

## Emerging Issues In Health Care Technology Part III: Interoperability

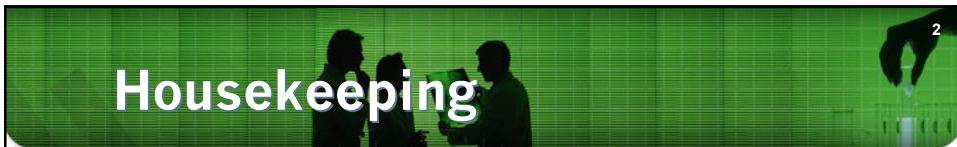
### Presenters:

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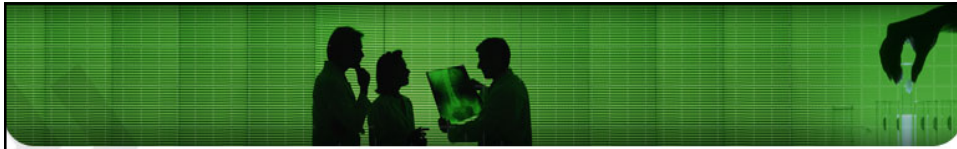
Friday, December 12, 2008  
11:30 a.m. – 12:30 p.m. CT

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## One View of the Interoperability Ecosystem

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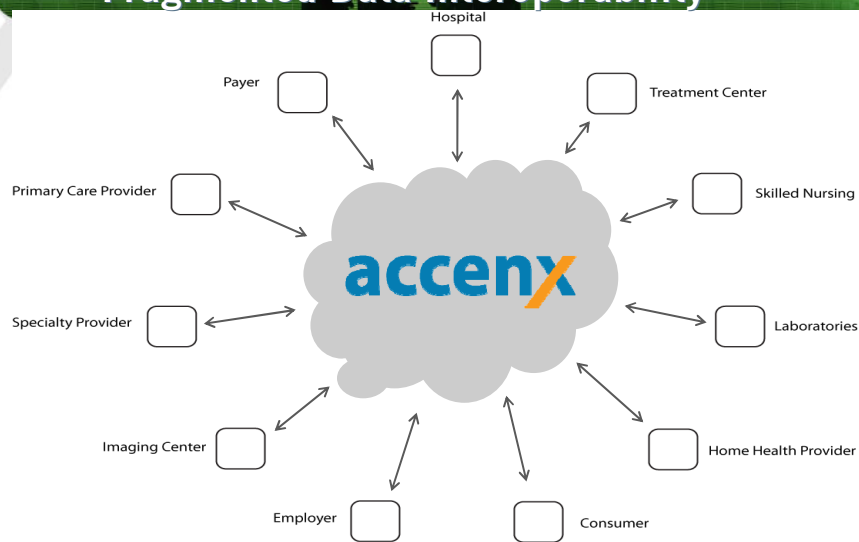
## Accenx Technologies, Inc.

- Over 11 years as a healthcare integration company
- Pioneer in providing interoperability on a Software as a Service basis
- Sells on a domestic and international basis to large health systems, integrated delivery systems, public sector health care entities and managed care.
- Seasoned technology and health care services team with core knowledge of healthcare applications and processes
- Over 140 healthcare customers. Accenx Exchange clients:
  - BayCare Health System (FL), Baystate Health System (MA), Cascade Healthcare Community (OR), The Cleveland Clinic (OH), Catholic Medical Center (NH), Elliot Hospital (NH), MemorialCare (CA)
- Strategic partner with CSC, Sun Microsystems, Initiate Systems, Allscripts

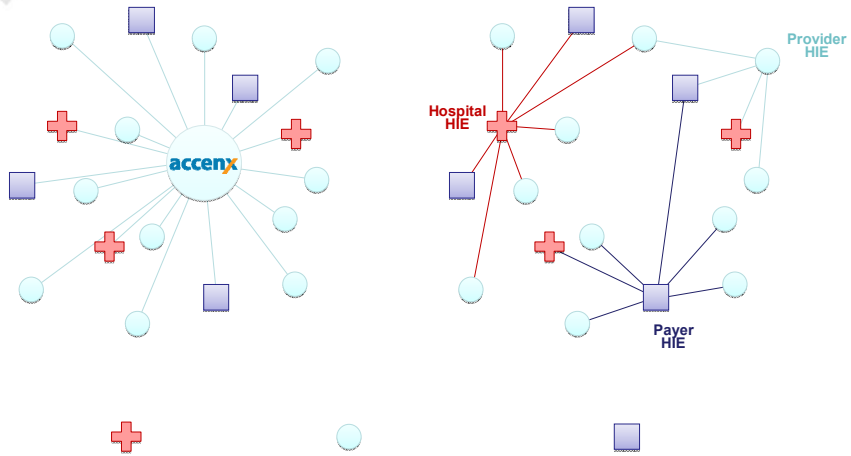
## Private Health Information Exchanges

- Mission = Market Share
- Hospitals face more aggressive competition for the hearts and minds of their docs
  - Losing business to competitors that know how to leverage the Internet
- Hospitals are investing in more aggressive ambulatory outreach strategies
  - Aided by Relaxation of Stark
  - In Some Cases EMR-centric
- A private health information exchange allows independent healthcare providers to share data between hospital and ambulatory settings in a real-time, scalable, EMR-agnostic fashion
- Hospitals want to be front and center on consumer portals like Google and Health vault
  - Still a novelty item

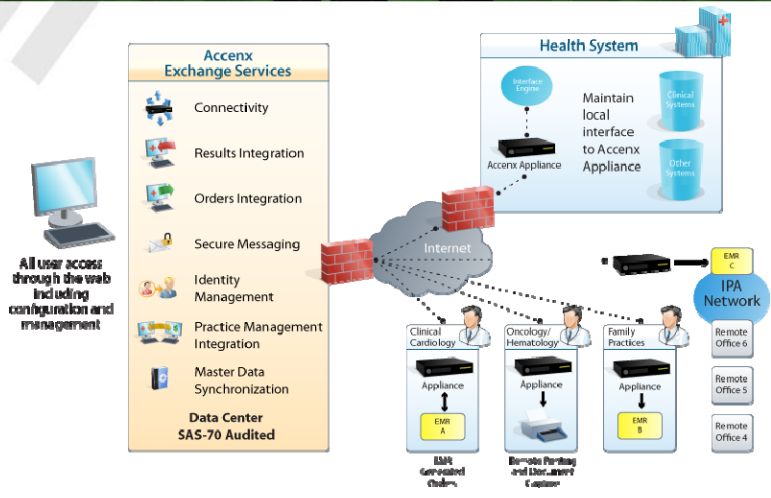
## Healthcare Ecosystem Fragmented Data Interoperability



# HIE at the Click of a Button



# Accenx Exchange





## Business Models

- Hardware Vendors
  - SUN, HealthVision
- Service Integrators
  - CSC, SUN
- Middleware Vendors
  - Initiate Systems
- SaaS Vendors
  - Accenx
- EMR Vendors

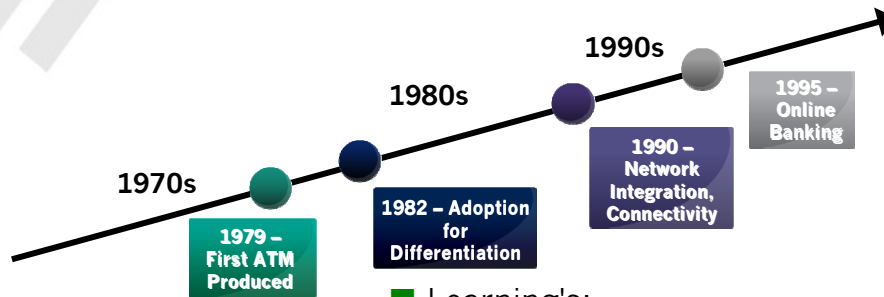


## And Why Not a RHIO

- RHIO's have floundered
  - Struggling with value proposition
  - Dependent on grants
- Founding principles are too broad
  - Benefits are diluted
  - Unable to define a sustainable business model

**Broadly-based Approach *Dilutes* Value Prop**

## The ATM Analogy



### ■ Learning's:

- Benefits were not clearly defined
- Consumers will accept, embrace change
- Standards emerged to facilitate interoperability

## The Next Phase?

- Make available evidence-based medicine and clinical decision support tools to guide decision-making at the point-of-care based on patient-specific factors;
- Provide enhanced and convenient access to care not only through face-to-face visits, but via telephone, email and other modes of communication;
- Identify and measure key quality indicators to demonstrate continuous improvement in health status indicators for individuals and populations treated;
- Adopt and implement technology to promote safety, security, information exchange and portals for patient access to their health information
  - Includes enhanced communication access such as portal for patient access to health information, secure email and telephone consultation;
- Strengthen pay-for-reporting/pay-for performance programs.

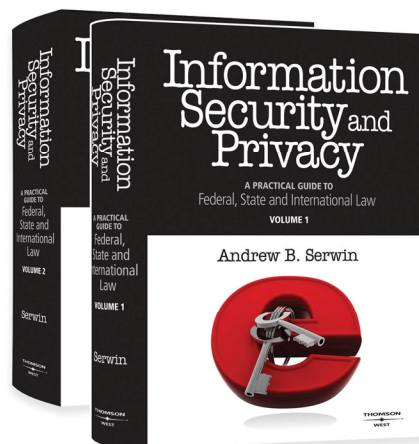
## Connecting the Microsystems

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- Adopt an EMR or be left behind?
  - Pay for Reporting the catalyst?
- Desktop push-pull of condition-specific health information through Consumer Portal
  - Self-care meets physician population management;
- XDS registries available at point of service to eliminate duplicative imaging tests;
- Regional CCR/CCD's to provide ED docs with a patient history at point of care;
- Shared registries to generate a list of patients who are due for a condition-specific interventions:
  - For example, identification of “suspects” by screening population for hemoglobin A1c tests with or without adverse results;
- Transmission of social histories and/or ADL's between physician organizations and health plans for Medi-Medi's;
- Integration of home-based monitoring into EMR's or CCR's.

## Information Security and Privacy: A Practical Guide to Federal, State and International Law

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## The Privacy and Security Advisory Board

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- California has formed the PSAB to guide the interoperability process.



## Privacy

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- General Principles:
  - Notice
  - Choice
  - Onward Transfer
  - Access
  - Security
  - Data Integrity
  - Enforcement





## Privacy

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### ■ Ultimately Four Issues:

- What information do you collect
- What do you do with the information
- When can't you disclose it
- When must you disclose it



## Relevant Federal Statutes

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- HIPAA
- Patient Safety and Quality Improvement Act (PSQIA)
- FCRA/FACTA
- The Computer Fraud and Abuse Act
- Electronic Communications Privacy Act



## State Medical Privacy Laws

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- State medical privacy laws will also be implicated
  - California has many:
    - Civil Code Section 56
    - California's HIV disclosure laws
    - California's data security law
    - California's medical marketing laws, among others
- State laws regarding electronic medical records will also be implicated



## Common Areas of State Regulation

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- Identity Theft Laws
- Restrictions on Use of Social Security Numbers
- Spam
- Internet Privacy
- Telephone/Fax Marketing Laws
- State Wiretapping Laws
- Computer Crime Laws
- Notice of Security Breach Laws
- Medical Privacy
- Financial Privacy



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## What Type of Data Presents Privacy and Security Issues?

- Confidential Information
- Intellectual Property
- Personally Identifiable Information
  - Health
  - Financial
  - Other data that reveals sensitive information about individuals by itself or if combined with other information



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## HIPAA

- HIPAA was originally aimed at solving issues other than medical privacy, but privacy and security was an outgrowth of the other objectives
- What does HIPAA require:
  - Data privacy
  - Data security



## Application of HIPAA

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- HIPAA applies only to certain types of entities—covered entities—and certain types of information.
  - It does not typically apply to medical information in educational or employment records.



## The Requirements of HIPAA—An Overview

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- HIPAA has a privacy and security rule that applies to covered entities.
- Other entities that receive PHI from covered entities must typically enter a business associate agreement.

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## Examples of Security Policies

- Covered entities are required to implement security policies that include the following:
  - Risk analysis;
  - Risk management;
  - Sanction policy; and
  - Information system activity review.

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## Other HIPAA Requirements

- HIPAA also requires that there be restrictions on covered entities' employees, including:
  - Authorization and/or supervision;
  - Workforce clearance procedure; and
  - Termination procedures.
- If there is a security incident, entities are required to identify and respond, mitigate to the extent practicable, and document the incident and its outcome.



## HIPAA and Litigation

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- Litigation cases under HIPAA have generally not been successful.



## Patient Safety and Quality Improvement Act

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- The law creates a network of Patient Safety Organizations and there are certain privacy restrictions that are part of the law.
- This includes so-called “patient safety work product.”

## Electronic Medical Record Laws

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- Alaska has enacted a general law about electronic medical records.
  - It requires that the records be protected from unauthorized access.

## State Restrictions on Communicable Disease Disclosure

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- Several states have restrictions on the disclosure of information related to communicable diseases.
- Examples.
  - Arizona
  - California



## Arizona's Medical Privacy Law

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- Arizona has restrictions on the disclosure of HIV-related information.
- It also applies to other communicable diseases.
- There are certain exceptions to this law, including one for at risk third-parties.
- There are also certain mandatory reporting requirements to the government, as well as certain limited disclosures that can be made pursuant to court order..



## Arizona's Medical Privacy Law

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- The knowing violation of this law is a crime.
- There are also civil remedies.



## Protection of Medical Information in California

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- Confidentiality of Medical Information Act - California Civil Code § 56
  - Generally covers information that is similar to HIPAA, but this is broader
- Civil Code § 1798.91
  - Governs the disclosure of information for direct marketing purposes
- AIDS Status - Health & Safety Code § 120975

## California's Confidentiality of Medical Information Act

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- Civil Code Section 56 is the primary source of regulation, though there are a number of other laws.
- This law restricts certain entities from disclosing medical information without authorization.
- As with Arizona law, there are some required disclosures, as well as some discretionary disclosures.

## California's Confidentiality of Medical Information Act

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- Permitted disclosures include disclosures:
  - For diagnosis or treatment;
  - For billing;
  - To committees for peer review; and
  - Certain government other organizations.

## California's Confidentiality of Medical Information Act

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- There are certain disclosures that psychotherapists can make due to threats to third-parties.
- Additional restrictions apply to covered entities, precluding the disclosure of information from outpatient treatment with psychotherapists.

## California's Confidentiality of Medical Information Act

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- There are also data destruction requirements.
- Other restrictions apply to pharmaceutical companies, including conditioning receipt of drugs on signing an authorization permitting disclosure of information.

## California's HIV Disclosure Law

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- California has a law that specifically prohibits disclosures regarding HIV status and other related information.
- While most disclosures require consent, there are certain disclosures that can be made without consent.
- Certain “unlinked”—*i.e.* anonymous disclosures are also permitted.
- Violation of this law can be a crime, and also gives rise to civil penalties and a civil enforcement by the individual.



## California's HIV Disclosure Law

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- There are also certain limitations on testing without consent.



## Questions & Answers

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