Citizens Fill Room to Oppose Minnesota Health Department’s Medical Records Grab

MDH limits citizen input to one hour - Uses up half the time

Minnesota citizens filled a meeting room front to back at the Minnesota Department of Health to provide input and comment on the Department’s plan to claim ownership of private medical records data, send the data to a data warehouse in Maine, and use the data to rank physicians and hospitals according to the Department’s definition of “quality.” Insurers will then be required by law to steer patients to only those providers who rank as “high quality, low cost.”

Delayed citizen input
In a citizen input session that was slated to begin at 2:00 and end at 4:00 p.m., citizens were not allowed to speak until 3:00 p.m. While Department presentations dragged on—starting with unrelated details of the 2008 health care reform law—the crowd grew impatient. Most wore CCHC stickers: MY MEDICAL RECORDS are MINE!

Health Department shuts down questions
During his presentation, Assistant Health Commissioner Scott Leitz frequently mentioned health care quality. When he was asked after his presentation to provide the Department’s definition of “quality,” he said questions could wait until all their presentations were over. When the questioner disagreed, Mr. Leitz simply sat down and said nothing. Jim Golden, Director of the Division of Health Policy, (on right in photo above) spoke up sternly saying MDH would take no questions until the end.

Mr. Leitz had already taken one question in the middle of his presentation, but now the Department shut out all questions from the crowd. While the crowd waited through presentation after presentation, the word “quality” was repeatedly used by the presenters and in the PowerPoint slides. No definition was given at any time.

Department officials refuse to define quality
At 3:00 p.m. the Department sat down and said they were open to comments and questions on the rule. They asked that individuals limit their comments to 5 minutes. A long row of individuals formed before the microphone. One young man stepped up and asked for a definition of “quality” and when Mr. Golden’s answer didn’t answer his question,
he asked for the definition again. When Golden said, “That was the definition,” the young
man said, “Not according to what I learned in my public school education.”

**Little time left for citizen input**

Twila Brase, president of CCHC, was fourth to step to the microphone. Reading off her Blackberry, she quoted the MDH media announcement for the 2-hour “citizen input” session and told health officials that they had used up an hour of the time allotted for citizens to speak. The audience applauded. She also countered the MDH assertion that they never see the medical data collected. She reminded them that the data is owned by MDH, according to their contract with the data warehouse in Maine, and is thus available at any time for viewing. She also noted that there is no definition of quality in the statute, putting every citizen at risk of the Department’s definition (which MDH officials never gave the entire session).

**Engaged Audience**

The audience frequently applauded citizen commenters or made verbal comments out loud rebuffing Health Department statements. They applauded a man who opposed the data collection saying its quality measurement component will lead to control of physician treatment decisions. They rebuffed the Department’s assertion that the data is deidentified so there is “nothing to opt out of.” They also booed MDH when the officials initially refused to give their views on the constitutionality of the law.

**Constitutional?**

One woman who came with three children asked each of the four health department staff to say whether the state’s taking of private medical records was constitutional. They initially refused, saying they were just implementing a law. She was persistent. One man in the crowd spoke up, “How about a ‘yes’ or a ‘no’?” After asking again, several times, she succeeded in getting each staff person to answer for themselves. Each said that the law was constitutional. *This rather passionate exchange, including crowd response, was captured on video and will soon be available on CCHC’s YouTube site.*

**Many Concerns**

One man opposed the coming “manipulation of doctors.” A physician expressed her concern about government interference in the patient-doctor relationship. A father of five children said his medical records are his property, not the government’s. One gentleman read the Fourth Amendment of the U.S. Constitution as a reminder of citizen rights. Another talked about the increase in taxpayer and health care costs from
this new administrative requirement. A nurse opposed the increase in bureaucratic administration and paperwork, and the shift of dollars away from patients. One person wanted to know if people could opt out. Golden’s answer: “No.”

**Quality can’t be quantified**
A woman diagnosed with Lupus talked about how quality cannot be defined by number crunching. She discovered that doctors at Mayo Clinic and other places with high ratings were incompatible with her. She had to look elsewhere for the care she needed.

**No supporters in the crowd**
As Martin Kellogg, chairman of CCHC, noted in his final comments to the Department, every comment made by individuals or industry representatives was a comment of concern or opposition to the rule, the law, and/or MDH’s less-than-transparent process.

**Less than factual statements**
When asked by commenters about the extent of MDH support for this initiative, the Department mentioned support by other groups, task forces, etc. However, the health department has staffed many of these task forces, and the MDH officials at this meeting are frequently the ones sitting with the author of the data collection over the past decade. This data collection and “quality” measurement initiative has been department-driven since 1992. The MDH 2003 attempt was thwarted by CCHC efforts. The MDH 2004 attempt was defeated by CCHC’s petition campaign.

**No record except this CCHC report**
Unlike other Department functions, MDH did not have a sign-in list to record attendance. Nor did MDH choose to tape record the verbally expressed comments of citizens. One attendee who went up to the officials after the meeting ended wanted to verify that the meeting was recorded. She was told that the meeting was not taped. She was aghast. The meeting was just a “listening session,” she was told. Except for this CCHC report, and CCHC’s videotapes and photos, history might deem that no one cared enough to come. This report shows how untrue that assumption would be. This report will be made available online.

**The future??**
Unless the 2009 legislature changes the law (M.S. 62U.02-04), on July 1, 2009, MDH will begin to require nearly every health insurer and third-party payer to send patient data to the Maine Health Information Center. The data will be used to centralize control over physician treatment decisions through “quality” report cards and financial/professional disincentives. Contact your state legislators today. Find them by entering your address on the [CCHC Legislator Finder: www.cchconline.org](http://www.cchconline.org)