Assessing Electronic Health Records Laws

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201 CSTE Annual Conference
June 17, 2014
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Presentation Overview

- Background
- 50-state assessment of laws addressing electronic health information (EHI)
- Mapping the legal landscape
- Evaluating the impact of laws
- Next steps
- Questions and answers
BACKGROUND: LAW AND EHI
Legal Epidemiology and Impact Research

Definition

- Systematic analysis of the characteristics, scope, implementation, and impact of public health laws

Goals

- Increase the evidence base for laws’ impact on systems, outcomes, and economics
- Identify and encourage use of current legal epidemiology research methods
- Create a national platform for the study of laws among public health practitioners at CDC and other organizations
Legal Epidemiology and Impact Research: Services

- “Legal assessments”—through legal research, collect, analyze, and code STLT laws that impact public health
- “Policy surveillance”—longitudinal, scientific collection, coding, and analysis of laws important to health across jurisdictions
- “Legal evaluations”—link findings from legal research to public health data
  - Return on investment and economic data
  - Health statistics
  - Organizational behavior
LEGAL ASSESSMENT OF EHI
Objectives for Research

- Objective 1: Identify the EHI legal landscape
- Objective 2: Analyze laws pertaining to specific public health studies and existing data
- Objective 3: Provide foundation for future impact research in legal epidemiology
Study Focus: EHI

- EHI—*not* electronic health records (EHR) alone
  - Legal assessment addressing EHI
    - Applicable to additional data uses
    - Useful to draw legal analogies for emerging EHI issues
    - Consistent with trend to harmonize public health and healthcare goals
Electronic Health Information: Research Question

- Unique questions
- Differing perspectives
- Differing effects

Improvements to the Health System
Electronic Health Information: Methodology

**What we did:**
- Created a 2-phase assessment with tiered analysis
- Includes policy surveillance to capture new provisions in real time

**How this helps:**
- Reflects use categories with primary and secondary referencing
- Allows multi-functional or cross-sectional assessments
- Provides flexibility and reproducibility
Preliminary Results

- States have passed a significant number of EHI-related laws
  - Approximately 2,000 statutes and regulations

- State legal frameworks also vary qualitatively
  - Content covered by statutes and regulations creates differing legal environments

- Laws often relate to more than one area of public health importance
Preliminary Results—EHI Legal Landscape

- **Definitional Provisions**
  - Legal definitions
  - Related code sections
  - Equivalence
  - Health information technology (HIT) standards

- **Data Control**
  - Storage and security
  - Privacy and confidentiality
  - Patient access
  - Health department access
  - Reporting and data collection
  - Healthcare provider use
  - Other data uses
Preliminary Results—EHI Legal Landscape (Cont.)

- **Implementation and Infrastructure**
  - Oversight
  - Incentives
  - Sustainability
  - Enforcement and crimes
  - Health Information Exchange (HIE)
  - Opt-in/opt-out provisions

- **Specific Contexts**
  - Research
  - Immunization
  - Laboratory testing
  - Insurance enrollment and claims
  - Workers’ compensation
  - Vital records
  - Telemedicine
  - Mental/behavioral health
  - Developmental disability services
  - Substance abuse
  - Education
  - Detention/corrections
Preliminary Conclusions: SIM Example

- CMS State Innovation Model Round 1 states have different legal landscapes than non-SIM states
  - Generally, SIM states have more laws related to certain EHI uses than non-SIM states
Quantity is not everything!

- The number of laws in a state by itself does not appear related to certain outcomes
  - Ex: EHR adoption rates
- What about the content of the laws???
Preliminary Conclusions (Cont.)

- The law is related to important healthcare objectives
  - Positive relationship were found between
    - Number of HIE laws and an increase in HIE activity among SIM Round 1 states
    - Number of HIT Oversight laws and reporting public health data

*Correlational relationships are statistically significant ($p < 0.05$).
### Next Steps: Assessment of Single Domains

- Laws in a particular domain may include reference to electronic health information.
- For example, healthcare-associated infection reporting may include electronic reporting mechanisms between facilities, states, and public payers.
PORTRAYING THE EHI LEGAL LANDSCAPE
Making Data Available

- Open data provides expanded utility
- **Data.cdc.gov**
  - A publicly available repository of CDC public health data sets
    - Data available through Application Programming Interface (API)
      - Allows users to use data for other applications
Utility of an EHI Legal Map

- **Organizes complex data**
  - Includes 2,000 provisions and dozens of legal subject matters of public health concern (in effect as of January 2014)

- **Orients users to the big picture**
  - Depicts relationships to other relevant material

- **Allows users to explore details**
  - Identifies specific provisions that relate to evidence-based subjects

- **Helps identify legal authorities**
  - For public health law research
  - For public health law practice
Legal Map Prototype
Featuring the Preliminary (Unvalidated) Results of a 50 State Assessment of State Laws Addressing Electronic Health Information

Law Detail
Jurisdiction: Ohio
Type: Statutes
Citation: OH ADC 5101.3-57-02 | 5101 Job and Family Services Department (Ref & Anno)

Law Title: 5101.3-57-02 Medicaid provider incentive program (MFIP): certified electronic health record technology requirements, adopt, implement, or upgrade and meaningful use stage

Relevant Law
1. Jurisdiction: Florida
   - 381.005 Communication-disease and AIDS prevention and control
   - Title XVIII. Public Health (Chapters 381-441)
     - Chapter 381. Public Health: General Provisions

2. Jurisdiction: Kentucky
   - 314.267 Duties and responsibilities of Kentucky e-Health Network Board; permitted functions of the board; elements of fully implemented Kentucky e-Health Network
   - Title XVIII. Public Health
     - Chapter 314. Health Facilities and Services
     - Kentucky e-Health Network

3. Jurisdiction: Ohio
   - 5101.3-57-02 Medicaid provider incentive program (MFIP): certified electronic health record technology requirements, adopt, implement, or upgrade and meaningful use stage
   - 5101 Job and Family Services Department (Ref & Anno)
   - 5101-3 Job and Family Services Department—Medical Assistance Division (Ref & Anno)
     - Chapter 5101-3-57: Medicaid Provider Incentive Program

4. Jurisdiction: South Carolina
LEGAL EVALUATION OF EHI
Legal Epidemiology and Impact Research: Logic Model

- The impact of public health law can be seen as a continuum with drivers, outside influences, and effects

**Legal Drivers**
- Legal provision
- Administrative law
- Administrative structure
- Appropriations

**Implementation**
- Authority
- Responsibilities
- Behavior incentives
- Organizational capacity
- Budgeting

**Intermediaries**
- Enforcement
- Moral force of law
- Resource distribution
- Process capacity

**Outcomes**
- Program changes
- Behavior changes
- Organizational changes
- Costs

**Impact**
- Health outcomes
- Organizational outcomes

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Culture, Values, and Socio-Historical Context

DRAFT logic model—PHLP 2013; in development; please do not distribute.
Legal Epidemiology and Impact Research: Legal Evaluation Case Study

- **Studying the impact of laws granting health departments access to electronic health information on outbreak response**
  - Background: 2012 fungal meningitis outbreak
  - Issues presented: remote access, query capability, data validation, home rule, what data?
  - Study partners: CDC (National Center for Emerging and Zoonotic Infectious Diseases/Division of Healthcare Quality Promotion, Center for Surveillance, Epidemiology and Laboratory Services/Division of Health Informatics and Surveillance), Association of State and Territorial Health Officials
Present and Future Data Utility

- Potential applicability of EHI to CDC data sources
  - Demonstration pilots using Behavioral Risk Factor Surveillance System data for automated detection and reporting of disease and monitoring population health through patient surveys\(^1\)
  - Use of administrative data for surveillance\(^2\)
  - Advanced molecular detection and surveillance\(^3\)

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Present and Future Data Utility (Cont.)

- **Potential big data applications**
  - Big data will have a role in 21st century public health practice\(^4\)
  - National Health Care Surveys: use of blended data,\(^5\) among many other examples
  - EHI legal scan can support future state and local programmatic activity by identifying applicable authorities and functions

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Next Steps

- Launch legal mapping tool
- Legal evaluation of EHI
  - Specific uses of EHI
    - EHR access during outbreaks: qualitative interviews with stakeholders from 15 states
  - Literature review for other uses of EHI
    - Survey data analysis in collaboration with study partners
  - Select issue briefs
- Match legal data sets to existing or proposed public health data sources
Thank you!

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