



**HIT Policy Committee
Privacy & Security Workgroup
Final Transcript
November 24, 2014**

Presentation

Operator

All lines bridged with the public.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Thank you. Good afternoon everyone, this is Michelle Consolazio with the Office of the National Coordinator. This is a meeting of the Health IT Policy Committee's Privacy & Security Workgroup. This is a public call and there will be time for public comment at the end of the call. As a reminder, please state your name before speaking as this meeting is being transcribed and recorded. I'll now take roll. Deven McGraw?

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi, Deven. Stanley Crosley?

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi, Stan.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Hey.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Adrienne Ficchi? Bakul Patel? Cora Tung Han? David Kotz?

David F. Kotz, PhD – Associate Dean of the Faculty for the Sciences – Dartmouth College

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi, David. David McCallie?

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi, David. Deb Bass? Donna Cryer?

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi, Donna. Gayle Harrell? Gil Kuperman? Gwynne Jenkins? John Wilbanks? Kitt Winter?

Kitt Winter, MBA – Director, Health IT Program Office – Social Security Administration

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi, Kitt. Kristen Anderson?

Kristen Anderson, JD, MPP – Staff Attorney, Division of Privacy & Identity Protection – Federal Trade Commission

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi, Kristen. Linda Kloss?

Linda Kloss, RHIA, CAE, FAHIMA – President – Kloss Strategic Advisors, Ltd.

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi, Linda. Linda Sanches? Manuj Lal? Mark Sugrue? Micky Tripathi? Stephania Griffen? Taha Kass-Hout?

Taha A. Kass-Hout, MD, MS – Director, FDA Office of Informatics and Technology Innovation – Food and Drug Administration

I'm here, thank you.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi. And Kathryn from ONC?

Kathryn Marchesini, JD – Acting Chief Privacy Officer – Office of the National Coordinator for Health Information Technology

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Lucia from ONC?

Lucia C. Savage, JD – Chief Privacy Officer – Office of the National Coordinator for Health Information Technology

Here.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Hi, Lucia. And I think that's everyone on from ONC so I'll turn it back to you Deven and Stan.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

All right. Terrific, thank you very much Michelle and thanks to everyone who is able to join our call today. Essentially what we're going to use our time today to do is to provide you with an update on where we are with respect to the virtual hearings that we have planned for December 5 and December 8 on the issue of health big data opportunities, issues and concerns and potential policy frameworks to maximize the opportunities and minimize the risk.

We'll sort of give you an update on where we are with panelists and invitees and you'll see a little bit about what the panel structure looks like for those two days, although we retain the flexibility to...changes to that given that we may need to do so in order to get the people to whom we've reached out, to enable them to participate; although as you will see, we're getting very good response so far, which is terrific.

And then we'll also take some time to get some feedback from all of you on the questions that we should ask of our panelists. And this is something that we have...that Stan and I and ONC staff have been working with MITRE on already, but we wanted to make sure that we weren't missing any issue areas and want to make sure that you all can weigh in on what types of questions you would want to answer, so that we can compile that list and get it out to the presenters this week. So, we'll do that. Given the scope of what we're trying to accomplish today, I think we hopefully don't need to take the full 90 minutes that we have allotted, but certainly can do so if we need to. Stan, anything I left out.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Nope, you've covered it well.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay, great. So let's go ahead and move to the panelist update slides. So I'm actually going to turn this over to Kris Miller from MITRE, because after we sent these materials to you on Friday, we actually got some additional responses in from some of the people that we had invited for these panels. So, there's even more updated information than is represented on this slide and I want to make sure you don't miss it. So Kris, are you okay with that?

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

I'm perfect with that, thanks. Yup. Great. So thank you Deven. I'm going to run through, I'll run through Day 1 and then I'll run through Day 2 and as Deven just mentioned, there have been actually quite a few updates just since Friday.

So the first change is actually number 1 there, Steve Downs; he's confirmed, he has accepted now so we've got him on the list. We did unfortunately receive a response from Halle Tecco, who said that she couldn't attend but she's helping us possibly find some other speakers. Kathy Ko Chin is still pending and the one name that we've added here that we're going to send an invite out to today is Amy Abernathy, who is at Duke. So that would cover Big Health Data Opportunities on the first day. For the...

Donna R. Cryer, JD – Principal – CryerHealth, LLC

As you go through these, I'm sorry, excuse me, this is Donna Cryer. As you go through these if you could give people's affiliation or...organization as well as their name, just in case we're not familiar with everybody off the top of our heads. I think that would be very helpful as you go through.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah, I was just about to suggest that Donna; thank you.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Um hmm.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Okay, great. I will do my best. Obviously for some of these I actually don't know necessarily, so...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

We do, Kris, so if you...

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Yeah, Deven and Stan, I'm sure you do.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

...we'll fill it in.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

All right. So moving down to the Learning Health System on the first day...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay, so hold on. So Steve Downs is from RWJ. Holly Tecco was from Rock Health. So we're looking for somebody to potentially replace the sort of Rock Health kind of overarching ecosystem perspective. Rock Health is a venture capital firm that does a lot of...that specifies only in health opportunities. And Kathy Ko Chin is the head of the Asian Pacific Islander Health Forum. It's a consumer organization in the state of California. So, let's...so that updates for that panel. Amy Abernathy is from Duke; she's also affiliated with Cancer Link, which is the big cancer electronic records database that the American Society of Clinical Oncologists is building. Although I thought we slotted her potentially in a Learning Health System slot, but she can also be in opportunities, so just get the...we have some overlap, obviously, in terms of panels and who would fit where. So...

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Are you still...are you interested...this is David. Do you want us to suggest names as they pop into our heads for these categories, or is it too late to do that, or...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

I mean no, not necessarily but let's get through the end of the list and then...

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Okay.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

...open it up, how about that.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Okay.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay Kris, so I interrupted you, but go ahead.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Nope, no problem. It's great. So for Learning Health System on the first day, we have confirmed Rich Platt and Patty Brennan. Joe Selby we actually are asking, I think, in order for balance right now, to be on the December 8 panel, but that's still pending; so we haven't heard back. Niles Brennan is the other name that we put here for the Learning Health System. So as far as their backgrounds...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay. So Rich Platt is at Harvard Pilgrim Healthcare and is also the head of...he was the principle investigator for the Sentinel...for the Mini-Sentinel pilot, which is the safety surveillance system of distributed network of claims and clinical data created in the ACA Amendments of several years ago, but he's now engaged in discussions about how that system might be turned into a more robust, secondary use database, so not just for surveillance. And he is also part of the coordinating center for the patient-centered outcomes research network.

Patty Brennan is at the University of Wisconsin and was the principle investigator on the Robert Wood Johnson Foundations project health design grant, in both phases, which involved in the latter phase, involved the integration of patient-generated data into clinical workflows. And she also does a lot of work with AMIA.

And Joe Selby is the head of the Patient-Centered Outcomes Research Initiative, for those who don't know him. And Niall Brennan is...it's funny, I don't know his actual title, but I consider him to be the health big data guy at CMS.

Lucia C. Savage, JD – Chief Privacy Officer – Office of the National Coordinator for Health Information Technology

So Deven, this is Lucia. He has a new title, I can't remember it either, and I talked to him today and he will try to make it work, but he may need to move the date.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay. Got it.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Okay. Good, I'm off...all right. The next is the Big Health Data Concerns piece. We have confirmed Michelle DeMooy. We have the two other names on there, so these have changed a little bit. We've also confirmed on this panel Patty Brennan and Mark Savage. So Mark Savage moves from pending to confirmed and Mark Boutin moves over to hopefully December 8, but he's still pending.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay. So Michelle DeMooy is the new health person at the Center for Democracy and Technology, so she works on health data privacy and security policy issues at CDT, which was my former organization, in full disclosure and is a civil liberties non-profit, policy advocacy entity in DC. And Mark Boutin is with the National Health Council, which is an umbrella organization of patient groups that...Stan is it fair to characterize them that way?

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

If I could, typically chronically ill or terminally ill type patient groups.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right. And then...and Mark Savage is at the National Partnership for Women & Families, which directs the...and leads the Consumer Partnership for eHealth. And the National Partnership for Women & Families is another non-profit patient and consumer advocacy organization. And we spoke about Patty Brennan earlier.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Great. And then the last portion here, Khaled El Emam is confirmed, so is Bob Gellman, so we moved Bob Gellman from pending to confirmed. And I think we're very close on Fred Cate.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yes.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah. Yes, so Khaled is an expert on both de-identification policy as well as practice. He's up in Canada, but he does...he's very familiar with US laws and practices and consults down here and speaks down here regularly. He's written books about de-identification. I'm really...I'm pleased that we're getting the people we're getting on any of the panels, but I was...since he is so busy, I was particularly excited when he quickly responded that he could do this.

Fred Cate is an academic at the University of Indiana, who has written a lot on big data, also research uses of health data and whether consent works as well in big data environments and what kinds of foc...what do we need to do to create a trusted environment for big data uses. He's written a lot about this.

Bob Gellman is an independent privacy consultant, worked on the Hill for many years on privacy issues. Actually, in some early days of trying to pass privacy legislation on the healthcare side, in the pre-HIPAA days, there was a bill around Congress that was known as the Gellman Bill, I don't know how many people know that. But he writes extensively on health privacy and is particularly an expert on sort of fair information practices principles and their foundation...how they've served as a foundation for privacy law. But he has pretty strong opinions on privacy issues and is very knowledgeable about issues. It'll be a very interesting panel with the three of them on there.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Um hmm. And they know each other well.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yes.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Fantastic. So that's Day 1. Day 2, you can see there, there is actually no change, this kind of locks up our panel. We've confirmed with Melissa Bianchi, who is at Hogan Lovells, I believe...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yup.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

...and Kirk Nahra, who's confirmed and this lovely person, Deven McGraw who's actually going to present.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah, I don't know here. Just...so Kirk is a partner at Wiley Rein and both Melissa and Kirk do an extensive amount of work in the various regulatory arenas that we wanted to make sure we got a level set on...so, between HIPAA, HITECH, the Common Rule, which is the NIH research rule, the Federal Trade Commission statutory mandates and the work that the FTC is doing as well as what...whether the Fair Credit Reporting Act may be applicable to health big data uses in some circumstances.

I am on this list because I've actually, independent of the work that I've done on the Health IT Policy Committee and frankly also in my role as a partner here at Manatt, I have done a fair amount of writing that challenges some of the ways that HIPAA and the Common Rule regulate secondary uses of data. And in talking with Stan and ONC about whether this would be valuable to bring to the attention of the working group, they agreed that it was. When I testify I will not play any role as sort of...I won't be moderating myself, I'll have a different hat on, but I wanted you all to be able to hear it and then, just like any other testimony that the working group receives, it would be completely up to the working group to decide what, if anything, is valuable and of use in that testimony.

W

We take everything you say with a grain of salt, anyway.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Well, as you should.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Great. So our legal panel is set. We do have quite a few changes in the next one, in the opportunities on Day 2. We do have confirmed Linda Avey. John Grant is, I believe, close; expressed a very deep interest but just needed to confirm with Palantir that it was okay for him to participate, so we're still waiting on his reply. Unfortunately, Payal Shah could not attend, but she actually suggested several possible contributors, and that's where we got actually one of the names that an invite will be extended to Kald Abdallah and the other one, this is why actually I had listed I think it was under Opportunities, for Amy Abernathy.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Oh yeah, that's right.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

All right, so that's where we stand with that. As far as Linda's background, let me see if I have that.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Stan, do you want to do Linda's background?

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yeah, Linda Avey is fairly unique in that she helped...was one of the co-founders of 23andMe and then after 23andMe, she left about 5 years ago and has done quite a bit of work in the consumer space on healthcare, so consumer generated health data and now has a couple of different companies, one is called Curious and she is interested in aggregations of data and big data work and research and genetic-based research through her 23andMe work. So, she's very bright and very entertaining; it should be a good session with her.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay.

W

That's a big get.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yeah, yeah, she's pretty prominent.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

We were extremely pleased at the response that we've had when we got these invitations out...

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yeah, absolutely.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

...even though on very little notice for people.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Did you tell them that they can only talk for 5 minutes?

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah. And we'll have to do it again, I'm sure. John Grant is with a software company called Palantir. He's their...I think his title is something like Chief Civil Liberties Engineer. But Palantir is a company that does a lot of big data analytics both in healthcare and also in the National Security space, so it will be interesting, I think, to hear from them. And then Payal Shah is from C-Change and even though we did not...we were not able to get her, she did suggest some other folks who she thought would be helpful and we're reaching out to them to see...to check on their ability, that's the other name that Kris mentioned.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Right, so that was Kald Abdallah and Amy Abernathy, those two names came from her.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

That's right, Amy.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

So moving now to the Learning Health System Panel, we have confirmed Paul Wallace. We had Patty Brennan over here, although I think we moved her over to the other side and so right now we're waiting on...and she switched places, actually, with Mark Boutin. So...and Niall...

Donna R. Cryer, JD – Principal – CryerHealth, LLC

...if we have a spot in there, someone who might be interesting is Josh Gray, who used to be with the Advisory Board Company, who is now leading athenaResearch inside athenahealth and it's an interesting approach for how they're using data and data analysis across their entire ambulatory population base.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Thank you, was that Donna?

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Yes.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Great, and that was Josh Gray, do you happen to have a contact email?

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Yeah, I can send you the contact information, absolutely.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

That would be great because as I actually look at right now Deven and Stan, I've got Paul Wallace and Mark Boutin on tap for Learning Health System for Day 2, but we could use possibly a third person in there.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Where did you have Mark again, Learning Health System or is he on Opportunities?

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

So I have Mark Boutin on Learning Health System right now.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Umm...

Donna R. Cryer, JD – Principal – CryerHealth, LLC

I thought he was on Concerns.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yeah, he should be there on Concerns or Opportunities, he was on Concerns on the left-hand side. He's not really a Learning Health System guy.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

I see.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Yeah. My concern is that, and I wanted to hear us sort of describe and go through all of them, was if we had a patient...you know, Mark has been sort of embracing his patient side itself as much as he represents...

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Right.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

...patient advocacy organizations. But I certainly don't want us to get dinged with patients not included, Mark on this, and it would seem that the most logical place might be in either Concerns or...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right. So this is...

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Great.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

I agree with you.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay, so hold off; let's wait until we're through the whole list to talk about gaps.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Sure.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yeah.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Since I promised that to David McCallie, I want to try to...

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

But Mark should be on that big data concern then, on either Day 1 or Day 2, Kris.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Yeah.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

So this is...

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Or Opportunities.

W

...just keep in mind one of the things we're struggling with is that notice is really short and we may know what bucket they're in but have to schedule them on different day. So I don't think you should assume that because Mark Boutin shows up over on December 8, we wouldn't want him to talk about what he's most qualified to talk about. Just keep that in mind, it's gonna be a little bit patchwork because we want to get the best people we can in this short notice environment.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Oh no, that's fine, I think Mark is excellent and absolutely should be on somewhere that was not meant to...

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

And let me clear it up. I think this was actually a typo, in the chart that I'm actually working on right now that's being the revision, and I should have put him, Mark Boutin, in the Concerns column. So he would be under Leslie Francis here in the last day, the last panel. And so Leslie is confirmed, she's only got a small window, unfortunately, I think she replied that she's free from 4-5, but that panel is supposed to go last. Hopefully she can free up a little bit earlier, but I've put Mark into that section, because I think that's where he originally was supposed to be anyway.

And that's basically it. I guess the...looking at the gaps just roughly right now; I think the places where we could probably fill in are the Day 2 Learning Health System and Day 2 Concerns panels.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay, so going back, Paul Wallace is from...is now with Optum Labs and prior to that, he was with Lewin. This is...so for those of you who are not familiar with Optum Labs, they are, I don't want to mis-characterize them, but they do big data analytics in health using clinical as well as claims data. For those of you who read the Health Affairs Special Issue on health big data, there was a piece on the partnership between Optum Labs and the Mayo Clinic that was featured in that issue.

Linda Kloss, RHIA, CAE, FAHIMA – President – Kloss Strategic Advisors, Ltd.

I think you can also...this is Linda Kloss. I think he can also speak to life sciences and the applications in that arena.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right. And Leslie Francis is with the National...I mean, she's at the University of Utah, but she's also with the National Committee on Vital and Health Statistics and we've asked her, per one of our earlier meetings, thanks to prompting from Linda, to come and talk to us about some recent work that they did on a related issue. So...

Linda Kloss, RHIA, CAE, FAHIMA – President – Kloss Strategic Advisors, Ltd.

And the focus is on use of big data for community health improvement initiatives.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Thank you.

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

Deven, this is Gayle. I joined a little late and I wanted to make sure we had a patient, in particular, on the Data Concerns.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay, well let's go to that issue. So do we have an individual patient? I don't know that we do.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yeah...Mark sometimes will...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

We have representatives of patients, yes. So Kathy Ko Chin is with a consumer and patient organization out in California called the Asian...APIAH...

W

Asian Pacific Islander Health something.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah, I thought it was Health Forum, but that...

W

I forget.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah. Then Mark Savage from The National Partnership for Women & Families. Mark Boutin from the National Health Council and Michelle De Mooy from CDT. So those are all consumer and/or patient organizations, but if there's a voice, and we're absolute open to hearing in fact that we're still missing the patient voice and if someone wants to make suggestions about that, we will make that happen.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Yes, one name might be Anna McCollister-Slipp, who speaks very articulately about use of data, and she is a diabetes patient as well as a patient advocate and I can certainly forward...

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

I would also say that...oh, I'm sorry, keep going.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

No, go ahead. I'm done.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

I was going to say, Fred Cate is also a diabetic and will talk about that as part of his session as well.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Yeah, as long as someone can...will...sometimes people are patients but don't have that as...won't speak from that perspective, which is fair and fine, everybody...

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Sure.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

...has that choice. But if people are willing to speak from both perspectives, then I think that's fine. What I don't want us to do is fall into what so many other meeting organizers have done is assume that because we have patient advocacy organizations represented, that we actually have patients represented.

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

My concern exactly.

Linda Kloss, RHIA, CAE, FAHIMA – President – Kloss Strategic Advisors, Ltd.

This is Linda Kloss and we had talked about having large health system perspective where they're using data for...as a learning health system, an actual health system and the perspectives on bringing data sets together. So, I think I had suggested Lisa Khorey from UPMC, but certainly there are others who are really ahead of the curve on this.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

You did, I think we...

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

She is on our list, I actually...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

...it's one of the people, unfortunately...actually, if you have contact information for her, I was looking for it and I couldn't find it.

Linda Kloss, RHIA, CAE, FAHIMA – President – Kloss Strategic Advisors, Ltd.

Okay, I do.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

That would be great, Linda, thank you.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

I also have someone who leads population health from Christiana Health Care System in Delaware and so I'm happy to provide that as a backup.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

That would be great.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

Okay.

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

Great, I'm just taking notes, Deven, so, I think I'm done.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Great. Well, nice work. So let's...so, there were probably some others on the phone who wanted...David, I know I passed you over earlier, in terms of suggestions.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

You did, but you eventually, you covered it. I was going to suggest somebody from Optum Labs, but you got Paul Wallace, I hadn't noticed that at the point when I raised my question.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

And likewise, if you run into trouble finding someone from a large IDN focused on population health, I could find somebody from Advocate in Chicago, which is the largest ACO and they're doing lots of interesting analytics.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Huh. Great.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

It sounds like you got it covered, but if you don't, let me know and I can dig around.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Do we have...

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

Do you have anybody through SAS on Medicaid analytics? They do a lot of really in-depth Medicaid information and analytics, truly big data on state plans.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

With...so you're talking about SAS?

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

Yes, SAS.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Is that more of a technical perspective?

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

I think we...Medicaid. I'm sorry, what was that?

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Is that more of a technical perspective or...I mean, we have Palantir coming for people who do large analytic data sets, I think we have Palantir coming.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yeah, I...

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

Really that in depth analytics is to essentially lead to a learning health system, as to what the data really shows, they do a major analysis of Medicaid patients in particular.

Lucia C. Savage, JD – Chief Privacy Officer – Office of the National Coordinator for Health Information Technology

So this is Lucia, here's my two cents about that, which is I think the Medicaid space is super important, but I think that the key thing we would want to elicit from this crowd is not how but what's important about what they do about it and what are the risks about what they do about it. And so that's why I'm sort of leaning towards people who are the staff customer, essentially, the Director of Analytics at a Medicaid agency, why is his agency doing analytics? That would be interesting if Niall can't answer that, and of course Niall would have some responsibilities for the other in CMS, too.

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

Okay.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay. Other thoughts? Thank you, Lucia.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Deven, its David. Do we have, I don't know most of these folks, do we have a broad enough range of perspectives from wildly enthusiastic to deeply skeptical of the...

Kris Miller, LLM, JD, MPA, CIPP/G, CIPP/E – Principal Privacy Strategist, Enterprise Strategy & Transformation Division – MITRE Corporation

That's a good question.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

I mean, I noticed a couple of names that aren't on the list, but I assume you've covered the perspectives of some of the louder voices that don't like the privacy implications of data aggregation?

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

I think we've got some doubters on here.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yeah.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

I would say we may arguably be...we also tried to find a range of people who would say both. There are lots of opportunities here, but we have some concerns as well and we have to sort of figure out how to accommodate both of those, how do you maximize one and...you know, maximize the good and minimize the bad as opposed to...

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

I think it's pretty balanced...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah, no...say all bad.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

...I mean, I think we've got some...I don't think we have very many neutral people. Actually we have some folks who will speak in a balanced way, but I think most of them come at it from one perspective or another, which I think will prove for good conversation.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right.

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

I think it's essentially that you hear both sides to that story.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Yeah, I think we have it, I mean if we look across; at least I th...I mean, the folks I know, I think are falling on both sides.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

It's going to be very interesting two afternoons or mornings, on the West Coast.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Um hmm.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay, well let's move to the question categories. Certainly if working group members have additional thoughts after we close this call and you want to shoot us an email, and already we've got commitments from some of you to provide some email addresses; that will be very helpful. But definitely shoot us a note if there's something that you want to mention. But we'll go ahead and go to the next slide. Okay.

So here's generally how it works. Again, we try to keep these presenters to 5 minutes so that we maximize the time in Q&A. And for those of you who are new to the working group and haven't necessarily done a virtual hearing before, there's a raise hands function that we use to allow members to queue up during the Q&A, and we'll be appointing people, and we may, in fact...in fact, we probably will, reach out to some of you to help do some panel management, in terms of keeping things on time and calling on people in the queue. But we'll obviously try to maximize our time. We do have one 5 minute break in each of those afternoons, but of course, you are on the phone so if you need to excuse yourself for some reason, just put your phone on mute. Please don't put us on hold so we don't get the music, which we will also remember to warn people about. But that's generally how the day breaks out. And then there are transcripts that are taken.

We've invited all of the panelists to provide us with something in writing, but not required it. So a number of them expressed an interest in doing that, so we will have some written testimony from at least some of our panelists. And then we have opportunity for public comment on both days; so, we'll get some of that.

And then the other thing that did occur to me and Stan is that if, in fact, we find that we have someone that we have...want to talk to that we haven't heard from yet and it turns out that neither December 5 or December 8 is a good day for them, then as long as it's not too many people, we may be able to squeeze them into the beginning of our last Privacy & Security working group call that's on our schedule, which is the one on Monday, December 15. Since all our calls are...unless we go into a planning session, our calls are public, so there is...we could also invite people who are unable who we've invited and who are unable to make one of those two days, we could use some time on December 15 for overflow.

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

Deven, this is Gayle. You may also want to give some other the people the opportunity to send us something in writing.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Oh yes, no, we definitely have invited those who wish to do so to do that. And yes, so for people who can't...I see what you're saying now, sorry. People who can't join us but want to weigh in...

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

Right, people who cannot...right.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

...that they could do so in writing.

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

Yeah.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah. Frankly, as is the fact also with members of the public who are interested in weighing in or...just because we don't specifically invite you to present doesn't mean that we aren't interested in hearing from people on this. Okay, next slide.

All right, so here are just some topic areas, they may be fairly obvious given the names of some of our panels, but still wanted to start to sketch out areas where we would develop questions. And as I mentioned earlier, we have been working with ONC staff and MITRE, Stan and I have, to try to start building out a pretty robust question list. But we wanted to just solicit input from the workgroup members, rather than wordsmithing some questions that we were already noodling over, we wanted to sort of just give you all somewhat of a blank slate with some categories and have you identify areas of questions that you think need to be asked of this panel. Because we give these to presenters and then we also circulate them to working group members as guides for both the presentations, but as well as for all of us, in terms of what kind of information are we interested in soliciting from these people who are giving so generously of their time.

Donna R. Cryer, JD – Principal – CryerHealth, LLC

This is Donna, I had an addition possibly to the learning health system set of questions. I think an additional ethical obligation would be, when is consent required? Or asking panelists how they are or if they are, this would be an excellent question particularly if we had a major health system involved, how are they communicating to their patients that they are a learning health system or that their information may be used in this way?

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Umm.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Yeah, this is David, I was going to add that point. I second that motion.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Great. Is there anybody who needs this list to be read to them? I don't know if everyone has the slides in front of them. It includes advantages and limits to current law and what are some of the challenges that researchers face when they're trying to aggregate or analyze diverse types of data? How do we keep policy ahead of or at least at pace with technology change? What are the sort of opportunities in terms of what's happening now and what might be on the near-term? What are some privacy enhancing technologies, for that matter?

Learning health system, which you all just touched on, what are some of the concerns; impact on FIPPs, which are Fair Information Practice Principles for people who are not familiar? Impact on trust? Specific harms such as discrimination, civil rights, reputation? And then in terms of protections, what's the role of de-identification? What's the role of consent?

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Deven, it's David. I don't know that this is a question per se, but just an angle or issue is, it would be a mistake to think of big data as only healthcare big data, and what makes it interesting is when it gets joined against non-healthcare data. And I wonder if there's a...do we have any...do we want to call any special attention to what happens when you cross those sources together, join them together? In other words, what you buy in the supermarket joined up against what the medications that you got from the pharmacist.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Um hmm.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right. Right, yeah, yeah, sounds like a good...

David F. Kotz, PhD – Associate Dean of the Faculty for the Sciences – Dartmouth College

Well, is it...didn't we...and this is David Kotz. I mean sometimes that's when the re-identification risk comes into play, I mean, just coming back to Latanya Sweeney's classic example of re-identifying the Governor of Massachusetts by crossing voting records with...or voter registration records with health data.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yup.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Yeah, I absolutely agree, that's one of the potential issues where that raises the negative side. The positive side is, when people are trying to change population's health culture...

David F. Kotz, PhD – Associate Dean of the Faculty for the Sciences – Dartmouth College

Yeah.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

...knowing what they're doing that's unhealthy, which may not at all come through the healthcare system can be both powerful but also very invasive.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right.

David F. Kotz, PhD – Associate Dean of the Faculty for the Sciences – Dartmouth College

And we're going to get...I think we're going to get a lot of that, I like those specific questions. I think we're getting a lot of that type of commentary coming in through the sessions, but I think making sure we have a question along those lines is good.

Linda Kloss, RHIA, CAE, FAHIMA – President – Kloss Strategic Advisors, Ltd.

This is Linda Kloss and I think we found in doing the work on the toolkit for community use, some examples...compelling examples of community stigmatization because of combining data sets and issues like that that don't accrue to the individual, but to groups. And I think that's an aspect that should come out under consumer protections.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right.

David F. Kotz, PhD – Associate Dean of the Faculty for the Sciences – Dartmouth College

Um hmm.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

Deven, this is David. I'm cognizant of the fact that you and I are both missing a Robert Wood Johnson call on our community data gig that we're doing with them, but that makes me think about this notion of a culture of health, is there an angle here around use of big data at the broader, cultural level of changing behaviors? And that could both be community knowledge, you know, what neighborhoods are least healthy and why...

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

...I'm not sure it's worth drilling into, but just to throw it into the mix, since we're still at a high level.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right.

David F. Kotz, PhD – Associate Dean of the Faculty for the Sciences – Dartmouth College

It's both an opportunity and a risk...this is the other David. I mean, it could be a way to improve public health by changing behavior for the better. But of course, marketers do this kind of thing all the time, if they want to change behavior so that people buy and eat more of their product and big data is a great tool for that.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yup.

David McCallie, Jr., MD – Senior Vice President, Medical Informatics – Cerner Corporation

And you have the redlining risk of investment, people don't want to invest in a community known to be a food desert or...

Linda Kloss, RHIA, CAE, FAHIMA – President – Kloss Strategic Advisors, Ltd.

This is...

David F. Kotz, PhD – Associate Dean of the Faculty for the Sciences – Dartmouth College

I have maybe a different topic which is, most of what we discussed is privacy, but security is, of course, important. Once you get a huge collection of data together, possibly in one place, it becomes a liability to data breaches. And so I don't know if there's anything...if there are any different issues for so called big data than for say, EHRs.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Right.

Linda Kloss, RHIA, CAE, FAHIMA – President – Kloss Strategic Advisors, Ltd.

This is Linda Kloss and I was going to suggest that we expand the second bullet under opportunities to privacy and security enhancing technologies.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Ahh. Good point, all good points. Great.

Linda Kloss, RHIA, CAE, FAHIMA – President – Kloss Strategic Advisors, Ltd.

Would it be...this is Linda Kloss again; would it be helpful to ask these esteemed panelists, because they're all such good, large picture thinkers, to make some recommendations going forward? We think about keeping policy ahead of or at least in pace with technology and I think many of them will say, well, we're already too late for that. But, what suggestions would they have for better aligning as things go forward, this is going to continue to change so much.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yeah. Good. Any other thoughts? Okay, well that was what we had on our agenda for everyone today. So, we're again, continuing to reach out to invitees and we got some really great suggestions on the phone here, so definitely if you agreed to give us contact information, please forward that as soon as you can, so we can do some outreach and excellent feedback on the questions. We'll be finalizing the questions and getting them out to the presenters and to all of you; we're planning on doing that this week so that our presenters can certainly use it to prepare. So, this has been enormously helpful, I'm pretty excited about this, at least two days that we've had dedicated here. Any...Stan, any other thoughts before we...

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Nope, I would echo your thoughts, I think this is going to be really good. These are great ideas.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Yup. All right, then we can go to public comment then.

Public Comment

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Operator, can you please open the lines?

Bess Hoskins – Specialist – Altarum Institute

If you would like to make a public comment and you are listening via your computer speakers, please dial 1-877-705-2976 and press *1. Or if you are listening via your telephone, you may press *1 at this time to be entered into the queue.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

We have no public comment.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

Okay, well, we'll give everybody back some time today. Thank you all very much and have a wonderful Thanksgiving Holiday and we will virtually...

Gayle Harrell, MA – Florida State Representative – Florida State Legislature

Thank you.

Deven McGraw, JD, MPH, LLM – Partner – Manatt, Phelps & Phillips, LLP

...see you all in early December.

David F. Kotz, PhD – Associate Dean of the Faculty for the Sciences – Dartmouth College

Thank you, Deven.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Thanks everyone.

Stanley Crosley, JD –Director, Indiana University Center for Law, Ethics and Applied Research (CLEAR) in Health Information; Drinker Biddle & Reath, LLP

Happy Thanksgiving, you all.

Michelle Consolazio, MPA – Federal Advisory Committee Program Lead – Office of the National Coordinator for Health Information Technology

Happy Thanksgiving.

Public Comment Received During the Meeting

1. Niall Brennan's new Title: Chief Data Officer at CMS:
<http://www.himss.org/News/NewsDetail.aspx?ItemNumber=34935> [spelling corrected].
2. Dr. Rishi Sikka, M.D. Vice President, Clinical Transformation, Advocate Health Care. E-mail: Rishi.Sikka@advocatehealth.com (630) 929-5782. Can give an excellent talk on Data Analytics and how it is transforming health care, in an environment of accepting Financial Risks of their patients.
3. We need to have issues of Privacy and Security discussed during the Public Hearing.