

## **APPENDIX I. INTERORGANIZATIONAL AGREEMENTS (IOA) COORDINATION WITH HISPC PHASE III STEERING COMMITTEE AND OTHER HISPC COLLABORATIVES**

The Interorganizational Agreements (IOA) Collaborative was represented by its two Co-Chairs on the Health Information Security and Privacy Collaboration (HISPC) Phase III Cross-Collaborative Steering Committee. This committee, facilitated by the Office for the National Coordinator for Health Information Technology (ONC) and RTI, included the Co-Chairs from each of the seven Collaborative Work Groups. The group met on a monthly basis via teleconference and quarterly in person throughout the contract time frame. The Committee's purpose and primary responsibility was to provide for and enable greater communication and coordination among the seven collaborative projects. The Steering Committee also helped to ensure broad acceptance of collaborative work products and ensure those work products were leveraged, where appropriate.

### **I.1 HISPC Phase III Cross-Collaborative Steering Committee**

#### ***Collaborative Work Groups and Co-Chair States***

- Consent 1—Data Elements: Indiana and Massachusetts
- Consent 2—Policy Options: California and Ohio
- Harmonizing State Privacy Laws: Michigan and New Mexico
- Consumer Education and Engagement: Colorado and Massachusetts
- Provider Education: Louisiana and Michigan
- Adoption of Standard Policies: Arizona and Connecticut
- Interorganizational Agreements (IOA): Iowa and New Jersey

The specific interactions between the IOA Collaborative and the other collaboratives are outlined below.

### **I.2 IOA and Adoption of Standard Policies (ASP)**

Plans were made for the IOA Collaborative to coordinate with the Adoption of Standard Policies (ASP) group, which worked on the authentication and audit detail in the health information exchange setting and on developing policy templates. IOA anticipates including the ASP templates as optional appendices to the IOA agreements, particularly the private-to-private agreements. ASP will benefit by having its policies included in the IOA data sharing agreement (DSA) and potentially tested in future IOA pilot projects.

### **I.3 IOA and Consent 2 (Policy Options)**

Work was exchanged on the consent portion of the DSAs with the two Consent groups. IOA Co-Chairs met with the Consent 2 group in Chicago in July 2008 to discuss their review of the four mechanisms of law and IOA work as a building block of the interstate compact concept. Consent 2 also indicated that the documents the IOA Collaborative shared at the Chicago meeting were passed on to the Ohio Legal Work Group (LWG) for review and comment. There may be future three-way coordination opportunities between the IOA Collaborative, the Consent 2 Collaborative, and the Data Use and Reciprocal Support Agreement (DURSA) Work Group to align the agreements/compacts to support interstate data exchanges.

### **I.4 IOA and Consumer Education and Engagement**

The Consumer Collaborative requested that the IOA include the topic of “cyber liability” (i.e., consumer protections and rights related to electronic health information exchange [eHIE]) during the model agreement drafting process. The sections of the IOA DSAs relevant to this topic include Subrogation, Governing Law, Privacy and Security Safeguards, and Term and Termination (including Remedies for Breach). The IOA agreements provide general consumer protections, in that eHIE participants are required to uphold the privacy and security requirements of both federal law and their own current state laws. Also, the agreements do not in any way limit the rights of consumers to pursue recourse should negligence occur. Those rights generally will be controlled by state law. Further, the IOA private-to-private agreement provides incentives for providers to settle claims with injured consumers and then pursue parties who caused harm. These incentives are contained in the novel provisions added under the section titled “Subrogation.” Finally, the sections addressing “material breach” reflect many of the protections put into place under state law.

### **I.5 IOA and Harmonizing State Privacy Law (HSPL)**

The IOA Collaborative shared legal requirements with the Harmonizing State Privacy Law (HSPL) Collaborative. During the July 2008 meeting in Chicago, the IOA Collaborative concluded that in our agreements, we are not trying to harmonize state laws; all health information exchange participants should uphold their own state laws and exchange data in accordance with those laws. The HSPL group asked that we consider exchange of public health records (PHRs) in the future and how this might affect DSAs. The IOA Collaborative asked the HSPL Collaborative to review the agreements and flag any conflicts with state laws. The IOA Collaborative may want to consider some of the HSPL-related parking lot issues in future projects.

## **I.6 IOA and Provider Education**

The Provider Education group plans to include the model IOA DSAs on its Provider Education website (<http://www.secure4health.org/>) as a resource for providers wishing to engage in eHIE projects.