

Privacy Issues and HIT

PBM Perspectives

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On behalf of the
Pharmaceutical Care Management Association

Context – Why PBMs?

- PBMs are aggregators of prescription history information by virtue of paying claims
- Drug history can enhance quality of care by alerting clinicians to potential drug/drug interactions or other ADEs, and thereby can enhance efficiency in the health care system
- Not *directly* a stakeholder except in the role of helping clients make prescription drugs safer and more affordable for their members

Issues - Overview

- Each piece of omitted information is a lost opportunity
- Systems generally cannot accommodate individualized approach
- Difficult to find consensus on whether or what to exclude:
 - Difficult to assign drugs to diseases
 - Drug claims typically do not include diagnosis
 - Off-label uses common

Issues - Overview

- HIPAA – generally NOT itself an issue as most potential uses of drug history information relate to treatment, payment or healthcare operations
- Varying state privacy laws create confusion and make it difficult to find a uniform approach (and HIPAA preemption is not always clear)
- Lack of consistent approach among information sources can lead to misunderstanding among clinicians (may not be clear what is missing)

Potential Approaches

Approach	Viability	Comments
Individual opt-in	☹️	Not feasible to administer; Inordinate lost opportunities
Individual opt-out	☹️	Not feasible to administer unless burden left to clinician (similar to HIPAA – with provider having option not to treat)
Individual opt-out by Drug Class (or other categorization)	☹️	Not feasible to administer; Wouldn't meet needs of patients
Send everything for everyone	☹️	Generally acceptable given existing common law and HIPAA protections, but likely to make some privacy advocates uncomfortable
Filter out certain drugs for everyone	☹️	Likely to be best approach so long as agreement can be reached on common exclusion list; Common candidates for exclusion often the most relevant to clinicians - clinicians would need to know what may be missing
Send nothing for anyone	☹️	Significant lost opportunities in both quality and cost savings

Solution

- Need to **balance** competing priorities between **enhancing safety and efficiency** in health care, **protecting individual privacy**, and finding an **administratively feasible solution**
- Need:
 - **Standards** (a common framework for inclusion/exclusion of information when sharing health care records)
 - **Stronger federal preemption** – uniform approach to privacy
 - **Consideration of systems issues** (solution **should not ADD costs** to the system **nor** effectively eliminate the possibility of providing the information, e.g., **create requirements that are impossible to meet**)

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