

Public & Private Leadership on Health Information Exchange

Using the Markle Common Framework in Today's Environment: *The New Markle Connecting for Health Common Framework Policies in Practice*

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Overview

MARKLE CONNECTING FOR HEALTH

- Project Background
- Brief Description of the Policies in Practices
- Navigating and Using the Markle Common Framework
- Where to Find More Information

Background on Markle Common Framework Policies in Practice for Health Information Sharing

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- The Markle Common Framework Policies in Practice for Health Information Sharing (Policies in Practice) further specify the Markle Common Framework for Private and Secure Information Exchange (Markle Common Framework) in today's context.
- Based on Fair Information Practice Principles (FIPPs), the Markle Common Framework describes a threshold set of policy and technology practices to facilitate information-sharing while protecting privacy.

Background on Markle Common Framework Policies in Practice for Health Information Sharing

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Why now?

- Today's environment is very different from the environment in which the Markle Common Framework was first launched in 2006:
 - Unprecedented level of federal leadership, new regulation, and significant public investment.
 - The use of health IT among providers is on the rise, as well as operational health information sharing efforts.
 - 74% of surveyed doctors prefer computer-based means to paper and fax when sharing patient information with each other.*

* Markle Foundation. *The Public and Doctors Overwhelmingly Agree on Health IT Priorities to Improve Patient Care*. January 2011:

<http://www.markle.org/publications/1461-public-and-doctors-overwhelmingly-agree-health-it-priorities-improve-patient-care>.⁴

Background on Markle Common Framework Policies in Practice for Health Information Sharing

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What we did:

- Through discussions with health information sharing leaders, we learned that there's a desire for additional resources to address a range of implementation needs.
 - These resources are meant to address some of the priority issues identified.
- The Markle HIE Advisory Committee, comprised of a diverse group of health care leaders, drafted and guided the development of the Policies in Practice. We will hear from some of the lead authors today.

Markle HIE Advisory Committee

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Markle HIE Advisory Committee

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Surescripts

Stefaan Verhulst
Markle Foundation

Marcy Wilder
Hogan Lovells

Claudia Williams
Office of the National Coordinator for Health IT

Policies in Practice

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MARKLE COMMON FRAMEWORK

► Overview & Principles

Policy Guides
How information is protected

- P1 The Architecture for Privacy in a Networked Health Information Environment
- P2 Model Privacy Policies and Procedures for Health Information Exchange
- P3 Notification and Consent When Using a Record Locator Service
- P4 Correctly Matching Patients with Their Records
- P5 Authentication of System Users
- P6 Patients' Access to Their Own Health Information
- P7 Auditing Access to and Use of a Health Information Exchange
- P8 Breaches of Confidential Health Information
- P9 A Common Framework for Networked Personal Health Information

Technology Guides
How information is exchanged

- T1 The Common Framework: Technical Issues and Requirements for Implementation
- T2 Health Information Exchange: Architecture Implementation Guide
- T3 Medication History Standards
- T4 Laboratory Results Standards
- T5 Background Issues on Data Quality
- T6 Record Locator Service: Technical Background from the Massachusetts Prototype Community
- T7 Consumer Authentication for Networked Personal Health Information

Model Contractual Language

- M1 Key Topics in a Model Contract for Health Information Exchange **UPDATE COMING SOON!**
- M2 A Model Contract for Health Information Exchange **UPDATE COMING SOON!**

► Full Document Download

Policies in Practice

► Overview

Policies in Practice **NEW!**
Implementing private and secure information exchange

Key Laws and Regulations

Consent

Individual Access

HIE Governance

Getting Procurement Right

Model Contract Update and More **COMING SOON!**

Frequently Asked Questions

Policies in Practice

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- Overview: Markle Common Framework Policies in Practice for Health Information Sharing
- Key Laws and Regulations: Changes Relevant to the Markle Common Framework
- Consent: Implementing the Individual Participation and Control Principle
- Individual Access: Connecting Patients to Their Health Information
- Governance of Health Information Sharing Efforts: Achieving Trust and Interoperability with Meaningful Consumer Participation
- Policy Aware Procurement Strategies and Practices: Asking the Right Questions and Reaching the Right Answers
- Mechanisms for Oversight, Accountability, and Enforcement: The Model Contract and More
- Markle Common Framework FAQs

Key Premises

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- A set of clear and explicit health goals **is essential** for any health information sharing effort.
- Health information sharing **does not equate** with access to complete health information.
- The Policies in Practice **are an adjunct** to the Markle Common Framework, not a replacement.
- The Policies in Practice are **not** toolkits or single solutions.

Key Laws and Regulations: Changes Relevant to the Markle Common Framework

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Changes to Key Laws and Regulations – Four things you need to know:

- New Business Associates obligations
- Enhanced penalties
- New breach notification rules
- Additional restrictions on use of Protected Health Information

Key Laws and Regulations: Changes Relevant to the Markle Common Framework

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Recent federal guidance related to privacy, security, and enforcement

- Federal Trade Commission (FTC)
 - Protecting Consumer Information
 - FTC Health Breach Notification
- Office of Civil Rights (OCR), US Department of Health and Human Services (HHS)
 - Risk Analysis
 - Security Rule Guidance

Key Laws and Regulations: Changes Relevant to the Markle Common Framework

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Recent federal guidance related to privacy, security, and enforcement (cont.)

OCR, HHS (cont.)

- On March 24, 2012, OCR sent its long-awaited final rules, entitled “Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules”, to the Office of Management & Budget (OMB) for a review – last step before publication

Office of the National Coordinator for Health Information Technology (ONC), HHS

- NPRM issued March 7, 2012 proposing new and revised criteria for certified EHR technology to constitute meaningful use

Consent: Implementing the Individual Participation and Control Principle

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- Consent policy and practices are dependent on several other key attributes of information sharing, such as:
 - Who can access the information, for what purposes
 - Which security practices are in place
 - How are data holders held accountable data stewardship
- The decision is not merely “Is it opt-in or opt-out?”

Consent: Implementing the Individual Participation and Control Principle

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How and where to start:

- I. Federal and State law compliance
- II. Three Step Process- Sequencing of Decisions
 - Step 1- Initiate a policy-setting process based on sound governance principles
 - Step 2- Develop a set of fundamental policies based on Markle Connecting for Health's privacy principles
 - Step 3- Address the principles of Individual Participation and Control and Openness and Transparency in determining policies with respect to consent

Consent: Implementing the Individual Participation and Control Principle

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- Once policies defining the context for sharing information have been established, implementers can consider whether and how individuals should be provided with choices regarding information sharing.
- Issues to consider include:
 - Is the choice meaningful?
 - What granularity of choice to offer?
 - Layered consent as a helpful approach
 - Patient-mediated exchange

Individual Access: Connecting Patients to Their Health Information

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Reasons for offering individual access:

- **Individual access is a building block to helping people live healthier and get higher-quality, more cost-effective care.**
- **Also...**
 - The HITECH Act established the individual's right to obtain electronic copies of information held in EHRs.
 - Patient access and engagement is part of Meaningful Use incentive requirements.
 - Patient engagement is a focus of ACOs.
 - Health information sharing efforts can help providers and hospitals fulfill Meaningful Use and health reform requirements.

Individual Access: Connecting Patients to Their Health Information

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A starting point for individual access:

- The “download capability”: Ability for individuals to log in securely online to view and download their own health information (see: Policies in Practice: The Download Capability).
- Basic requirements include:
 - Secure online access
 - View and download capability
 - Independent confirmation
 - Clearly stated information
 - Human readability

Governance of Health Information Sharing Efforts: Achieving Trust and Interoperability with Meaningful Consumer Participation

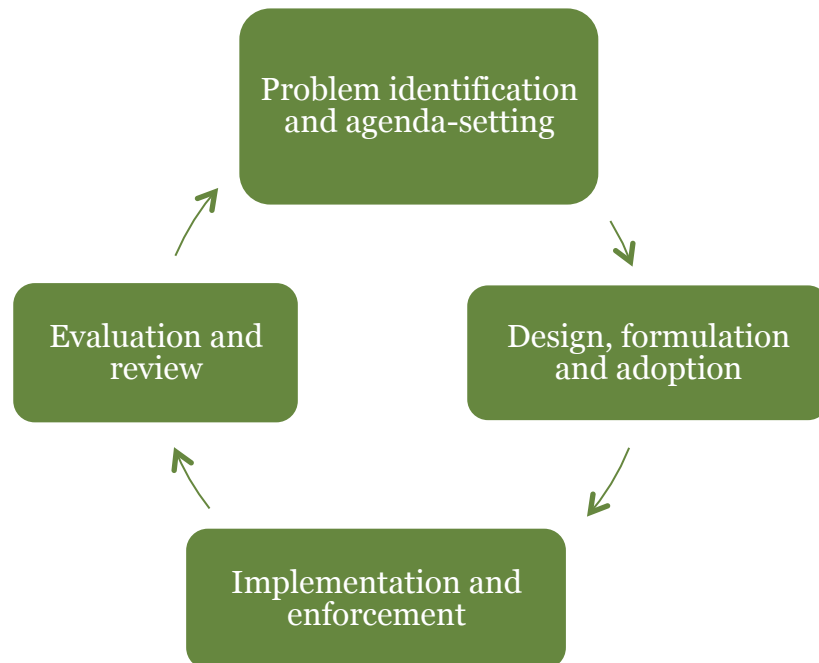
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Governance IS....	Governance IS NOT...
a means to an end.	an end in itself.
a set of mechanisms and processes that can be used to achieve shared objectives.	necessarily a single organization, entity or new structure tasked with 'governing'.
a way to bring participants together.	just a way to create red tape.
Bringing individuals and entities together for the oversight and development of policies, standards and services.	limited to the actions of the 'Government.'
about making decisions legitimately.	about being hindered by decision-making processes.
a set of tools that can be used to instill trust and public confidence.	a guarantee that efforts will be trusted and meaningful.

Governance of Health Information Sharing Efforts: Achieving Trust and Interoperability with Meaningful Consumer Participation

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Stages



Principles

- Public Participation
- Representation of a wide variety of participants, including consumers
- Transparency and Accountability
- Bounded and well-defined mission
- Flexibility and responsiveness of governance
- Effectiveness and efficiency

Policy-Aware Procurement Strategies and Practices: Asking the Right Questions & Reaching the Right Answers

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- Policy and technology are inextricably linked.
- Addressing policy objectives before and during the procurement process is important to avoid unintended discrepancies between policy objectives and technical capabilities.
- Consult appropriate resources that address applicable federal, state or other procurement requirements including applicable privacy laws and regulations and other guidance.
- Engage IT vendors during the procurement process to understand their capability to accommodate policy changes that trigger the need for a different technology solution.

Policy-Aware Procurement Strategies and Practices: Asking the Right Questions & Reaching the Right Answers

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Assuring support for and compliance with privacy policies

- A health information sharing effort should:
 - Describe privacy and security requirements in detail.
 - Develop a detailed description of technical requirements.
 - Review each vendor's privacy and security policies for consistency and contradiction.
 - Consider providing prospective vendors with specific objectives and measures.
 - Develop written criteria by which it will evaluate prospective vendors' responses and/or demonstrations.

Policy-Aware Procurement Strategies and Practices: Asking the Right Questions & Reaching the Right Answers

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Assuring support for and compliance with privacy policies (cont'd)

- Prospective vendors should:
 - Explain, in their own words, their understanding of the health information sharing effort's privacy policies.
 - Explain and demonstrate how its technology and processes work to support each factor, measure, and/or standard that the health information sharing effort has required.
 - Provide alternative means to achieve the health information sharing effort's objectives with respect to each of these matters.

Policy-Aware Procurement Strategies and Practices: Asking the Right Questions & Reaching the Right Answers

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Policy issues for consideration in technology procurement efforts are organized by the 9 policy principles of the Markle Common Framework:

- Openness and transparency
- Purpose specification and limitation
- Collection limitation
- Use limitation
- Individual participation and control
- Data integrity and quality
- Security safeguards and controls
- Accountability and oversight
- Remedies

Mechanisms for Oversight, Accountability, and Enforcement: The Model Contract and More

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The updated model contract:

- Identifies issues and policy decisions related to development and negotiation of data sharing agreements among Participants in health information sharing.
- Reflects changes to the legal and regulatory environment.
- Integrates an update reflecting health information sharing efforts' experiences with the Model Contract emphasizing oversight, accountability and enforcement of privacy and security policies and other terms and conditions.

Coming Soon!

Additional Information
www.markle.org

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Navigating and Using the Markle Common Framework

Questions and Discussion