Providence: A Commitment to Information Exchange

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In 2016, the 21st Century Cures Act became a federal law, and the Office of the National Coordinator for Health Information Technology (ONC) outlined guidelines for compliance with information exchange and information blocking (IB) regulations (Federal Register, 2020). More than just an attempt to improve the ease with which patients could see their medical information within the electronic health record (EHR), the requirements specifically made it unlawful to keep patients from information that had historically not been shared, and even imposed fines on “actors” attempting to block information (American College of Surgeons, n.d.). A compliance date of April 5, 2021 was given, mandating that healthcare providers, health IT developers, health information networks, and various actors comply with requirements specific to information blocking (AMA, n.d.).

Providence is a healthcare system serving California, Montana, Oregon, Alaska, Washington, New Mexico, and Texas. This not-for-profit enterprise is the parent company of 51 hospitals and over one thousand associated clinics around the country (Providence, n.d.). A leader in the early commitment to information transparency, Providence elected to share notes with patients through the “open notes” initiative over 5 years ago. The organization strongly believes in transparency and patient-centered care. The ONC guidelines changed Providence’s practice only insomuch that it expanded information sharing and increased the speed with which information was released to patients. This paper will explore EHR sharing and IB compliance through an interview with a leading Providence Informaticist, a review of literature, a discussion on the 8 sharing exceptions, and a discussion on future steps that could be taken by Providence to continue to be leaders in healthcare regulatory compliance.

Interview Summary

Knowledge acquisition for this paper was accomplished in part by a Teams interview with Providence’s Executive Director of Clinical Informatics, Melissa Arnold, who was a key leader in assuring organizational compliance with the 21st Century Cures Act IB statues compliance plan. The interview was conductive via Teams.

Opening

The first part of the interview was spent on introductions, as we were previously unacquainted. To appreciate Melissa’s scope, questions regarding her role were asked. I learned that Melissa starts each week by monitoring regulatory websites for updates and changes. She also shared that Epic performs monitoring as well

and shares new findings with organizations they support. The conversation swiftly segued into questions regarding the state of Providence's information sharing status at the time the act was introduced.

Custom Design Work

Melissa shared many pieces of custom design work created to support the IB plan. There was an education module for providers, charting tips and tricks, IB policies with detailed information regarding provider-driven exceptions, a slide deck for leaders, and a SmartPhrase guide and pre-built macros to help providers chart reasons for legitimate IB. Some of these items will be further described in the following sections. It was surprising to learn that Providence created a blocking button with a dropdown featuring chartable exceptions, which was later emulated in other hospitals by Epic (Melissa Arnold, personal communication).

Resources for Compliance Plan

Melissa was not given resources specific to IB compliance upfront. Through her weekly regulatory searches, she learned about the IB component of the Cures Act, and met with Providence legal, risk, and compliance leaders to start preparation for extending the sharing that the organization was already participating in. She also spoke with marketing, and learned that if she was able to assure that at least 30 % of providers were successfully educated on the plan, she was "doing really well", which she admitted to being surprised by (Melissa Arnold, personal communication). She was able to select an autoblock option for certain kinds of results, and was able to program results to be auto released to patients if not manually released by the provider within 30 days.

Information Cascade

Once I understood that regulatory surveillance made Melissa aware of the new rules, I wanted to understand how she was able to communicate so much information to such a large enterprise. Melissa used several tools including "Roadshows" to cascade IB key points. While some of these were in person, most of the roadshows had to be scheduled via Teams. For affiliate physicians of Providence, Melissa contacted the hospital medical staffing offices and partnered with them for information sharing.

Strategies to Ensure Engagement

Melissa disseminated IB talking points to the physician leaders of the many groups within the system. For each group, Providence has a physician site director meeting monthly wherein all providers can hear new

information. Melissa used these meetings to share IB information, and was able to add IB policy bullets to the organizational electronic bulletin for all staff. She was also the policy writer for IB compliance.

Assuring Compliance

I asked about audits or monitoring practices either via in-house or via third-party vendor, and this was not utilized consistently by Providence. Melissa's team did perform some early auditing, and were able to track when a provider selected an exception from the dropdown menu. She and her team had to address patterns that seemed suspect, like when one provider selected that every result should be blocked for every patient. These types of issues were fleeting but did require some crucial conversations once the policy was expanded on after the official mandate was introduced. Melissa stated that there are not specific numbers on compliance for this area of legislation, but her office has not been put on notice for any violations as of late.

Limitations or Barriers

One of the barriers that was a surprise was the fact that penalties were not outlined until very recently. Melissa stated that this only occurred on June 26, 2023, and that it will not be official until it is published in the Federal Register (Melissa Arnold, personal communication). She also noted that due to the Independence Day holiday, it may take slightly longer to publish the penalties. Another barrier is related to physician reticence. Melissa shared that some providers want all their patients' information blocked by virtue of the physician's specialty, like chemical dependency. She has had to explain that certain types of results can be auto blocked but must have an appropriate release date.

Successes and Recognitions

Melissa considers the speed with which Providence gained global compliance with the IB plan her biggest success. She explained that because Providence was an industry leader, the work was harder initially, but was proud of the fact that they had been so ahead of the ruling. She felt that there had been personal recognition by peers, but didn't recall any specific kudos that she could recall.

Unintended Consequences and Lessons Learned

A challenge that has me thinking for days after the interview was Melissa's lament regarding the difficulties associated with releasing sensitive medical information to the patient portal in the case of minors. A specific example was a 15-year-old girl who presented to an emergency department for an injured arm. Prior to

radiology a pregnancy test was completed, which was positive. This caused Melissa and her team to have to determine what to do, as they didn't want to violate the patient's privacy, but the visit was not for a protected reason. According to the California Healthcare Foundation (2013), California minors that are seeking treatment for specific issues like sexually transmitted diseases or pregnancy are afforded information privacy, but what about in cases where findings were incidental? And what about the other seven states Providence serves? This was a convoluted concept, and Melissa indicated that in such instances, decisions were case-by-case, and generally determined by postulating which decision would most likely place the organization at risk for litigation.

Another unintended consequence was patients becoming angry that they were given results in their portal, rather than by their provider. When these issues presented, Melissa and her team did their best to apologize, appealing to the patient's appreciation for Providence's commitment to share their information quickly, and the fact that occasionally results make it to them faster than a provider can reach out.

Application to Current Literature

According to Everson et al. (2021), "The majority (55%) of HIEs reported that EHR vendors at least sometimes engage in IB, while 30% of HIEs reported the same for health systems" (para. 3). The AMA (n.d.b) suggested that meeting with legal counsel should be one of the first steps when initiating the compliance process. Much of the advice offered by provider professional associations, advocacy groups, and legal firms like The Doctors Company revolved around appropriate charting. An article by Anguilm et al (n.d.) encouraged documentation practices aimed at removing potentially inflammatory language.

Many of the points listed in the Anguilm et al. (n.d.) article appeared as bullet points in the charting tips and tricks Providence created for providers, which was not surprising considering that The Doctor's Company is the medical malpractice group for Providence. The AMA (n.d.b) also encouraged the identification of a SME, the creation of a compliance team, and policy development on IB compliance. Providence has managed to ensure the presence of each of these recommendations and has been careful to define actors subject to IB compliance, including Providence caregivers, volunteers, trainees, interns, apprentices, students, independent contractors, vendors and all other individuals working for the organization. One recommendation made by the AMA (n.d.b) that Providence did not adopt is the creation of scenarios that demonstrate instances where providers failed to take

reasonable actions as outlined by the ONC. Illustrative scenarios as described by AMA literature represent opportunity for knowledge transfer that Providence could utilize to better help providers.

Discussion

One of the most significant successes of the Providence IB compliance program is its rapid adoption made possible by early, elective information sharing. It's impressive that the organization had the integrity to protect the access rights of patients before being mandated to do so. Another cause for praise lies in Providence's ability to assure compliance despite the enormity of the organization. A final applaud goes to the creation of tools aimed at easing the path of compliance, as previously discussed.

Conclusion

This paper explored the information blocking plan as created, disseminated, and evaluated by Providence, one of the largest health care systems in the country. An interview with the Executive Director of Clinical Informatics revealed that Providence was an early adopter of information sharing, doing so before the mandate of the 2016 Cures Act and subsequent ONC information blocking regulations. The interview also highlighted the custom design work, resources utilized, information cascade methods, strategies to ensure engagement, compliance assurance measures, limitations and barriers, successes and recognition, and unintended consequences with lessons learned from IB Compliance. The paper examined the application to current literature, identified opportunities Providence had based on recommendations from industry stakeholders, and discussed future steps that could be taken by Providence to continue to serve as leaders in healthcare regulatory compliance.

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