



Department of Health & Human Services  
Office of the National Coordinator for  
Health Information Technology

HEALTH INFORMATION SECURITY & PRIVACY  
COLLABORATION

# ***Health Information Security and Privacy Collaboration (HISPC) National Conference***

## **Harmonization of State Privacy Laws The Texas Experience**

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## The Texas Experience—Application of the CAM

- Texas Legislature meets in odd-numbered years only for regular session.
- Texas privacy statutes are found in almost every code.
- Texas privacy statutes tend to be detailed and specific.



# The Texas Experience—Application of the CAM

- Analysis of statutes revealed conflicts between and within state codes as well as between state and federal statutes.
  - Record retention requirements
  - Copy costs
  - Consent/authorization provisions for personal representatives
  - Decedents
  - Additional protection for special populations (HIV/AIDS, mental health, substance abuse)
  - Definitions of key terms
  - Right of access to records
  - Public Information Act



## The Texas Experience—Application of the CAM

- Analysis revealed that the same subject was addressed in more than one code
  - HIV/AIDS
  - Communicable disease reporting
  - Mental health
  - Consent/authorization provisions
- Analysis of statutes revealed gaps
  - No definitions for some key terms

## The Texas Experience—Application of the CAM

- Analysis revealed that application of provisions was not always clear
  - Prisoners
  - Wards of the state
  - Research
- Lack of uniformity does not necessarily equal conflict, but inconsistency may create unintentional barriers.

# The Texas Experience—Why This Matters

- Hurricane Katrina
  - Influx of storm victims to Houston
  - Ability to share immunization registry data saved over \$3 million in vaccination costs, BUT
  - Paper record summaries of medical care delivered were the norm at satellite care centers



# The Texas Experience—Why This Matters



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- Hurricane Rita
  - Mass evacuation of Gulf Coast region included all medically fragile populations BUT
  - Only federal prisoners left with medical records
  - Insurance companies created medical records for displaced patients based on billing data



# The Texas Experience—Why This Matters



# The Texas Experience—Why This Matters

- Hurricane Ike
  - State prisoners' records in a redundant system so available
  - Local hospital system has EHR's for all patients BUT
  - Record access only available once system back on line; no ability to share with another system



# Acknowledgments



Texas Health Care Policy Council

<http://governor.state.tx.us/thcpc>



University of Houston Health Law & Policy Institute

<http://www.law.uh.edu/healthlaw/>