FUTURE FORWARD:
DATA ARRANGEMENTS DURING AND AFTER COVID-19

When presented with opportunities for data collaboration, it is critical to consider key evaluation and implementation steps that account for front-end identification of data types, applicable patient permissions and other HIPAA disclosure pathways, transmission methodologies, data aggregation and analytics formats, receipt and care integration tools, privacy/security considerations, initial and secondary use of data, duration of submission and access procedures, among other myriad considerations. The key is to engineer a process that is simple, delivers speedy access to crucial data points, allows for analytics that address important clinical issues that present and facilitate future prevention while accounting for compliance and associated data protections.

OTHER KEY QUESTIONS TO CONSIDER INCLUDE:

Who is your multidisciplinary team evaluating these COVID-19 response activities?

What other aspects of the crisis response are they managing?

What are the applicable HIPAA, state and GDPR pathways for the data-sharing arrangement, including any relaxation of historic pathways that permits the sharing of the data?

(see *e.g.*, HIPAA & COVID-19 Guidance from HHS; McDermott On the Subject: OCR Guidance on PHI Disclosures During COVID-19; McDermott On the Subject: OCR Waivers Penalties for Certain PHI Disclosures During COVID-19)

What security protocols are necessary for data transmission and storage?

What are the costs of operating the data collection, storage and evaluation processes?

Could payment to data contributors and downstream users be involved in the collaboration, and if so, what type of data is involved? Is payment permitted, and if so, what are the purposes and amount of such payments?

What is the purpose of the data sharing arrangement?

(*i.e.*, treatment, healthcare operations, public health, research)

What data types will be shared

(*i.e.*, identifiable data, deidentified data or a limited data set)

and with whom?

(*i.e.*, federal or state government, other providers, pharmaceutical companies)

What is the vehicle by which the data will be shared?

(*e.g.*, via direct connection with electronic medical records interface either by push or pull, questionnaires completed by providers)

Which parties will have access to the data?

What are the specific uses of the data for each party?

Are there intellectual property aspects associated with the submitted data and the aggregated and curated data sets?

What is the term of the data collaboration?

(*i.e.*, will the collaboration automatically end when the national/state declaration of emergency is over)

How will the submitted data and aggregated data be handled upon conclusion of the collaboration?

i.e., will submitted data be returned to the submitter or destroyed? Will the aggregated data be maintained and made available for future research and if so, who will provide financial support for ongoing maintenance, administration and security?

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