

MINUTES

**Massachusetts Health Information Technology Council
Meeting
May 6, 2009
9:00 – 10:30 am**

**Matta Conference Room
One Ashburton Place
Boston, Massachusetts**

DRAFT MINUTES

MASSACHUSETTS HEALTH INFORMATION TECHNOLOGY COUNCIL

May 6, 2009

Attendees:

Council Members	JudyAnn Bigby, MD - (<i>Chair</i>) <i>Secretary of Health and Human Services</i> (Leslie Kirwan - <i>Secretary of Administration and Finance</i>)** Represented by: Glen Shor Tom Dehner - <i>Director of Medicaid</i> Deborah Adair - <i>Director of Health Information Services / Privacy Officer</i> <i>at Massachusetts General Hospital</i> Karen Bell, MD - <i>Senior Vice President of HIT Service at Masspro</i> David S. Szabo - <i>Partner with Nutter, McClennen & Fish, LLP</i> Lisa Fenichel, M.P.H. - <i>E-Health Consumer Advocate at Health Care For</i> <i>All of Massachusetts</i>
Other	David Martin (EOHHS) Senator Richard Moore Caroline Fisher (Speaker Deleo's office) Terry Dougherty (EOHHS) Ray Campbell (MHDC) Jim Daniel (DPH) Foster Kerrison Robert Strong (ProCaseo) Lorllyn Allan (Lahey Clinic)
MTC Staff	Mitch Adams Glen Comiso Bethany Gilboard Judy Silva Barbara-Jo Thompson David O'Brien

The sixth meeting of the Massachusetts Health Information Technology Council was held on May 6, 2009, in the Matta Conference Room at One Ashburton Place in Boston, Massachusetts.

Secretary Bigby called the Meeting to order at 9:04 a.m.

Secretary Bigby started with a review of the agenda, explaining there was a lot to cover and we have specific goals to achieve. By the end of today's discussion she would like to have a framework for the outline of the Plan. She thanked Ms. Fenichel for the question that she submitted via email last evening and stated that question would be addressed near the end of the meeting. She then asked if anyone had any other items they wish to put in the "other" category of today's agenda. Hearing none she moved on to the agenda.

AGENDA ITEMS

I. Review and Approve Minutes for 4/15

After motions made and seconded, it was unanimously agreed to accept the draft minutes as the official minutes of the April 15th meetings.

II. RFI Update - review of top candidates

Secretary Bigby asked Mitchell Adams to give a status update on the RFI.

Mr. Adams first stated that this search has been underway for about a month. It started with a review committee of which all are here in attendance today: Terry Dougherty of EOHHS, Jim Daniel of DPH, David Szabo, Council Member, Mitchell Adams, Glen Comiso, Bethany Gilboard and Judy Silva of MTC.

We received 22 proposals and all were good proposals. Under Tab 2 in the packet you received today is a summary of the proposals. The proposals have been organized into four groups. First are the top tier finalists. For different reasons this group proved to be very promising and we want to interview them as soon as possible

Secretary Bigby then asked Mr. Adams to back up and remind people what we want to accomplish with this RFI.

Mr. Adams reminded the Council that we are looking for professional help to develop a strategic plan going forward. A Plan had been done but now we recognize differences the stimulus has exposed. We cannot predict the pace of Washington, but we need to be prepared to have a strategic statewide plan. In order for that to be accomplished we need to have enough identified so we are prepared to have a dialogue with Washington. Since we want to move along that means we have to get right at it. Therefore, we are looking for professional planners to help with that process.

The committee felt quite confident that members in group two could also help us move forward. Mr. Adams cited one example of a firm that had expertise in financial analysis. So when we get to the part of our plan that would require assistance in financial matters, we may wish to call on their experience and knowledge.

The final six in our summary were not responsive, so for the time being they have been set aside.

All in the top three buckets will need to enter into a Master Services Agreement with MTC in order for us to reach out to them. That is a legal process that MTC must follow. Mr. Dehner asked if it is a MTC specific master services agreement or in line with other state agency agreements. Mr. Adams explained, yes, it is MTC boiler plate.

Mr. Adams then asked the review committee if they wished to add anything. Dr. Bell asked what criteria were used to put consultants in different categories. Do they have experience writing state plans, working with federal and local government, what are the criteria that determined their level of qualifications?

Mr. Adams explained that they were very general criteria. Everything you said is what we were looking for, do they have experience planning an HIE, have they worked with the government, all of those things. We covered what we could anticipate and what we think would be needed for the consultant to be involved in. We didn't end up feeling we had gaps. We ended where we wanted to be.

Dr. Bell asked if we are clear between a strategic plan vs. operations plan or an implementation plan. Were these groups evaluated from a strategic plan angle?

In the end, which particular individual will you end up with? There is a tension. We want a strategic plan but we want a firm that can be on the ground.

Dr. Bell then asked for specific clarification. "The top has all these qualifications?" Mr. Adams responded, "Yes with the exception of one."

He continued, Group 3 are specialists – they do not have the breadth to do all the work – but could be extremely beneficial on a specific part. For example, we may want to plan an HIE, we might want one of these firms, who has experience planning an HIE in another state.

Ms. Adair asked if all those who responded could do it all. Mr. Adams explained, no, they all were clear, in that they were specific with the subject expertise. This started a group discussion with questions regarding generalists and specialists, and how consultants and firms presented themselves. Bethany Gilboard explained that the respondents were all quite explicit that they had a niche.

Mr. Szabo explained that all respondents sent in a lot of information but to date, only one has been interviewed. But some may be able to do specifics. We really won't know until we vet these people more, and when we determine what kind of talent we will need. We have to have them on the side, as we may need them. Some have experience working with other states. We may need that experience.

Mr. Adams went on to explain that the committee {David, Jim, Terry and our staff} drilled in very deep on each proposal.

Secretary Bigby then asked Mr. Adams to address the sequencing. Mr. Adams stated that in the first phase we will start with the big picture. From that it will then lead us to special areas, but

that might not be until a month or two from now. Then we want to be able to turn on a dime and get a specialist. It is a requirement that they collaborate with the other consultants.

Dr. Bell asked, "What is the date we could receive a strategic plan?"

Secretary Bigby explained that the plan needs to be completed by mid-September.

Mr. Dougherty explained that in the RFI we stated that it would need to be ready by June 30.

Mr. Adams mentioned as we are looking at the top level, we have had one interview, but we are in the process of trying to schedule the other three.

The Committee has a recommendation. These top four are not alike. One is a one person firm. The others are large organizations. This one person firm, Rick Shoup, PHD, impressed all of us significantly. He has much experience in this area. He was a CIO, he has been a consultant, and most of his career has all been health IT related. He has developed a strategic plan for another organization. He is a person who has been in the weeds and the higher level in shaping big picture strategy at all levels. He is highly regarded in this area.

We found he was thoughtful, brought expertise, is capable of vision and the big picture and can frame the whole problem. He has considerable experience working with planners and consultants. He is available and his rates are reasonable. What we propose to the council is that he would be the "owner's agent". He would assist selecting the team going forward. He knows this space; we know he has the capability for a vision to put it all together. Our proposition is to retain him on an hourly rate.

Mr. Adams then asked the committee if there was anything they would wish to add. Mr. Szabo mentioned that this individual is a clerk in the works, one experienced in working with the larger organizations to stay on task, and to serve as an advisor in addition to working on the plan. One advantage is the council won't need to spend three weeks, we could kick start the process, immediately. Then Mr. Szabo explained that he has known this candidate for a while.

Dr. Bell asked if he is just one person, would he be able to be the acting director.

Secretary Bigby stated that in recalling all we have in the job description, it describes, what you just stated. We need to see how this is different from hiring the director, and then asked the status of the job description.

Mr. Adams responded that we have started the process of recruitment. It is necessary that the council keep that process open, to see who emerges. He clearly could be a candidate for the job, but we do not know who else is out there. During the interview the committee did not discuss the job description of the MeHI Director, but Mr. Adams seemed confident that he is aware of the position.

In regards to the written proposal for this candidate, Secretary Bigby ask what the committee thought would be the cost estimate.

Mr. Adams then asked the council if the written proposal for this consultant could be discussed electronically rather than waiting until the next council meeting.

Mr. Dehner then asked if since this person is an independent contractor if there would be a possible conflict of interest in the future. Then he added, not just for this independent contractor but any of the other companies that have responded as well.

Mr. Adams explained that MTC has a problem under the law if a planner we engage now, is an implementing organization down the road. Basically, he explained, if we hire him now, he could NOT be an implementer. Then he asked Mr. Dehner if that is what he had in mind

Mr. Dehner affirmed that was his question and stated that this is something we want to be clear about.

Mr. Dougherty then pointed out that the big firms will have to make a decision. Do they want to be involved up front or do they want to wait. They cannot do both, they have to decide. The law is very clear.

Mr. Dehner then specifically mentioned one organization that he is aware of is working for hospitals, for their health plans, explaining that they can help the hospital maximize their potential incentive funds. He then asked if that is a conflict.

Mr. Adams explained that it is most definitely an issue, with two of the top tier firms. They have particular interest in implementing. They have to understand that the committee does not want them as a planner and later learn they are in an implementing status. The committee, MTC, and MeHi are aware and attentive to these issues and working to come to an acceptable solution.

Mr. Shor then stated that he felt the planner vs. implementation is not specifically what Mr. Dehner had in mind but more of helping formulate a plan in order to maximize funds for their specific clients.

Secretary Bigby asked Mr. Szabo to respond. He then responded that in parallel there is not a conflict. However, there could be a problem if a firm hired as a planner later approached providers explaining that they have a golden key to help get the funds during implementation .

Ms. Adair asked in regards to the proposal for that individual, if it is because of your knowledge of his work, and that he is available and since there would be no waiting, then also asked if the committee would do this with the others.

The members of the committee all responded explaining they feel there is not another individual like him; therefore they would not do the same.

Secretary Bigby then asked the committee to come back to the Council with a written proposal for this individual and the responsibilities regarding the executive director and how this will help in the interim.

Because of this discussion around conflict Mr. Adams explained, there is a process around these contracts.

Secretary Bigby then acknowledged that Senator Moore had joined the council meeting.

III. Review and Discuss Key Themes From Public Hearings, Prioritize Issues and begin to Outline State H.I.T. Plan

Over the month of April Hearings were held throughout the state. The Council began a discussion of the summary of the hearings.

Secretary Bigby thanked everyone for participating, and commented that there was an incredible attendance and interest. People are interested in the process. She further acknowledged that those that testified provided great feedback of things the council had not recognized in the original plan.

She went on to state that as the council goes forward with the findings from the hearings it will develop an idea for an outline of a plan. We need to think about what we already have in Massachusetts, what we have to build on, and then fill in the holes. We need to think about timing in a sequential fashion and also what can be done in parallel. We need to think about cost and who pays the cost. We need to determine how we prioritize the 15 million dollars, what do we do to leverage the 7 to 1 funds match and the 5 to 1 funds match. What type of organizational structure does the state require to manage the oversight of the deployment and implementation of EHR's and HIE? This council is not going to manage in the long run. We need to be clear about the outcomes we want to see and what do we want to have in place in the end. How do we measure the outcomes?

Mr. Adams, "do you want a job planning?"

Secretary Bigby, "thank you but I have a job."

Secretary Bigby then thanked Bethany Gilboard for going through the rough transcripts to give the council a summary of the hearings. She acknowledged that the Council had wanted to see the transcripts but realized that could be reams and reams and reams. She again thanked her for taking the time to go through the documents and to present the council with a summary of the hearings.

Secretary Bigby pointed out that there is not a one size fits all. Even in the narrow field of providers, funding is different, children's, community health vs. private practice. That was a very important observation so what ever we do, we need to address the community providers.

Mr. Szabo stated that picking up on some of the points, in setting priorities we need to determine what resources do exist, what does not. We need to have the ability to do some sort of gap analysis. Not just how many doctors have EMR or have meaningful use, but the three

communities that were part of the pilot. Here there is a lot of penetration, here there is nothing. How many doctors, how many have technology how many do not. Are there ways to start gathering information? Where do we need to be? We can't just state, "Here is your software, put it in your computer." We need to realize what they need to do is get trained.

Secretary Bigby stated that is a great point. We need that information. We need to recognize there is a failure rate of 35-40% in installing and implementing an EMR.

Ms. Adair pointed out that there are programs but if they don't know project management, they don't know how to utilize the program. She went further to state that in terms of gap, some of the things we heard in the hearings, providers asking, "When do we have an HIE and when do we do EMR, which do we do first? She stated that she attended a meeting in Boston yesterday for developing an HIE, and who is looking at collecting what.

Secretary Bigby concurred, and stated that we need to have a discussion of HIE vs. EMR. What is the balance and what is the sequence? She added how she had been impressed hearing some of the communities that have EMR and don't have an HIE, everyone is focused on improved quality and decreased cost. You can't have it without an HIE. We need to put on the table questions of gap analysis for both EMR and HIE. What do we have now, what is the potential to build on, how do we sequence the process? I think that question EMR vs. HIE is something we should have in our discussion.

Dr. Bell mentioned the first presenter at Plymouth. The HIE, needed to occur, but what they needed was to see someone's EMR. We need to be aware of what is important to accomplish. We need technical assistance. It wasn't just the Cape; there are not enough people to train. We need to get people trained in Massachusetts.

Secretary Bigby stated that is a really important point. We need to discuss with Secretary Bump whose office is doing work on workforce development. Could we use some of that money for training physicians?

Senator Moore stated that someone needs to give colleges an idea of what we need. Before they develop programs not knowing what the need is. Either this group or the contractors need to develop that training. There are some goals in Chapter 305 that need to be looked at that include specific goals. Then we need to determine a way to meet those goals.

Ms. Fenichel asked a question regarding what information the people need so we can train people to extract it.

Mr. Szabo explained that in regards to the question of EMR and HIE and ePrescribing, the pharmacies were ready. The health plans were ready but there was a process to link them together. To get the kind of exchange we discuss to get to meaningful use. We need to get the information as it is implemented. Some said it would be the stimulus money. We don't set our own time clock any more. If we don't watch, we could be counterproductive.

Dr. Bell mentioned that there are doctors and hospitals that have systems that will not qualify for meaningful use; we need to get them up to speed.

Mr. Adams explained that we may have a community that may have EMR but not HIE, and we need to learn how to knit them together.

Dr. Bell further stated that we need to learn from the federal government, what they mean about sharing information. We might have it up and then learn we are in the dark about what they mean.

Ms. Adair stated that we need to build standards of education; there are other groups that are vying for education grants. We need to insure they are preparing for HIE, etc.

Secretary Bigby noticed, in the list, there doesn't appear to be a consultant that focuses on education and training.

Bethany Gilboard and Terry Dougherty both mentioned that one of the consulting firms has education experience.

Mr. Dehner explained that he had attended an event the night before. One thing he heard in regards to actors in the health care system that are outside the physician and hospital setting, there is conflict of what is in the federal stimulus package and what is necessary of true information exchange. We need to also be thinking about that as a gap analysis.

Secretary Bigby explained that she thinks that outcome is not what a true information exchange is. What it is; is what do providers need across the information exchange. We are going to struggle with that. The HITECH Act is about only doctors and hospitals. Others are not provided for. This issue is something we need to highlight. Unless the feds say as part of your ability to meet outcomes you need to demonstrate your capability to transition people from one facility to another. That might stimulate action in other arenas. And that might address the problems you are addressing.

Mr. Dehner added that he does not see anyone on the scene with that role. As a Council we need to take action. We need to see that the picture is broader than what is in the federal legislation.

Mr. Szabo pointed out that there were a couple that testified to that "I have my computer – I want to get an exchange." Maybe we need to create a clinical advisory panel to help determine what applications might be most clinically useful for those who have implemented an EMR.

Ms. Fenichel added that we are talking about gaps and all the resources, maybe other states have started something; other states are also doing this. It is a good time to collaborate with other states, in training, etc. She went on to further state that in the hearings, she heard nothing from the consumer angle. The discussion so far has been bi-directional, between providers and hospitals, but it should be tri-directional to include consumers. The consumer is going to need to be included in the plan. A consumer from Worcester testified that he was running for a local

office, and suddenly information became public from his electronic health record and that ended his run.

Secretary Bigby added one other thing to comment on in the plan is the whole issue of PERSONAL Health Records. Google Health is developing a different EHR, rather than building from a record that already existed. Since both ARRA and Chapter 305 address this, we need to have something in the plan.

Ms. Adair related to the consumer on privacy we should educate the consumer regarding privacy and the concern about what goes in the EHR and what the patient agrees to. We have the same problem in our mini network, what can the provider see, and what is needed.

Ms. Fenichel mentioned that in relation to consent and how it is used is dependent on how opt-in and opt-out are defined; clearly digitizing of records and point-to-point flow are not part of the patient consent (in Massachusetts). Patients need to know what these terms mean in order to give meaningful consent.

Dr. Bell made a comment that she was noticing that only the one consumer presented. Why didn't they participate at the other meetings?

Ms. Fenichel reminded the Council that maybe Health Care for All could host a consumer hearing. The consumer sees this topic as kind of esoteric. Is it going to happen? There is a real ambivalence out there.

Secretary Bigby asked if there are there any other issues from the summary and the hearings.

One thing Dr. Bell learned is that we need to be flexible. Re: The Open Source presentation. In other administrations it was not allowed. She also commented on the testimony by the professor from Clark University. There are many other ways to marry privacy and security together. Areas we need to be on top of and be aware of. Security and healthcare, it needs to be front and center.

Secretary Bigby explained that Senator Rockefeller has proposed legislation to make Open Source software for EHR's available through the Federal Government.

Secretary Bigby highlighted that there have been breaches in the criminal records. Health Care Records are a sieve. It is a paper system and there are problems. We are starting with something that is terrible. Today you can walk into any health care facility and you can see records all over the place. It is less secure than someone hacking into your latest blood test. But truth is – you can't get into a record unless you have a need. If someone is carting your paper record around, anyone can see it.

Mr. Szabo mentioned that the Consortium had a project, one of their many work products, a consumer oriented video on what is an EHR. He then distributed a copy to each Council Member. Some members of the Council are in the video.

Ms. Fenichel pointed out that the issue is more about the ease of transmissibility. Inappropriately accessing paper records usually does not affect many people and is different in scale from the number of records that can be inappropriately accessed with the click of a mouse. Consumers and providers often assume that HIPAA protects records from unwanted access.. There are worries that are appropriate and inappropriate.

Dr. Bell commented on the fact that the ARRA, while significantly expanding regulation with respect to privacy and HIT, did not expand protections beyond those currently afforded in GINA -- The Genetic Information Non-Discrimination Act. She asked if the Commonwealth could implement protections if it chose to do so. Senator Moore responded, yes. HIPAA does allow for the state to be more stringent and it needs a lot of work. He did not know if Congress plans to take it on, but HIPAA does need to be updated.

Ms. Adair added we need stricter regulations.

Secretary asked the Council if maybe someone could get a summary to the Council of the present regulations. What do we have? She then recommended, based on the information we have summarized from the hearings, what we have as an overview of Chapter 305, and the conversation today, to develop a broad outline of what we would like incorporated into the plan, someone coming in and working on it, and what our experts would recommend to us.

Mr. Adams asked for clarity, should MeHI make a plan and circulate it?

Secretary Bigby explained that is what she meant. Mr. Adams responded they would do that and the proposal for the consultant.

- IV. Discuss Invitation of Massachusetts EHR/HIE Key Organizations to next Council Meeting to get a better sense of what is going on in Massachusetts and resources, and experiences they have had.

Secretary Bigby then moved on to the next agenda item. She explained that there are resources we have in Massachusetts and we would like to have them all attend a Council meeting. We have a list of proposed organizations we would like invite.

Ms Fenichel asked how the list was compiled and asked for clarity in what was the common denominator.

It was explained that the list is organizations that have important and direct experience with HIE and EHR.

Ms. Fenichel went on to state that there are consumer groups that have ideas.

Mr. Adams explained that this list is compiled of organizations that have experience, not those that have an interest or opinion. We understand and appreciate that there are consumer groups out there.

Mr. Szabo asked if Ray Campbell was still in the room (he was not able to stay for the whole meeting and had left). He then went on to explain that there are other organizations that are hands on, they have implementation experience. Maybe we could add Safe Health to the list. However, if you look at the Consortium, Ray has personally become an expert on ARRA. The MHDC doesn't have the same qualifications as the other organizations in terms of implementation.

Secretary Bigby then stated that the Council will need to be clear of what we want these organizations to do. So put together a list of 3-4 questions that address what we want to hear from them.

Dr. Bell commented on her misunderstanding. She had initially thought that the Council would be hearing from John Halamka and John Glaser in their roles with respect to interoperability standards: Glaser was (and will continue to be) engaged in prioritization, Halamka oversees the HITSP process that harmonizes and designates interoperability standards, and Mark Leavitt of the CCHIT is responsible for getting these standards into product so that these products can be truly interoperable. I suggested that we hear from them about what is coming, rather than just hear about what we already have.

Secretary Bigby wished to acknowledge that we heard testimony that we had cast groups aside. As a Council we want to change that feeling. It isn't so much what have you done, but what is your niche, what is your expertise, is there something to build on? Whatever we need to implement on and resources we need. There are pieces of the Plan with no foundation vs. build on what we do have. I agree we need to hear what is on the horizon.

Mr. Adams explained that there is a relatively short list that has a broad experience on the big picture, and what are the challenges we have.

Secretary Bigby explained that we should distinguish a bit, John Halamka right now has his thumb in a lot of pies and John Glaser has built exchanges, but that doesn't get us to what are the entities that may be working on pieces of what we know need to be addressed in our statewide plan. And so I see it as slightly different. Halamka wears different hats. What is his role, what is the organization, what is its role?

Ms. Fenichel asked if MMS have resources for EMR education. Ms. Gilboard explained that they have an online tutorial.

Mr. Adams asked what is proposed.

Secretary Bigby explained, we have providers that need EMRs. They are going to get equipment and software in their locations. We are going to need to insure there is a flow of information but also have a plan. We should ask, "what was your role on one hand and what can you do for us as

a state to get this up and running – meaningful, timely, inexpensive....what can you do for me tomorrow.”

Mr. Szabo stated that he felt this group can address those concerns. “I really want to know this and what we need is how can you help us?”

Dr. Bell asked if we should extend past the non-profits to for- profits. To which Mr. Szabo explained that we have both on our list.

Mr. Dehner explained that he had the same understanding, to get these people in here to hear what we are saying. Massachusetts is uniquely situated.

Secretary Bigby stated the questions are not either / or.

Mr. Adams explained that we should propose a sequence as who we hear from and in what order.

Judy Silvia then explained the availability of both John Glaser and John Halamka. She went on to state that we will be in touch electronically to establish which dates each of our presenters will visit the Council.

Meeting adjourned at 10:40.