following 4 elements: the answer to the question whether the proposed solution in question is single- or multi-state based; the ***importance*** of each solution in combating barriers to interoperability of EHR (relative to the other suggested solutions); the ***ease of accomplishment***/feasibility (in implementing each solution); and the relative ***order*** in which the team will endeavor ***to complete*** implementation (of all solutions). The identification of all 15 elements pertaining to each solution is the process by which the implementation plan for each solution will be created.

The solutions are grouped into the following categories: Interoperability, Workflow, Federal and State Law, HIPAA Security and Privacy, and Education. In addition, from prior NJ-HISPC activities, some preliminary information has already been gathered about

the relative interests, knowledge and experience of the participants of the members of the NJ-HISPC project. That said, it is intended that stakeholder participants on the implementation team will be asked to identify those substantive categories of solutions, and even those specific suggested solutions, on which they may be most interested in working. Inasmuch as change/solution implementation is itself a challenging process, it is assumed that relevant stakeholders will work hardest to achieve the solutions with which they are most interested.

A spreadsheet will be attached to and incorporated by reference into this interim report. In order to create a detailed project plan for each proposed solution, each one (under each of the 5 categories of solutions) will be evaluated individually to identify for each solution all 15 elements that must be considered to create a project plan to achieve that solution's implementation. Then, as each data point under those 15 elements is developed or identified relative to a suggested solution, it will be included and captured in the spreadsheet. This process will be followed for each suggested solution; and duplicative solutions will be eliminated (i.e., when the same solution was proposed to combat several different barriers).

In addition, in order to maintain and encourage the continued efforts of relevant stakeholders to achieve implementation of solutions once the HISPC project ends – even those solutions for which a long implementation process is expected – the team believes that it may be valuable to identify and achieve those solutions that might be accomplished more quickly/easily. In that way, it is felt that the energy and resources necessary to achieve the longer-term projects may be sustained longer, to enable those longer-term projects to also be accomplished.

# 4. NJ-HISPC and Multiple State Implementation Plans

## *4.1 New Jersey Strategy and Coordination*

As described above, the NJ-HISPC implementation team intends to involve all stakeholders in the development of full-blown, comprehensive implementation project plans for each of the solutions suggested to combat barriers to interoperability of EHR. In that way, we believe we will ensure that the commitment from key stakeholders to participate in implementation – which the NJIWG readily believes is critical to successful implementation post NJ-HISPC – will be obtained.

NJ-HISPC has incorporated into its process for evaluating each solution and creating its relevant implementation project plan a determination about whether the solution contemplates a single-state or multiple-state based approach for implementation. Thus, the NJIWG does not believe it is necessary, for purposes of this interim report, to create separate headings herein to identify that single- or multiple-state treatment.

## *4.2 NJ-HISPC Implementation Plans for Identified Solutions*

Immediately below is a draft schematic of the tool which the NJIWG intends to use to facilitate the development of a fully-detailed final project plan to implement each of the solutions suggested as part of this NJ-HISPC project.

With regard to indentified implementation plans we will use a Template, attached as Appendix 1, to yield the final project implementation plan.

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**New Jersey Health Information Technology Interoperability Group [HITIG]**

**Workflow Work Group** | **Standards / Law / Regulations Work Group** | **Technology Requirements Work Group**

**HITIG E D U C A T I O N**

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The NJ HITIG will be formed as part of the NJ DOBI HIPAA/HINT Task Force and will be a New Jersey statewide database for federal / state healthcare law outlines and explanations, for the technology standards, the best practices, consensus policies and procedures, and education packages. We will use this entity to collect, organize and disseminate useful information and data on the current status of HIT efforts, specific details and potential for connectivity with other networks.

The NJ HITIG will be the statewide working group to engage in and complete all the follow up work on HIE and interoperability within New Jersey after NJ-HISPC.

NJ HITIG will be the source of:

- Information, knowledge and database as to all EMR / EHR / PHR / RHIO happening in New Jersey. As noted previously, this group would engage in the statewide questionnaire/survey process to determine the nature, extent and compatibility of currently existing networks.
- Knowledge and database of EMR / EHR / PHR / RHIO happening nationally and in other regions
- Knowledge and database of national trade associations
- Knowledge and database of national trends
- Knowledge and database of federal contracts, grants, and projects
- Knowledge and database of federal health care regulations

The NJ HITIG will be designed to be the information and knowledge base for all HIE, interoperability, RHIO, and NHIN work ongoing in New Jersey. It will be the focal point at which state HIT activities will meet and blend with federal standards and networks.

NJ-DOBI will recruit stakeholders to be part of a steering committee to serve on the board and to help lead the task force.

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## 4.2.i NJ-HISPC Implementation Plans

Outlined below are the six initiating projects that the NJ HITIG will collect information on:

1. Statewide security standards project
2. Technology functionality project
3. Workflow project
4. Federal and state law project
5. HIPAA security and privacy projects
6. Education project

from the information collected and developed in the NJ-HISPC VWG, LWG, SWG and IPWG phases of the work and from all other available sources.

***Interoperability*** **in so far as it relates to the work of the NJ HITIG shall be considered** the ability of products, systems, or business process to work together to accomplish a common task. The steps towards interoperability include:

1) A statewide consensus set of security standards stated as best practices, policies and procedures,
2) A statewide agreed upon technical functionality.

**The following specific NJ HITIG projects should emerge that will confront and implement the solutions identified by NJ-HISPC in the following ways:**

**1. <u>Statewide Security Standards Project Activities</u>**

1) Hold policy forums to collect detailed information concerning all nine project domains:
   - [i] User and entity authentication,
   - [ii] Information authorization and access control,
   - [iii] Patient and provider identifier,
   - [iv] Secure information transmission,
   - [v] Information transmission,
   - [vi] Information audit,
   - [vii] Administrative and physical safeguards,
   - [viii] State law restrictions,
   - [ix] Information use and disclosure;

2) Use the information collected to develop consensus plans and procedures for all nine domains,

3) Implement all nine domains plans and procedures across the stakeholder communities,

4) Post the plans and procedures for free download;

5) Create a plans and procedures consensus manual that will be web-posted and free for downloading, much the same as DOBI has done with its HIPAA Transactions and Code Sets Implementation Guides and the NPI Enumeration Suggestions;
6) Create education packages for the consensus plans and procedures;
7) Engage other state agencies, such as the Department of Labor and Work Force Development and the Human Resource Development Institute, to write course content, work books and training programs as to all solutions related to training and education:
7) Develop a plan and procedures update, communication and management program for all agreed upon statewide interoperable plans and procedures.

**2. <u>Technical Functionality Project</u>**

Create a consensus statewide functionality requirements document. This will ensure that all stakeholders agree as to the functional needs, goals and requirements that can, should and will be met by the further development of HIT and EHR. The functionality to be considered includes:

- Complete EMR documentation associated with any EHR networks
- Minimum necessary encryption standards for the data within the EMR
- Procedures for the identity and security of medical and administrative information
- Development of a statewide master patient index so that any person receiving medical care in this state after the effective date of the beginning of the HIE network will be assigned a unique patient number, unless the patient specifically opts out of participating in the EHR system
- Create minimum encryption method for PHI in email
    - Encryption is not sufficient for secure email between providers
    - Secure email for patient-provider communication
    - Email also needs audit and tracking capability
- Provider remote access to EMR under controlled and auditable circumstances
- All PCs with same level of security and maintenance, consistent with facility and interoperable network standards
- Stratification and documentation of information access
- Strong auditing measures
- Minimum necessary encryption standards for web portal
- Minimum necessary authentication standards for web portal
- Statewide mandated uniform and specific security protocols for all healthcare institutions consistent with all federal and regional standards
- Access privileges defined for all category of users, including health plan case managers and consumer-patients
- Continue use of electronic prescribing and faxing that meets the statewide uniform security protocols
- Statewide approved and mandated algorithm for the de-identification of data
- Consider a regulation outlining an accepted method for de-identification of data

- Certain health information about births, deaths, tumors, vaccinations, emergent public health concerns are already regularly reported electronic by providers to state databases as per state law using safe and secure reporting networks. These data reporting streams should be combined and extended into other useful health information
- Standard consent / authorization processes per HIPAA for marketing uses of medical information should be developed for statewide use by payers and providers
- Statewide approved guidelines to used for applying the HIPAA minimum necessary policies and procedures associated with the disclosure of PHI
- Create standard Business Associate Agreement
- Uniform protocol for providing hard copy of medical records to a hospital or provider only in limited circumstances when EHRs will not suffice
- Utilize the HIPAA NPI when sharing information though a web portal and all other health information exchanges
    - Use to assist authorization and authentication
- Standardized secure web portal solution
- Continue to explore new and unique ways to properly and securely identify and authenticate patients and providers such as complex formulas or linkage of precise global positioning profiles combined with combinations of other unique detailed information.

***Workflow*:** the movement of documents and/or tasks through a work process. The first step in workflow solutions is to understand the current workflow process. The second step is to hold a number of stakeholder forums to discuss workflows. The third step is to create a number of workflow documents for statewide use.

**3. <u>Workflows Project</u>**

Workflow Outlines:
1) Survey stakeholders to outline current paper workflows
2) Survey stakeholders to outline current electronic workflow
3) Create survey workflow documents to use in the forums

Workflow Forums:

A number of topics that will be used in the forums to assist the discussions, including:

- The workflows outlined in the initial surveys
- Standardized request form to share medical information
- Determine standard forms of identification, such as
    - Unique patient identification number
    - Photo ID
    - Digital drivers license, passport
    - Other forms of valid IDs
    - State mandated master patient index
- Verification of clinicians
    - Physical security

    - NPI ID card with embedded coding / swipe card
    - Combine with a specific global position where provider declares that he or she will be receiving PHI
- Create RHIO or patient centric portal
- Secure, encrypted email
- User access agreement
    - Delineate authorized uses
    - Recipient use rights
    - Provider obligations and responsibilities
    - Technical requirements
    - Mutual security assurances
- Standard procedures for law enforcement obtaining / using PHI
- Education program specific to law enforcement permission to obtain / use PHI
- Business Associate Agreements / Confidentiality Agreements, develop a list of where these documents are necessary
- Pharmacy issues, PBMs
- Development of a web portal for ordering all medical tests and imaging which is linked patient centric EHRs so as to help eliminate the incident of unnecessary and redundant tests and studies
- Develop rules of the use of medical claims filing processes wherein electronic test and study results are posted to a patient centric data base maintained as a statewide public service entity
- Use of national standard setting accreditation organizations to provide third party verification of compliance with HIPAA and state privacy and security laws and regulations
- Marketing issues and how they are applied to handling PHI
- Employer issues and their need to have some PHI
- Public health issues and rapid access to PHI

Workflow Documentation:

1) From these forums a set of typical workflows and proposed solutions should emerge and will be developed;
2) Unusual workflows will also be outlined for statewide use where necessary;
3) A set of consensus best practices and standards for networks and interoperability will be developed;
4) Post the workflows, solutions and plans and procedures for free download from the NJ HITIG website;
5) Create a plans and procedures consensus manual, posted free for download at the NJ HITIG website;
6) Create education packages for the workflows, solutions and consensus plans and procedures;
7) Develop an update, communication and management programs for office and PHI workflows.

***Federal and State Law*:** healthcare law and regulations that impact HIE and interoperability. Create an ongoing work group to work now and in the future on federal and state law issues concerning HIE and interoperability.

**4. <u>Federal and State Law Project</u>**

The following necessary steps have currently been identified:

1) Continue with the comprehensive review of state and federal laws and regulations, including patient consent and sensitive information that is currently underway as part of the NJ-HISPC contract
2) Organize a work group to monitor the changes in current state and federal laws and regulations
3) Organize a work group to review potential amendments to state and federal laws and regulations
4) Work with the National Conference of Commissioners on Uniform State Laws, the National Association of Insurance Commissioners and the National Governors Association
5) Work with all NJ DOBI, NJ DOHSS, NJ DOHS, AHRQ, other federal, and state ambulatory, HIE, interoperability, RHIO projects, Thomas Edison State College, payers, trade associations, the NJ Hospital Association and all other stakeholders
6) Create statewide consensus policies, procedures and best practices, for federal and state law
7) Create education packages on federal and state privacy and security laws
8) Develop update, communication and management programs for application of federal and state law.

Specific Topics to Consider and Investigate:

- Information sharing between state and local health authorities
- Lead poisoning causes, identification of risk factors
- Medicaid law reform to permit data sharing
- IRB web portal
- State permission for data sharing / types of authentication
- Sharing of mental health information
- State / interstate data sharing agreements
- Comprehensive consent form for research
- Statewide health data information exchange
- Temporary access for first responders
- Family access to medical records

***HIPAA Privacy and Security*:** specific federal security and privacy law and regulations that impact the HIE and interoperability.

**5. <u>HIPAA Security and Privacy Project</u>**

The steps necessary currently:

1) Perform a comprehensive review of HIPAA security and privacy,
2) Organize a task force to monitor the changes in HIPAA laws and security and privacy regulations,
3) Organize a task force to review potential amendments to HIPAA laws and regulations,
4) Work with all NJ DOBI AHRQ, other federal, and state ambulatory, HIE, interoperability, and RHIO projects,
5) Create statewide consensus policies, procedures and best practices, for HIPAA law and regulations,
6) Create education packages for HIPAA law and regulations,
7) Develop update, communication and management programs for HIPAA law and regulations.

Specific Topics to Consider and Investigate:

- Patient rights understanding and education
- Law enforcement – both HIPAA and NJ law impacts; understanding and education
- Minimum necessary understanding and education
- De-identification understanding and education
- Use and disclosure of sensitive data – both HIPAA and NJ law impacts; understanding and education
- Standard consent / release /authorization documents
- Consent / release / authorization management process defined and implemented
- Standard forms and checklist for employee return to work
- Standard authorization forms
- Authorization management defined and implemented

***Education*:** the systematic training and instruction to impart knowledge to alleviate roadblocks to HIE and interoperability.

## 6. Education Project

Engage all state agencies and educational institutions that write, develop and present training, education and certificate programs.

The Department of Labor and Force Development, the Human Resource Development Institute, state and county colleges, private technological educational vendors should all be enlisted in the effort to create and write course specific classes on the following subjects that should offer specialized certificates and credentialing in the following subjects related to EHR networks**:**
1) Interoperability
2) HIT, EDI and EHR Workflows
3) Federal and State privacy and security Law, guidelines and standards.
4) HIPAA Security and Privacy Requirements, without all the misperception and misunderstanding

Specific Topics for Education Programs:

- Notice of Privacy Practices
- Consent
- Authorization
- Minimum Necessary
- De-identification
- Law Enforcement
- Employer/employee and PHI
- Workers compensation/ disability and the ADA

Specific Forms of Education:

- Face-to-face training
- Community forums
- Classroom and continuing education credits
- Town Hall forums
- Teleconferences
- Webex presentations and conferences
- Newsletters
- Posting news and alerts to websites and portals
- Brochures
- Mass media

**The following questions are answered at a high level in this document. They will all be reviewed in greater depth against every solution and barrier in the final implementation planning phase. Please see the Template attached to this report as Appendix 1.**

## 4.2.ii Summary of effective practice(s) to be instituted or barrier(s) to be mitigated or eliminated by the plan

We plan to work on all barriers to interoperable HIE. Barriers we have identified include misinterpretations of HIPAA and other laws, inconsistent application of federal and state law, and the inability of current information technology applications to fully implement compliance with legal requirements.

These barriers are exacerbated by a lack of interoperable business processes for implementing privacy and security across organizations. We hope that by achieving consensus on policies and procedures, business processes will become more interoperable even when paper processes are still being used.

By achieving these objectives, we should be able to mitigate many of the HIE and interoperability barriers identified by the VWG and the LWG.

## 4.2.iii Planning assumptions and decisions

HITIG will convene many of the current HIPSC stakeholders as participants for the Committee structure defined in the Plan. Further, HITIG will expand the list of stakeholders to include more consumer and patient advocacy groups, as well as stakeholders with specific clinical and technical expertise, as needed.

One of our key planning assumptions is that a large amount of valuable work has already been done by local organizations. We plan to collect and catalog relevant work product from all of our stakeholders, especially from organizations that are already leaders in local HIE efforts.

Another key planning assumptions is that we can sustain the interest of our key stakeholders. We have been the recipient of significant "in kind" contributions from our stakeholders.

We also assume that the New Jersey healthcare community wants and needs this work done. We based this assumption on the comments from stakeholders gathered during the initial stages of the HIPSC project. We note that some communities and provider organizations already have significant penetration of EHR systems, and we anticipate significant increase in the adoption of EHR systems over the next three years. We believe that interest in laws, policies and technology that effect HIE will increase in direct proportion to the adoption of electronic health record systems.

We assume continued state government support in the form of in-kind contributions and participation of key personnel.

## 4.2.iv Project ownership and responsibilities: List Individual / Organization Name and Titles

The HITIG project will be initiated and led by NJ DOBI. We will seek advice from other organizations that have played a significant part in the diffusion of technology in New Jersey, including the medical society and the hospital association. Governance and "ownership" issues will be fully discussed prior to the beginning of the HITIG project.

HITIG will also include coordination with the Office of the National Coordinator for Health Information Technology, the National Governor's Association eHealth Alliance, and the National Conference of Commissioners on Uniform State Laws, so that New Jersey is not doing work in a silo, and can learn and share ideas beyond the state's boundaries.

### 4.2.v Identify tasks required, organized by work breakdown structure

Please see the items outlined in 4.2 above,

### 4.2.vi Project timeline and milestones

It is recognized in NJ-HISPC that the President of the United States has stated and supports HIE and interoperability by 2014. NJ-HISPC supports such statewide, regional and national efforts to complete discrete implementation projects that will assist in meeting this timeline.

While we have not developed a detailed timeline of this project, we will develop a more nuanced timeline in the final implementation planning phase. At this time we anticipate that the HITIG initial tasks could be completed within 24 to 30 months.

### 4.2.vii Projected cost and resources required

NJ-HISPC recognizes how much HIE and implementation will need a deep investment of many types of resources. This area will be further discussed and detailed in the final implementation planning phase.

### 4.2.viii Means for tracking, measuring and reporting progress

The NJ-HISPC project has developed a number of valuable tracking, monitoring, and reporting tools that will transfer to HITIG implementation project, including a dynamic work plan, weekly and monthly meetings and project databases. DOBI will organize a project management office to coordinate all aspects of the HITIG project and provide regular progress reports to stakeholders and funding sources. We believe that one key aspect of progress management is to include organizations with a significant stake in the ultimate success of the project in the governance of the project. This would include representatives of health plans, providers, government agencies and consumer organizations.

### 4.2.ix Impact assessment on all affected stakeholders in the state, including small and rural providers

A HITIG project is a positive and necessary step for HIE and interoperability in the New Jersey and should have a positive effect for all stakeholders. However, we feel that the design of the project will offer particular advantages to the following stakeholders:

- Specialty providers who have to date been largely left out of broad policy discussions on HIE, such as substance abuse clinics;
- Smaller scale provider organizations that lack the management infrastructure to systematically address all of the policy issues raised by HIE;
- Consumer groups and advocates;
- Payers and purchasers that are seeking to leverage the cost and quality advantages of EMRs and related technology across a broader base of providers;
- Patients, who will have access to better understanding of their legal rights, more opportunities to take advantage of technology-related services and more granular and transparent control over their health information.

### 4.2.x Feasibility assessment

A HITIG project as proposed is very feasible. It builds upon work that is being done on a more limited scope by existing organizations, and expands it to a larger scope both in terms of geography and stakeholder involvement. Further, the NJ-HISPC stakeholder community has experience in working together since the inception of the HIPAA law and requirements and the HINT law.

### 4.2.xi Possible barriers to implementation

We have identified two possible barriers: our ability to obtain continued in-kind contribution from key stakeholders, and the ability of the State of New Jersey to provide both in-kind and financial support for this project. If “in kind” contributions are not available, we may need to substitute a greater level of retained consultant time for the project.

# Appendix 1

NJ-HISPC Implementation Grid Template.xls (posted as a separate document)