

# New Rules: Lessons from Memphis

Mark Frisse, MD

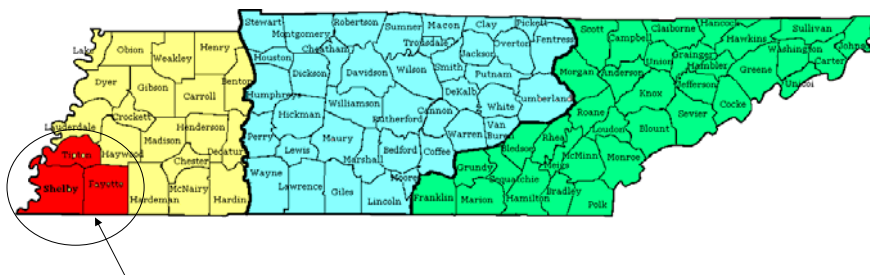
Vanderbilt University  
MidSouth eHealth Alliance

<http://www.volunteer-ehealth.org>

<http://www.volunteer-ehealth.org/frisse>

<http://www.mseha.org>

## One million people in three counties



### **Tennessee borders 8 other states**

*Our initiative covers 3 counties and includes Memphis.*

*1 million people*

*11% of one TennCare population visited more than on ED in a year*

*20 – 25% of hospital visits in Memphis are from Mississippi or Arkansas residents*

*There are multiple, vibrant, health exchange initiatives within the state*

## Summary

- We have an operational system managed through a new non-profit organization (MidSouth eHealth Alliance)
- Comprehensive information – not just claims
- Members bound together by formal data-sharing agreements and user agreements (based on Markle Connecting for Health Framework)
- Over 14 separate institutions “publishing” data
- We take data in whatever format is available – no major burden on hospitals or other “publishers”
- In use in two emergency departments so far; more coming
- It will address the needs of all who seek care in all hospitals in the greater Memphis area; it is not plan-dependent
- Focused at present on individuals, not populations

## If you visit an ED in Memphis

- You will be presented with a notification form
- You will have the opportunity to “opt out” at the institutional level
- Your providers are bound by formal user agreements
- Your providers have special secure IDs over and above their access methods to their in-house systems
- Institutions are bound by data-sharing agreements
- All is governed by a non-profit organization formed specifically for this purpose
- By-laws, technology, and policy all preclude any aggregate use of data at this time
- Most information from hospital visits since May, 2006 will be available when you seek care
- Transactions are heavily audited at site and centrally

## Chronology

June, 2004

- Governor formed six-month assessment project

October, 2004

- Received funding for data exchange project

October, 2005

- Demonstrated capability to exchange data across multiple institutions
- Began working with Markle Foundation data sharing agreement drafts through a weekly privacy and security group

December, 2005

- Held state-wide workshop and identified issues (Dec.)

May, 2006

- Data sharing agreements signed; system in use

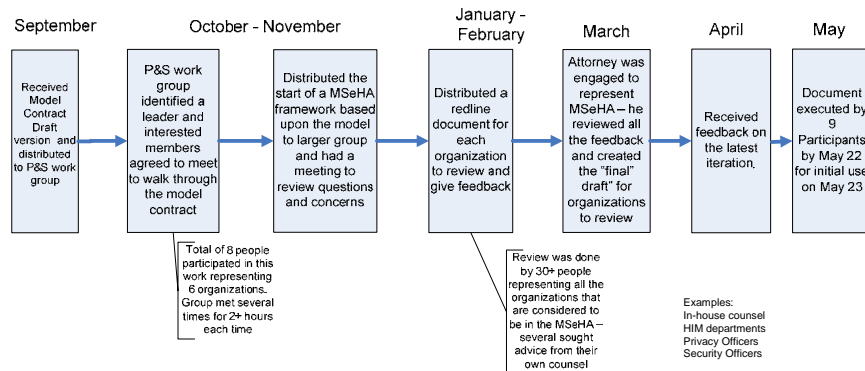
September, 2006

- National workshop: [http://www.mc.vanderbilt.edu/vcbh/ds/0606\\_privacy/](http://www.mc.vanderbilt.edu/vcbh/ds/0606_privacy/)

## Our approach

- We take a cautious, incremental approach
- We educate ourselves on HIPAA
  - Acknowledged that if we have problems now with HIPAA compliance – the HIE will NOT fix them
- We reconciled notification process; not consent process
- We identified where HIPAA was not enough
- We concluded that patients' rights were not a HIPAA issue
- We looked at other laws regarding specific data types
  - We found conflicts in how specific data types are "handled" according to state law
- We work with in-house counsels and HIM directors to understand how they deal with the conflicts in the law today
- When in doubt, we don't share the data

## Policies take time & people



*Our overall approach was to do as much work as we possibly could without incurring legal fees*

*MSeHA = Mid-South eHealth Alliance P & S = Privacy and Security*

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## It's more than legal requirements

In addition to state and federal laws governing protected information:

- Composition of a terms and conditions within a data-sharing agreement
- User rights (e.g., “opt-out” policies; transparency; access)
- Participant rights and responsibilities
- Organizational obligations and liabilities
- Data use limitations
- Disclosure / consent
- Identification, authentication, authorization
- Data accuracy requirements; Data retention requirements
- Processes for auditing and enforcing compliance
- Physical security
- Audit requirements and obligations
- Recourse
- Non-repudiation

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Privacy and Confidentiality WORKSHOP SEPTEMBER 13-14, 2006: NASHVILLE, TN PRINCIPLES, PRACTICES, IMPLEMENTATION.

OVERVIEW | AGENDA | PARTICIPANTS | ABOUT | RESOURCES | ARTICLES | select workshop activity

**OVERVIEW**

The **eHealth Initiative** and the **Vanderbilt Center for Better Health** are jointly sponsoring a two-day **Privacy and Confidentiality Workshop** on September 13-14, 2006.

The **Privacy and Confidentiality Workshop** is designed for organizations and communities who must adopt security and confidentiality principles, practices, and implementations required for more comprehensive exchange and use of patient-centered clinical information.

Drawing on national experts who have implemented policies and procedures in the course of their clinical data exchange, this workshop will be an intense, hands-on experience. Designed to provide attendees with a high-level plan of action for surveying their local and state policy and legal climate, develop consensus, and accelerate the development of policies and procedures required to create secure and confidential use of patient-centered clinical information across traditional organizational boundaries.

**The workshop will cover a spectrum of relevant activities:**

- Review essential security and confidentiality principles for exchange of health information
- Review selected legal and policy issues, variations, proposed solutions, and best practice implementations
- Identify critical specific terms and conditions for information-sharing communities
- Develop a custom-tailored confidentiality and privacy framework for information-sharing communities;
- Identify means of embedding privacy and security principles into relevant policies, procedures, and practices for organizations involved in data exchange
- Discuss the most advanced technical strategies with the potential for the future promotion of secure, scalable, and trusted data exchange initiatives.

**Topics covered in this workshop include:**

© Vanderbilt University see: [http://www.mc.vanderbilt.edu/vcbh/ds/0606\\_privacy/](http://www.mc.vanderbilt.edu/vcbh/ds/0606_privacy/) 9

## Our national discussions confirm our beliefs

- Stakeholder education and incremental experience
- System integrity and security
  - Includes auditing, enforcement, policies
- Authentication & authorization
- Consent
- Sustainability
- Liability
- Use limitations
- Technology / policy interdependencies



Privacy and Confidentiality WORKSHOP SEPTEMBER 13-14, 2006: NASHVILLE, TN PRINCIPLES, PRACTICES, IMPLEMENTATION.

**Faculty Synthesis from Parallel Group Work**

Source: <http://volunteer-ehealth.org/frisse/frisse-policy-confidentiality/2006/09/workshop-case-studies-and-day-one.html>

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## It's about local policy

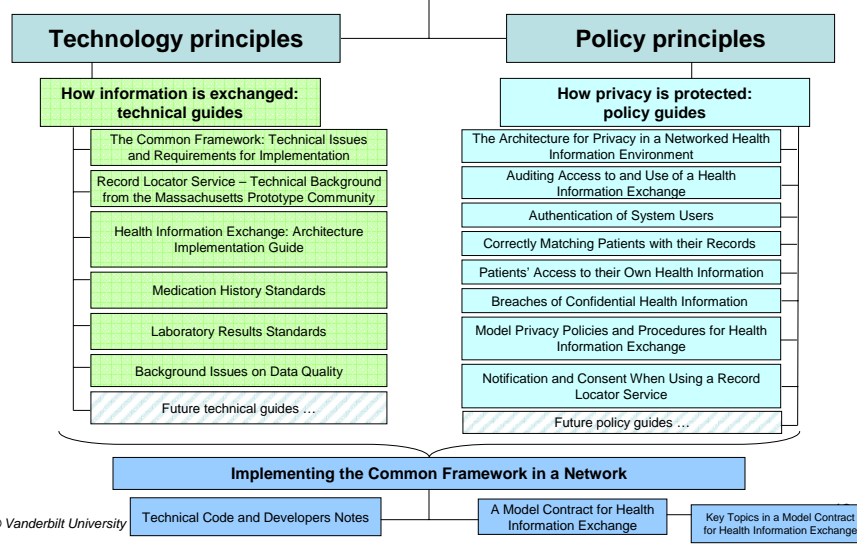
- Major barriers are not legal; primary barriers are local policies and workflow!
- Records are media, not paper.....(think Internet vs. book)
- People do not interpret / implement HIPAA uniformly
- Abstract discussions concerning pre-emption, protected health information, are important...but....
- We also know that the legal analysis will be ongoing and will include banking and consumer law as well as areas currently under investigation in many states
- **We managed to execute agreements without a comprehensive, state-wide legal review**

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## The Markle Common Framework was essential

*Paving the Way: An Overview of the Common Framework for Health Information Exchange*



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## You have to build it to really understand it

Help ? User: fri00w (Frise, Mark E) StarPanel Lite V1.2.0

Log Out Lock Clear All

Patient Search

Name SSN MRN

Medical Record Number

MRN#

Facility  
The Regional Medical Ctr

Search

patient search result  
You just searched for  
MRN: M000579114 URL: med  
Please use the plus, minus and hide button to toggle your selection.

MRN	NAME	DOB	SEX	SSN	SITE	DDS
00	16	S	1	-74 M XXX-X5-3337	Baptist Memphis (East)	06/01/2006
40		S	1	-74 M XXX-X5-3337	Methodist Healthcare	06/01/2006
42		S	1	-74 M XXX-X5-3337	Methodist Healthcare	06/03/2006
MC	14	JF	NS	1 -74 M XXX-X5-3337	The Regional Medical Ctr	05/31/2006
00	3	C	S	1 -74 M XXX-X5-3337	St. Francis Hospital	05/31/2006
06	4	C	S	1 -74 M XXX-X5-3337	Saint Francis-Bartlett	05/12/2006

## Nothing elegant

Help ? User: fri00w (Frise, Mark E) StarPanel Lite V1.2.0

Log Out Lock Clear All

Patient Search

Name SSN MRN

Name/DOB/Gender

First name

Last name

Date of birth  
MM / DD / YYYY

Gender  
Select gender

Search

Patient Selection

Site MRN / DDS

BAR 00 / 12-MAY-06

BMHCC-Mem 00 / 01-JUN-06

MED 00 / 31-MAY-06

Methodist 00 / 01-JUN-06

Methodist 00 / 03-JUN-06

SFH 00 / 31-MAY-06

View Selected View All

Top Frame Clinical Calendar Bottom Frame: Meds Demographics Print Summary

All None | adm | dsch | sum | forms | Labs | notes | rad | reh | Search: fid title author Clear ?

2006

06/03/06 •Labs [Methodist]

05/31/06 •Xr Shoulder Routine 3 Views [SFH] •Xr Shoulder Routine 3 Views [SFH] •Xr Lumbar Spine Routine 3 Views [SFH] •Xr Forams 2 Views [SFH] •Labs [SFH] •Labs [MED]

05/30/06 •Labs [Methodist]

05/27/06 •Chest 2vw Frontal & Lat [Methodist] •Labs [Methodist]

05/25/06 •Labs [Methodist]

05/24/06 •Labs [SFH]

05/20/06 •Labs [Methodist]

05/17/06 •Labs [MED]

05/16/06 •Er Note [BMHCC-Mem] •Labs [Methodist] •Labs [MED]

05/14/06 •Labs [Methodist]

05/13/06 •Labs [SFH]

05/12/06 •Labs [BAR]

05/06/06 •The The BMHCC Mem •Labs [BMHCC Mem] •Labs [BMHCC Mem]

Full Demographics:

BAR BMHCC Mem MED Methodist Methodist SFH

The Regional Medical Ctr: M000579114 Date of Service: 21-APR-06

Name: E JR E

DOB: 1 -74 - 31YO

Gender: M

Race: B

SSN: XXX-X5-3337

Patient Address: I ER AVE APT 4 MEMPHIS TN 38108

Phone: (901) 0000000

## Detailed Notes

The screenshot shows a medical software interface with a patient search panel on the left and a detailed note on the right. The search panel includes fields for Name, SSN, MRN, and Date of Birth, along with a 'Search' button. The note on the right is titled 'User 66486 (View, Mark D) StaPanel Lite V1.3.0' and contains the following text:

PATIENT NAME: [REDACTED] MEMPHIS, TENNESSEE  
 ACCT#: [REDACTED] EMERGENCY ROOM VISIT  
 DICTATED BY: [REDACTED], M.D.  
 PHYSICIAN: [REDACTED], M.D.  
 ROOM#: [REDACTED]  
 UNITS: [REDACTED]  
 DATE OF SERVICE: 05/16/06  
 ADDENDUM: Please note I used a previous account number from a visit for this patient on 05/09/06 because there were problems with his registration. Mr. [REDACTED] was not formally assessed or evaluated by me. He came in tonight by Memphis EMS after he called 911. He told us his name was [REDACTED]. He provided [REDACTED] and [REDACTED] but did not have a photo. He stated that he was born [REDACTED], 1919, which is the identity Curtis [REDACTED] on 10/29/79 and gave [REDACTED] as [REDACTED]. [REDACTED] with Mr. [REDACTED] in our [REDACTED] clearly and consistently demonstrated very [REDACTED] in the past. I [REDACTED] living Mr. [REDACTED] on file he [REDACTED] Mr. [REDACTED] for who he was [REDACTED] sobriety and they directly confronted him on this, he departed the Emergency Department. [REDACTED] and [REDACTED] frankly contacted Memphis police [REDACTED] about this individual who is using a falsified identity to obtain narcotic medications. I believe this clearly represents [REDACTED]

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## Standards evolution: LOINC example

The screenshot shows a medical software interface with a patient search panel on the left and a table of laboratory results on the right. The search panel includes fields for Name, SSN, MRN, and Date of Birth, along with a 'Search' button. The table on the right is titled 'Panels' and contains the following data:

Date	Location	Anion Gap	BUN	CL	CL CO2	Ca	Ca Creat	GluC	K	Na	Na
08/27/06 13:43	SFH	-	4*	103	-	26	8.8	-	1.0	113*	3.1* 137
08/25/06 06:25	SFH	-	2*	106	-	26	8.1*	-	1.1	84	3.4* 140
08/24/06 03:00	SFH	-	5*	106	-	26	8.6*	-	0.9	88	3.1* 140
08/22/06 16:00	SFH	-	8	105	-	26	8.3*	-	1.3	92	3.2* 140
08/21/06 06:00	SFH	-	15	102	-	24	7.8*	-	1.8*	76	3.2* 137
08/21/06 02:01	BAR	-	13	101	-	22*	8.5*	-	1.6*	80	3.5 136
08/20/06 16:52	SFH	-	-	-	-	-	-	-	-	-	2.8*
08/20/06 06:10	SFH	-	4*	104	-	27	9.0	-	1.3	104	2.9* 141
08/13/06 22:03	BAR	-	7*	102	-	26	8.7*	-	1.3	99	2.8* 136
08/08/06 19:21	BAR	-	12	101	-	27	9.6	-	1.9*	79	3.5* 137
08/06/06 19:31	SFH	-	12	104	-	26	9.6	-	2.2*	108	3.5 142
08/04/06 04:43	SFH	-	11	100	-	27	9.9	-	2.0*	88	3.9 144
08/02/06 04:43	SFH	-	11	99	-	28	9.2	-	2.3*	98	3.9 136
08/30/06 04:00	SFH	-	10	102	-	23	8.1*	-	2.1*	98	4.0 134*
08/28/06 04:53	SFH	-	13	109*	-	22*	9.0	-	2.3*	101	4.7 139
08/26/06 03:30	SFH	-	11	108*	-	23	8.5*	-	2.3*	97	4.4 140
08/25/06 03:00	SFH	-	14	104	-	26	9.4	-	2.5*	90	4.3 137
08/24/06 00:07	SFH	-	18	100	-	22*	9.1	-	2.6*	107	3.3* 134*
08/22/06 20:30	SFH	-	13	96*	-	26	10.0*	-	2.0*	100	3.4* 133*
08/19/06 09:00	SFH	-	9	98	-	27	9.2	-	1.6*	108	4.4 133*
08/18/06 03:30	SFH	-	8	100	-	29	8.3*	-	1.6*	105	4.2 135
08/17/06 03:00	SFH	-	10	100	-	26	9.2	-	1.7*	99	4.9 134*
08/16/06 04:30	SFH	-	10	99	-	24	9.1	-	1.6*	100	5.6* 132*
08/15/06 02:00	SFH	-	12	106	-	27	9.0	-	1.7*	122*	5.0 139

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## After the funding, you need sustained leadership

- Governor Phil Bredesen was personally involved in the Memphis project
- He has taken similar positions with other members of Tennessee's "portfolio of initiatives."
- The Commissioner of Finance and Administration was personally involved regularly for many months
- The state committed significant sums of money to complement AHRQ funding
- The leadership of the community was engaged quickly and given control
- Local leaders advanced the privacy and business agenda

## Congratulations to all of you

- Findings are self-evident but have to be experienced collectively
  - Laws are not designed for the digital world
  - Interpretation of the laws differs
  - Policies differ
  - Execution of policies is variable
- Changes to laws take time
- Pre-emption is viewed with some skepticism
- Consent, use limitations are not sufficiently formalized
- Education and local policy development can be rapid
- The collateral benefit of discussions may be the "glue" that holds regional efforts together

**VOLUNTEER EHEALTH INITIATIVE**









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- [The MidSouth eHealth Alliance Data Sharing Agreements and Supporting Documents](#)
- [FORE / AHIMA Report](#)
- [The Tennessee eHealth Advisory Council](#)
- [Tennessee one of 9 States Participating in HHS / AHIMA Study](#)
- [Governor Bredesen, Healthcare Leaders Launch Campaign to Help Thousands of Tennessee Physicians Start e-Prescribing](#)
- [Volunteer eHealth Initiative Described in Recent AHRQ-funded Report](#)
- [Technical Advisory Panel Member Featured in Wall Street Journal](#)
- [Doctors Explore Prescription Usage](#)
- [Harvard and Industry Partners Announce Open-Source, User-Centric Identity Management Project](#)
- [CareSpark to co-Sponsor May 6 EMR Meeting](#)

**Tuesday, September 26, 2006**

**The MidSouth eHealth Alliance Data Sharing Agreements and Supporting Documents**

As of September, 2005, the MidSouth eHealth Alliance (MSeHA) and the AHRQ/TN State regional demonstration project is receiving comprehensive clinical data (labs, reports, diagnoses, etc.) from 15 organizations and is in operation in several emergency departments in the greater Memphis Area.

Our work led us to conclude that data-sharing agreements are critical. This process was based on data-sharing and other documents from the Markle Connecting for Health Policy Group. The process took much longer than expected but served as a vital means of bringing over 50 people within the region to a more common, patient-centered goal.

The MidSouth eHealth Alliance is a non-profit company chartered specifically to manage the data exchange demonstration project and is supported by multiple sub-groups and an inclusive operations committee working continually on updating policies and procedures. We present on this site three documents produced in the course of our work.

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see "news" tab at: <http://www.volunteer-ehealth.org>
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