

Health IT After HITECH Panel: Protect Privacy, Let Data Flow (Video)

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Last Wednesday, CDT convened a breakfast panel discussion on health information privacy at the San Francisco office of the law firm of Manatt, Phelps and Phillips LLP. The panel combined both California and national health IT expertise and featured Jonah Frolich, California Deputy Secretary for Health Information Technology; Alex Kam, Acting Director of the California Office of Health Information Integrity (OHIII); David Lansky, President and CEO of the Pacific Business Group on Health; John Mattison, M.D., Chief Medical Information Officer of Kaiser Permanente; Deven McGraw, CDT's Health Privacy Project Director; and Julie Murchinson, Managing Director of Manatt Health Solutions. Leslie Harris, President and CEO of CDT, moderated a discussion that quickly became an active one among both panelists and attendees.

The focus was initially on California and a recent paper released by CalOHIII largely raising concerns about "secondary" uses of health data (the paper will be available online shortly, check back here for a link). Such uses are often cited as raising greater privacy concerns. Yet the use of data for secondary (beyond individual treatment) purposes – such as for quality measurement and comparative effectiveness research – are key to achieving greater health system reform, raising the question of whether they should be relegated to secondary status.

The panel also spent some time discussing the appropriate role of individual consent in protecting privacy. The CalOHIII paper presents pro and con views on an "opt-in" approach to electronic health information exchange. CDT also has [published](#) [2] [papers](#) [3] raising doubts about the ability of privacy policy frameworks anchored by "notice and consent" to protect individual privacy.

The impact of a lack of a clear health privacy policy framework on innovation was also a topic of robust discussion. In some circumstances, uncertainty provides innovators with opportunity – but in the case of health IT, it may be a significant obstacle to moving forward.

Panelists and attendees universally acknowledged that these issues remain contentious and are not new. Many suggested that progress is not likely to be achieved through efforts to seek broad consensus (at least in highly politicized environments).

Money is flowing and the technologies are being developed, so there is no time for endless discussion. Ultimately, policymakers at both the state and national level need to step up and set the baseline policies that will protect individual privacy while still allowing the data flows that are needed to improve health and health care.

Here is the first half of last week's panel (the second half can be viewed [here](#) [4]):

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[2] <http://cdt.org/comments/health-information-privacy-current-trends-future-opportunities>

[3]

http://cdt.org/pr_statement/cdt-paper-rethinking-role-consent-protecting-health-information-privacy

[4] <http://vimeo.com/12957631>