



Electronic Consent Management Quarterly Call

May 22, 2023

Objectives

- ▶ Provide updates on electronic consent management (ECM) project and key milestone dates.
- ▶ Provide updates on various policies, tools and resources.
- ▶ Solicit input from provider community regarding:
 - ▶ Early system use
 - ▶ Ongoing stakeholder, partner, and provider engagement
 - ▶ Communications

Electronic Consent Management Project Updates

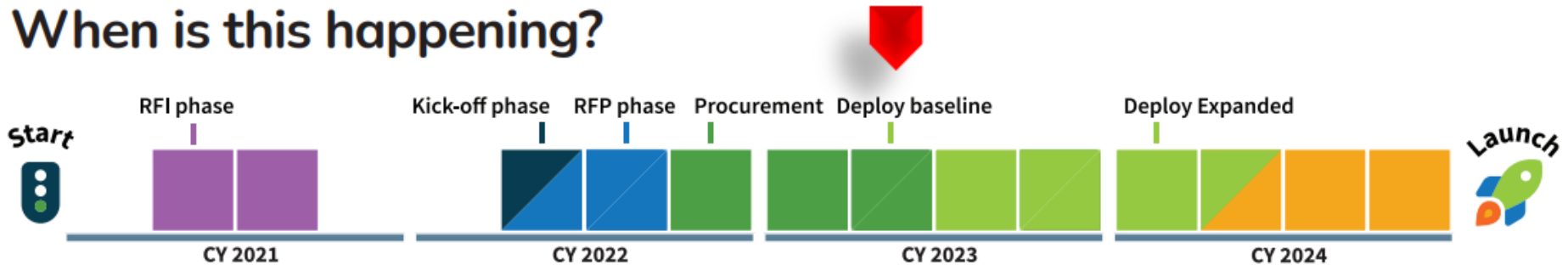
Linda Reader

Project Objectives

- ▶ To define and deploy an electronic consent management solution that:
 - ▶ Facilitates patient-authorized exchange of sensitive data
 - ▶ Is scalable, secure, sustainable, and meets provider needs
- ▶ First use case
 - ▶ Consent to enable exchange of substance use disorder (SUD) data

Project overview and timeline

When is this happening?



Timeline Milestones

- 1 ECM Vendor announced: Q1 2023
- 2 Deployment Kickoff with Vendor: Q3 2023
- 3 Go Live with Baseline Solution: Q1 2024
- 4 Expanded solution deployment: Q2 2024

Two Phase Approach



▶ Baseline solution

- ▶ Essential functionality such as creation, modification & revocation of consents (with version history)
- ▶ Intuitive navigation and search capability, compliance with all applicable laws, alerts, tracking
- ▶ Reports and dashboards for HCA and providers
- ▶ Electronic signature for client and third parties, guardians, and parents (if indicated)
- ▶ Audit functionality (e.g., logins)
- ▶ One to two languages other than English
- ▶ Option for OCR scanning
- ▶ Interoperability with one EHR instance

Two Phase Approach (cont.)



▶ Expanded solution

- ▶ Deploy a more complete solution to address additional:
 - ▶ Use cases
 - ▶ Client populations
 - ▶ Modes of system access
 - ▶ Interoperability with other systems or functional components
- ▶ Explore client consent self management
- ▶ Determine priorities with providers, state agencies, solution vendor, partners, and other stakeholders

Essential technology

- ▶ A flexible architecture solution that is scalable and accommodates future state business needs
 - ▶ Cloud-based system
 - ▶ Support role-based access
 - ▶ Interoperable with many systems and solutions (e.g., EHR) using standards-based technology
 - ▶ Comply with all state, federal, and industry-standard security protocols and laws (incl data retention policies)
 - ▶ Operational reporting and analytics
 - ▶ Successful completion of OCS Security Design Review (SDR)
 - ▶ Successful completion of CMS Outcome Based Certification

Part 2 NPRM feedback

- ▶ Notice of proposed rulemaking (NPRM) to revise 42 CFR Part 2 issued November 2022 by HHS/OCR and SAMHSA
- ▶ NPRM would implement provisions of Section 3221 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act
 - ▶ Requires HHS to bring Part 2 in greater alignment with certain aspects of HIPAA
- ▶ HCA submitted agency wide response & is monitoring

Part 2 NPRM resources

- ▶ NPRM: [federalregister.gov/documents/2022/12/02/2022-25784/confidentiality-of-substance-use-disorder-sud-patient-records](https://www.federalregister.gov/documents/2022/12/02/2022-25784/confidentiality-of-substance-use-disorder-sud-patient-records)
- ▶ Part 2 fact sheet: [hhs.gov/hipaa/for-professionals/regulatory-initiatives/hipaa-part-2/index.html](https://www.hhs.gov/hipaa/for-professionals/regulatory-initiatives/hipaa-part-2/index.html)

Provider Outreach

Jennifer Alvisurez

System User Opportunity

- ▶ ECM solution will go live in Q1 2024
- ▶ Contact econsent@hca.wa.gov for a 1:1 call
- ▶ No cost to providers or other system users
- ▶ Training will be available for all system users
- ▶ Providers will work with HCA and the solution vendor for staff access
- ▶ Early System Users:
 - ▶ Possible opportunity to help with final workflow discussion and training (TBD)

New ECM Factsheet

What is Electronic Consent Management?



Electronic consent management (ECM) is a cloud-based software solution which will house consents to share sensitive data (e.g. substance use disorder, research, sexually transmitted infection data). It is not intended to store HIPAA general consents for treatment. ECM will be free to use and is meant to replace paper-based consents or integrate with current electronic consent practices by enabling data exchange that will be compliant with 42 CFR Part 2 and other relevant statutes.

If you are interested in learning more or using the system, contact HCA at ecsent@hca.wa.gov.

What data will be collected?

Health records will not be stored by HCA or the ECM vendor. The system will only store consents to share data, which can be updated or revoked as needed.

Why is this happening?

Providers face significant administrative challenges managing consents due to time and cost. ECM will foster more complete and coordinated care.

Who does it affect?

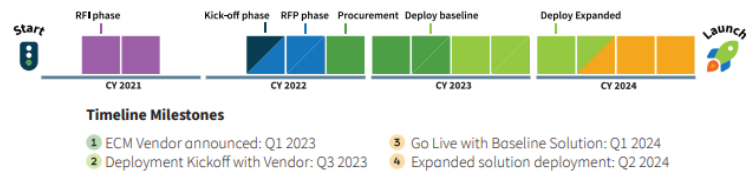
HCA will focus on storing consents to enable Substance Use Disorder (SUD) data exchange first. Behavioral health providers and others that serve SUD clients or exchange SUD data will benefit. In future project phases, consents to exchange other types of sensitive data will be added. HCA is prioritizing data exchange for Apple Health (Medicaid) clients. ECM is one of HCA's Tech Modernization projects.

How does this benefit me as a medical provider or health organization?

Main benefits of the ECM solution for providers and other organizations include:

- Access to client data in times of crisis which is crucial to address substance use disorder (SUD) issues.
- A reduction in provider administrative burden related to consent.
- A reduction in the number of incomplete, noncompliant, and redundant consents.
- Fewer barriers for those who provide vital services to Washington's most vulnerable residents.
- Access to a consent solution that will be adaptable and sustainable, yet flexible throughout its lifespan.
- A decrease in the time it takes to share relevant information between providers.

When is this happening?



Resources

- ▶ ECM webpage
 - ▶ hca.wa.gov/about-hca/programs-and-initiatives/clinical-collaboration-and-initiatives/electronic-consent-management
- ▶ ECM email address
 - ▶ econsent@hca.wa.gov
- ▶ Substance Use Disorder Information Guide
 - ▶ hca.wa.gov/billers-providers-partners/program-information-providers/substance-use-disorder-sud-consent-management-guidance
- ▶ Questions or concerns about being an early system user

Substance Use Disorder Information: A Guide for Washington State

Sam Méndez

Samuel Morones

SUD Guidance for Washington State

- ▶ [Sharing Substance Use Disorder \(SUD\) Information: A Guide for Washington State \(HCA 60-0015\)](#)
- ▶ This Guide is current as of 2021. Rule changes to 42 CFR Part 2 that were proposed in late 2022, and not yet implemented, have not yet been incorporated.

Legislation Update

Jennifer Alvisurez

HB 1155 – My Health, My Data

- ▶ Creates a new concept of "consumer health data" which includes health conditions or diagnoses, prescriptions, vital signs, reproductive and sexual health, biometrics, and genetic information.
- ▶ Also applies to location information if reasonably related to health data or seeking health care.
- ▶ Requires "regulated entities" to have a consumer health data privacy policy that explicitly covers what consumer health data are collected and from where.
- ▶ Requires consent before collecting consumer health data and separate consent before sharing such data.
- ▶ Includes consumer rights for an accounting of disclosures, revoking previously provided consent, and deletion of data.

HB 1155 – My Health, My Data (continued)

- ▶ Defines Consent as a clear affirmative act that signifies a consumer's freely given, specific, informed, opt-in, voluntary, and unambiguous agreement, which may include written consent provided by electronic means.
 - ▶ Specifically excludes general or broad agreements, passive acceptance, and deceptive practices.
- ▶ Applies to entities typically excluded from healthcare and privacy laws, referred to as "regulated entities".
- ▶ "Regulated entities" does not include State agencies or Tribal Nations.
- ▶ Several exceptions apply to health data covered by other privacy laws, such as HIPAA or RCW 70.02.

HB 1335 – Anti-Doxing

- ▶ Prohibits the publishing of personal information based on a three part test:
 - ▶ Express consent (not explicitly defined),
 - ▶ Intent or knowledge of harm, or reckless disregard to risk,
 - ▶ Impact: injury, economic harm, or significant life disruption,
- ▶ Allows for a person whose personal information is published to file a civil action against:
 - ▶ The publisher of the information; and
 - ▶ Anyone who benefits who "knew or should have known" the information was inappropriately shared
- ▶ Publish is defined broadly and does not require the information to have been made public or widely available.
- ▶ A number of exclusions are included for state agencies, activities required under law, and other broad categories.

Next Steps

- ▶ Continue partner, stakeholder, and provider engagement
- ▶ Next quarterly call is in August 2023

Questions or additional comments

Email: ecconsent@hca.wa.gov

