



Estimating Cost Savings Associated with Modifying Minnesota Patient Consent Laws

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Executive Summary

Patient consent requirements under the Minnesota Health Records Act (MHRA) represent a sizable yet avoidable cost burden

- A majority of MN providers report the consent requirements to be burdensome, which are deterring some providers from obtaining patient consent
- The consent requirements create a barrier that prevent HIE use among providers, which could help inform clinical decision-making

Avalere estimated potential cost savings associated with the removal of MHRA patient consent requirements based on two primary assumptions

- **Costs to providers would decrease** as a result of reduced administrative and operational costs associated with complying with MHRA patient consent requirements
- **Costs from duplicative and unnecessary services would decrease** as a result of greater information sharing among providers and better care decisions

\$606M

10-year estimated cost savings in MN

0.08%

10-year estimated cost savings as a % of total MN healthcare spending

This model only estimates the effects of the policy change among providers who previously were unable to obtain consent under the law; however, potential increases in HIE use as a result of the change would amplify these cost savings



MHRA Patient Consent Requirements Do Not Align With HIPAA

- Minnesota physicians must comply with two laws governing health information privacy

2007 Minnesota Health Records Act (MHRA)

State law that requires providers to obtain patient consent prior to accessing health information for any reason, except in cases of emergency

1996 Health Insurance Portability and Accountability Act (HIPAA)

Federal law that specifies health information may be exchanged between providers for the purposes of treatment without specific consent from the patient

- Most states have aligned their patient privacy laws with HIPAA; only MN and NY continue to maintain separate health records privacy statutes
- Due to the burden resulting from MHRA patient consent requirements, support is growing to more closely align MN's law to HIPAA by streamlining or eliminating the current consent requirements under MHRA
- However, the potential cost impacts of this policy change on healthcare costs in MN are not well-defined



Project Approach

Avalere estimated the potential economic impact that would result from eliminating patient consent requirements under MHRA using an analytical approach that included:

1. Literature Review

Avalere conducted a literature review to identify existing studies that examined the impacts and costs associated with obtaining patient consent and sharing patient health information among providers.

2. Estimate of Policy's Savings

Avalere estimated savings that would result from the removal of the MHRA consent requirements. Removing consent requirements would reduce physician burden and expand patient information-sharing in clinical settings across all payers in MN.



Literature Review

Existing Studies Have Examined the Impacts of MHRA Consent Requirements

Avalere reviewed relevant white and grey literature that assessed the impacts of the MHRA consent requirements and patient information sharing; key findings include:

Patient Impact

- Nearly all (>95%) patients in MN provide consent when requested¹
- Patients report that repeatedly providing consent for each new encounter is burdensome
- Patients who see multiple providers desire greater communication and coordination between them

Provider Impact

- Complying with MHRA consent requirements can be highly resource intensive for providers
- A majority (67%) of providers reported the requirements to be burdensome¹
- Providers, especially those with limited resources and complex patients, may be unwilling or unable to obtain necessary consent and forgo requesting patient information²

System Impact

- Sharing patient information can avoid unnecessary care and facilitate appropriate, more coordinated care
- Most providers (>95%) in MN have adopted EHR/HIT; however, health information exchange (HIE) among providers* appears to be lower than expected²

EHR: electronic health records; HIT: health information technology

*Health information exchange (HIE) is defined as the "the electronic movement of health-related information among disparate organizations according to nationally recognized standards in an authorized and secure manner." <http://www.himss.org/what-health-information-exchange>

¹ Minnesota Department of Health. Impacts and Costs of the Minnesota Health Records Act. <http://www.health.state.mn.us/e-health/legprpt/docs/rfi-health-record-act2017.pdf>. Published 2017. Accessed April 5, 2018.

² Minnesota Department of Health. Connecting to Statewide Health Information Exchange (HIE) in Minnesota. http://www.mnhima.org/Webinar_ConnectingtoStatewideHIEinMinnesota_01_31_2017.pdf. Published January 31, 2017. Accessed April 10, 2018.



Removing Consent Requirements Will Impact Healthcare Costs in Several Ways

Literature review findings suggested that removing the patient consent requirements under MHRA would have two main effects on costs:

Impact	Description	Examples of Results
Reduced Provider Burden	<ul style="list-style-type: none">Reduction in administrative costs from obtaining, storing, and managing consentsReduction in operational costs from training staff and developing policies and processes to ensure compliance	<ul style="list-style-type: none">Providers reported median costs associated with managing MHRA's consent requirements to be \$66,910, which accounts for from 0% to 17.35% of operating budgets¹Providers reported median per-patient encounter costs associated with managing consent requirements to be \$0.83¹
Improved Care Delivery	<ul style="list-style-type: none">Reduction in duplicated tests and services across clinical settings from increased information sharingReductions in ED visits, hospitalizations and hospital length-of-stay from increased	<ul style="list-style-type: none">Use of HIE created annual savings of \$32,460 in repeat imaging among a cohort of patients in NY, mostly due to reduction in repeated advanced imaging procedures²Odds of hospital admissions were 30% lower among a cohort of patients in NY when HIE was accessed in an ED, resulting in annual savings of \$357,000³Use of an HIE tool among providers who had access to the tool prevented 560 duplicative diagnostic procedures in an ED in MN⁴

1 Minnesota Department of Health. Impacts and Costs of the Minnesota Health Records Act. [Health.state.mn.us](http://www.health.state.mn.us).

<http://www.health.state.mn.us/e-health/legprtdocs/rfi-health-record-act2017.pdf>. Published 2017. Accessed April 5, 2018.

2 Jung, Hye-Young et al. Use of Health Information Exchange and Repeat Imaging Costs. *Journal of the American College of Radiology*. 2015; 12(12): 1364 – 1370

3 Vest JR, Kern LM, Campion J, T R, Silver MD, Kaushal R. Association Between Use of a Health Information Exchange System and Hospital Admissions. *Applied Clinical Informatics*. 2014; 5(1): 219

4 Winden TJ, Boland LL, Frey NG, Satterlee PA, Hokanson JS. Care Everywhere, A Point-to-point HIE Tool: Utilization and Impact on Patient Care in the ED. *Applied Clinical Informatics*. 2014; 5:388

Literature Review Findings Formed the Assumptions for the Analytical Model

Assumptions for Analytical Model

Reduced Provider Burden

- Eliminating the MHRA consent requirement will reduce providers' administrative and operational costs
 - As the reported rate of patients consenting to sharing their health information is already very high (>95%), eliminating the MHRA consent requirements will reduce burden to providers but impact to patients will be minimal

Improved Care Delivery

- Eliminating the MHRA consent requirement will increase information sharing and subsequently reduce unnecessary/ duplicative tests and services through improved care decisions
 - Despite high consent rates (>95%) and near universal EHR/HIT adoption among providers, exact levels of HIE participation are unclear; however, removing the requirements will facilitate greater HIE participation and use in cases where patient consent was previously not obtained

Due to limited data on the number of providers who do not or cannot obtain consent as a result of the consent requirements, our model employs a conservative estimate on the number of known providers who would be directly impacted by a change in this law (i.e., those for whom patient consent was denied). However, evidence suggests that provider participation in HIE would increase overall, which would amplify these cost estimates.



Estimates of Policy's Savings

Avalere Derived Components for Savings Estimations Based on the Model Assumptions

Provider Burden Impact

- Based on the literature review, physicians incur costs to acquire consent from patients (about \$0.83 per office encounter in 2015)
- Avalere estimated number of encounters in MN in 2015 using data for Medicare physician E&M visits, and then converting to all-payer encounters based on Medicare's share of total health care spending in MN

Care Delivery Impact

- Based on the literature review, savings are generated for laboratory, imaging, consultation, and admissions services due to HIE
- Avalere estimated both ED (\$1,100 in 2015) and outside-ED savings (\$4.53 in 2015)*
- Avalere estimated number of encounters in MN using data for Medicare E&M services, and then converted to all-payer encounters

Cost Savings Estimates

To generate ten year savings projections, Avalere used the total one year savings for both provider burden and care delivery and grew them by healthcare inflation, population growth rate, and service utilization growth rate

E&M: Evaluation and Management; ED: Emergency Department

*Data on cost-savings in ED settings was more robust than in non-ED settings. This also aligns with general findings that reduction in duplicative and unnecessary services would be more significant in ED settings than non-ED settings.



Avalere Modeled Savings Associated with the Policy Change

Data Sources /

Avalere used a combination of literature review findings, publicly available data, and proprietary data, including:

- CMS Medicare Provider Utilization and Payment Data
- CMS National Health Expenditure Data
- Avalere's All-Payer Enrollment Model

Number of All-Payer Patient Encounters in Minnesota (2019)*

Observed Medicare E&M services, and then converted to all-payer encounters:

- Physician Office encounters: 13.0M
- ED Encounters: 1.4M
- Non-ED Encounters: 20.1M

Savings Derived From Literature Review /

Avalere combined findings from the literature review, where appropriate, to estimate savings per encounter for the components and settings included in the model. Savings is defined as the estimated reduction in health care spending.

Component	Setting	Savings per Encounter (2019)*
Provider Burden	Savings per physician office encounter	\$0.90 per encounter
Care Delivery	Savings per ED encounter	\$1,270 per encounter
Care Delivery	Savings per non-ED encounter	\$4.91 per encounter

*2019 figures grown forward from 2015 figures

Removing Patient Consent Requirements Under MHRA Will Generate Cost Savings for MN

PROJECTED COST SAVINGS ESTIMATES FOR MN

Cost Savings	1 Year Estimated Savings (2019)		10 Year Estimated Savings (2019-2028)	
	Estimated Value	% of Total MN Spending	Estimated Value	% of Total MN Spending
Total	\$30,542,500	0.05%	\$606,433,500	0.08%
Provider Burden	\$11,751,000	0.02%	\$148,927,000	0.02%
Care Delivery	\$18,791,500	0.03%	\$457,506,500	0.06%

 Avalere cost projections estimate that removal of MHRA patient consent requirements could generate savings of up to \$606M over 10 years. These savings could be amplified if HIE participation expands and accelerates among providers.

