



**Member Roundtable:**  
***Navigating Exchange, Management, and  
Use of Sensitive Reproductive Health  
Data***

November 29, 2022

# Housekeeping Reminders

- This is a Zoom meeting.
- Please **mute** yourself when you are not actively speaking.
- Please use the **raise hand** function to chime in with questions or comments and/or use the **chat** to share.
- Please share video if you are able.

# Agenda

- **Welcome and Civitas Updates** – Jolie Ritzo, Civitas Networks for Health, Senior Director of Network Engagement
- **Member Roundtable Moderators** – Nichole Sweeney, CRISP Shared Services, General Counsel and Chief Privacy Officer, and Deven McGraw, Invitae, Lead, Data Stewardship & Data Sharing
- **Moderated Discussion:** Navigating Exchange, Management, and Use of Sensitive Reproductive Health Data

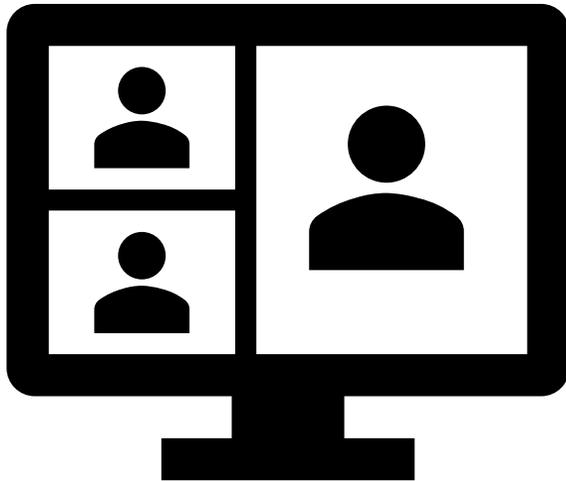
# Civitas Updates

# Upcoming Events

- Our last **Collaboratives in Action** event of the year is happening on Monday, December 5. The event will feature our ONC IDEAS work in partnership with ASTHO and others. [Register Here!](#)
- On December 8, Civitas members Health Catalyst and Hawaii HIE will be presenting a **webinar** on *Making Equity Efforts Work at the County Level* hosted by Civitas. [Join us!](#)
- Our last **Public Policy Briefing** is happening on Friday, December 16. [Register Now!](#)

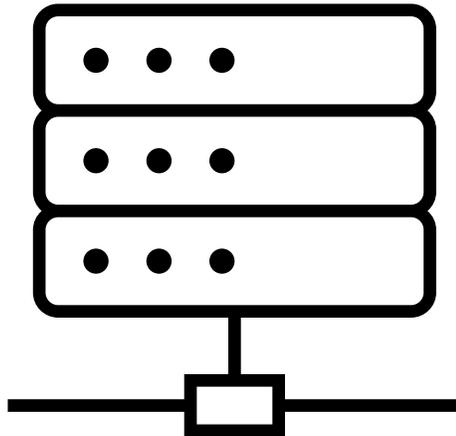
# December Network News

- Civitas will not be holding Network News in December.
- We look forward to resuming the Network News series in January, 2023. We meet the 3<sup>rd</sup> Wednesday of the month from 1-2 pm ET.
- [Click here to register for the 2023 series of Network News.](#)



# Annual Member Satisfaction Survey – Response Requested!

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**Civitas Networks for Health Annual Member Satisfaction Survey** is open. Please respond, share important feedback, and take opportunity to get your name in our gift card raffle.

<https://www.surveymonkey.com/r/V98PCPY>

# Moderated Discussion and Framing Remarks

- **Moderators**

- **Nichole Sweeney, General Counsel and Chief Policy Officer, CSS**
- **Deven McGraw, Lead, Data Stewardship & Data Sharing, Invitae**

- **Panelists**

- **Carol Robinson, CEO, CedarBridge Group**
- **Kathy Miller, Chief Operating Officer, Bronx RHIO**
- **Steven Lane, MD, MPH, Chief Medical Officer, Health Gorilla**
- **Matt Becker, Vice President of Interoperability, Kno2**



# Digital Health Information Sharing post *Dobbs*

December 2022



# Heightened Privacy Concerns Post *Dobbs*

- 13 states have trigger laws that either ban abortions entirely or after 6 weeks (Georgia); 4 other states have bans that apply between 15, 18, or 20 weeks. (Source: NY Times) - <https://www.nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html>. A number of these restrictive states criminalize the performance of (or receipt of) an abortion.
- Result is that interoperability initiatives could be leveraged for criminal law enforcement (or civil lawsuit) purposes, even when patients receive care that was lawful in the state where it was delivered.
- Concern is not just about data outside of HIPAA.



# HIPAA Permitted Disclosures

- HIPAA doesn't require covered entities or business associates to disclose protected health information (PHI) except in two cases – to the individual (with some exceptions) and to HHS as part of a compliance investigation.
  - But HIPAA's broad array of permissive disclosure provisions provide few protections for entities seeking to shield this information from disclosure.
  - May be more difficult to prevent these data from being used against a patient or a provider in a state with criminal or civil penalties.
- The information blocking rules create some imperatives to share EHI – could these be used as leverage to obtain data even if a provider seeks to keep it private?
  - Seems unlikely this Administration would prioritize such a case for enforcement (and no enforcement of these Rules in any case just yet).



# Examples of Permissive Disclosure Provisions

- Where required by state law
- To report (or respond to investigations about) potential child abuse
- To health oversight agencies
- In response to a court order or subpoena or other administrative order
- To law enforcement trying to locate a suspect or a victim
- When reporting a crime on the premises
- To a report a death that may have resulted from criminal conduct
- By whistleblowers



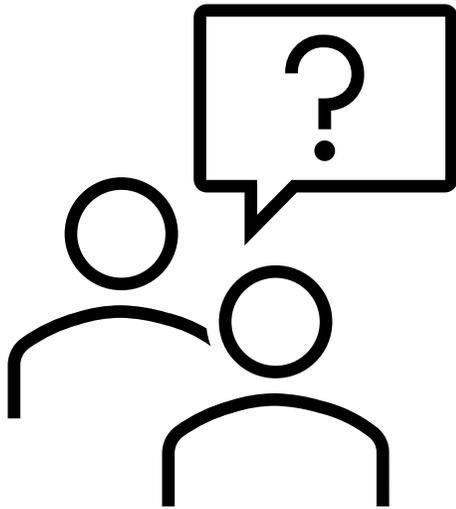
# Potential scenarios

- Person living in a restricted state travels across state lines to seek care in a state without restrictions. They return home and end up seeking care in their home state on a subsequent date – their medical provider queries for their data and information that reveals that the patient had an abortion is delivered to a state where it could be leveraged for a criminal or civil proceeding.
- Others?



# Discussion Questions

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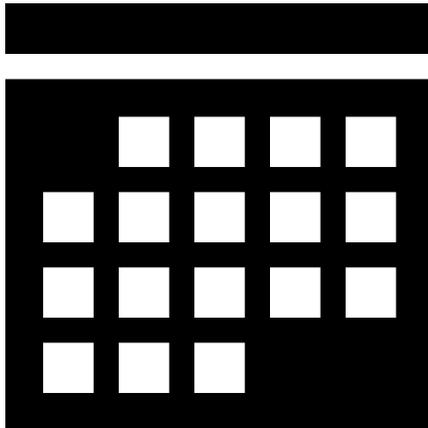
- What are the most pressing concerns that you see in this post-Dobbs era?
- What actions do you feel are needed?

# Recommended Reading

- [AcademyHealth Gave Organizational Members an Inside Look on Medicaid's Response to Dobbs](#)
- [Interoperability in a Post-Roe Era Sustaining Progress While Protecting Reproductive Health Information](#)
- [Medicaid's Moment for Protecting and Promoting Women's Health](#)
- [HHS Issues Guidance to Protect Patient Privacy in Wake of Supreme Court Decision on Roe](#)
- [HHS Warns of Insider Threats in the Healthcare Sector](#)

# Upcoming Member Roundtable Topics

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- **January (date TBD)** – Interoperability and technical infrastructure concerns
- **March (date TBD)** – Legal concerns regarding privacy and protection
- **May (date TBD)** – Healthy equity implications post Dobbs decision

## Contact



[www.civitasforhealth.org](http://www.civitasforhealth.org)



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