HIT Issues in the 2017 Session of the Texas Legislature
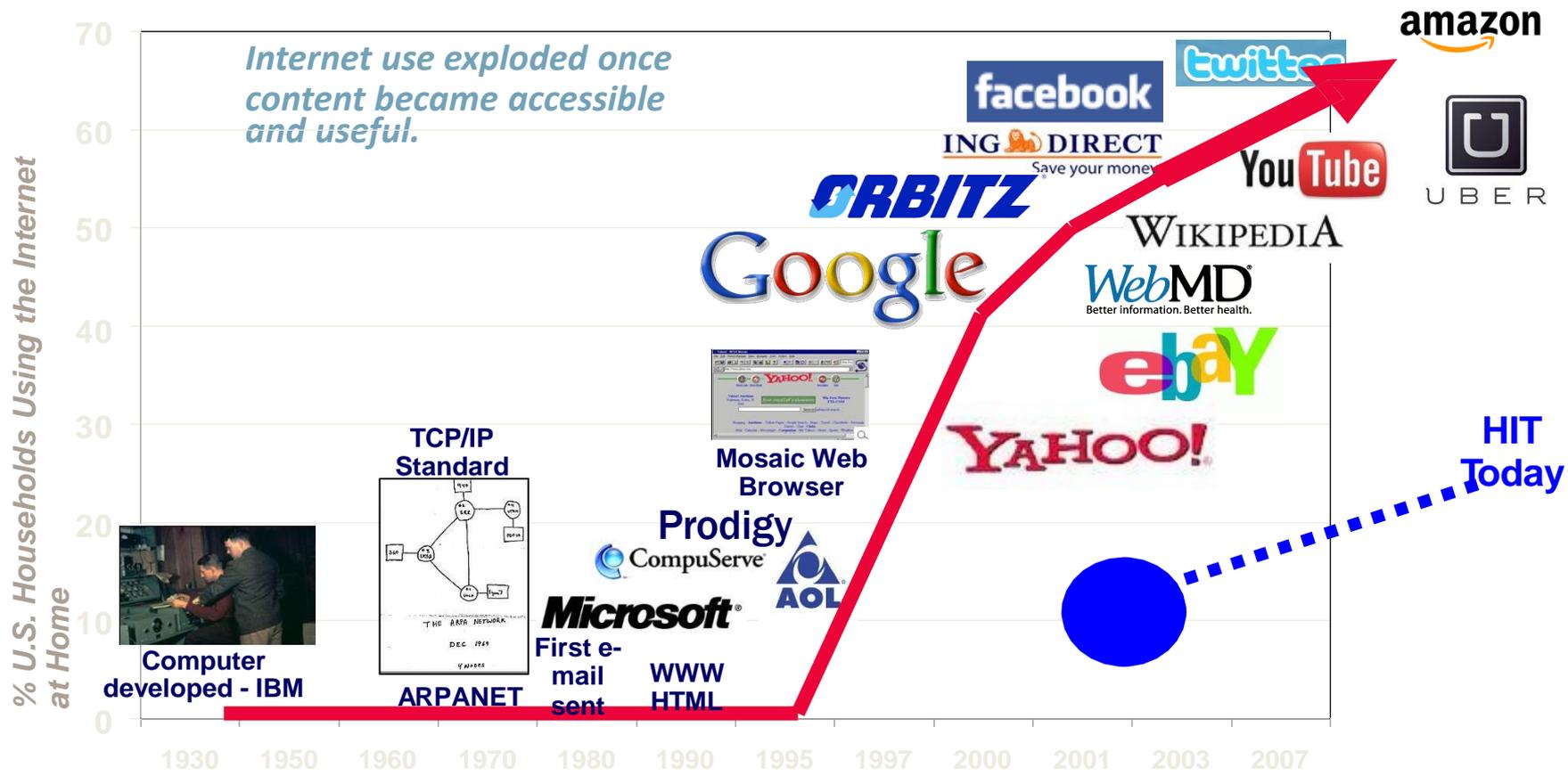
Nora Belcher, Executive Director
Texas e-Health Alliance
September 27th, 2016

Internet Revolution: Value to Users
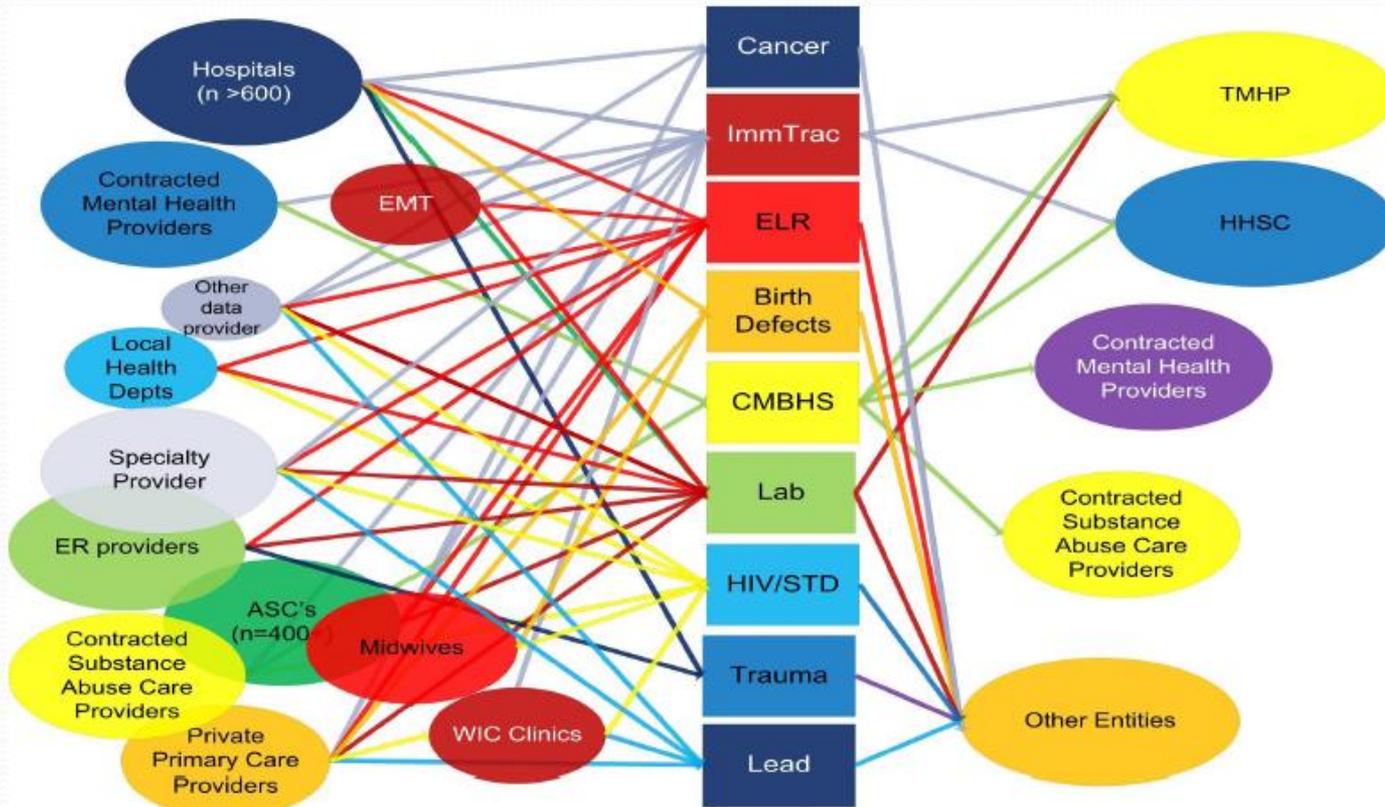
TEXAS e-HEALTH ALLIANCE

Internet use exploded once content became accessible and useful.

% U.S. Households Using the Internet at Home

70 — 60 — 50 — 40 — 30 — 20 — 10 — 0

1930 1950 1960 1970 1980 1990 1995 1997 2000 2001 2003 2007

- Computer developed - IBM
- TCP/IP Standard
- ARPANET
- First e-mail sent
- WWW HTML
- Mosaic Web Browser
- Prodigy / CompuServe / AOL / Microsoft
- Google / ORBITZ / ING DIRECT Save your money / facebook / twitter / YouTube / WIKIPEDIA / WebMD Better information. Better health. / ebaY / YAHOO! / amazon / UBER
- HIT Today

Today, health care information technology (HIT) is at the "2002" of the Internet age

Source: U.S. Census Bureau, Population Division, Education & Social Stratification Branch, "Reported Internet Usage for Households, by Selected Householder Characteristics,:2007"; Texas eHealth Alliance: Nora Belcher

- HB 2641 by Rep. John Zerwas, MD
  - Implements standards in IT systems at the HHS agencies
  - Amends statutes to permit Health Information Exchanges to participate in public health data reporting
  - Creates a HIE incentive program at Medicaid, if found to be feasible and cost-effective
  - Repeals the Sunset provision for Medicaid remote monitoring until September 1, 2019
  - Provides a "safe harbor" for physicians participating in HIEs by shielding them from liability related to other parties' data errors

Public Health Reporting Without Standards

Public Health Reporting With Standards

HB 2641 Coalition

Unfinished/Follow Up Business from 2015

- SB 1937 by Kolkhorst- did not pass
  - converts completion of privacy and security certification under the Health and Safety Code from a "mitigating factor" to "safe harbor" in case of a breach; comparable to HIPAA safe harbor on encryption
- SB 475/HB 1220 (Kolkhorst/Laubenberg)- did not pass
  - Establishes a property right to DNA; Require patient consent for all but a few legally prescribed uses (law enforcement, emergency treatment)
- SB 20 (Nelson/Price)- passed
  - Contracting reform at state agencies
  - There may be follow up activities to clarify intent

Cybersecurity

- 6 Interim studies on cybersecurity in the House covering everything from local government to the Legislature
- Policy issues
  - IT infrastructure is old/dated/not updated
  - Ransomware is now a huge concern (and it wasn't a year ago)
  - Government is not getting good data on non-breach forms of cyber (ransomwear not reported like breaches)

Telemedicine

- Texas Medical Board going through Sunset review
- Federal lawsuit set for trial in 2017
- Interim studies on telemedicine in the House and the Senate
- Policy issues
  - Establishment of physician-patient relationship
  - Modality
  - Licensure/scope of practice
  - Payment/benefit parity

- Current Medical Board rules allow a physician-patient relationship to be established:
  - from a physical site (with equipment/presenter)
  - from a patient's home (with equipment/presenter)
  - from a patient's home for mental health treatment (without equipment/presenter)
    - except for behavioral health emergencies and controlled substances
  - via a referral (treatment for one year)
- Proposed TMB rule on call coverage to go into effect in October
  - will allow non-reciprocal, contracted call arrangements

A Major Breakthrough!

- On June 7th, the Texas e-Health Alliance, the Texas Medical Association and the Texas Academy of Family Physicians announced agreement to work on an agreed-to telemedicine bill for session.
  - Physician concerns:
    - Licensure
    - Standards of care
    - Insurance coverage
- A working group of a cross-section of stakeholders has been assembled to review the relevant statutes.

What Does That Mean?

- Medicaid has shifted in terms of policy and now views telemedicine/telehealth as an essential tool
- Medicare telehealth limitations still highly restrictive
- Commercial insurers are aggressively pursuing virtual care models
- Scope of practice was the battleground issue- now it's reimbursement

Closing Thoughts

- HITECH Act activity is fading, as meaningful use shifts to MACRA and the HIE market matures

- Reimbursement reforms will be affecting market activity

- Technological changes in other markets, like credit card chips, will shift risk to health care

- The patient revolution is imminent- be ready!

Questions?

Nora Belcher

Executive Director

Texas e-Health Alliance

nora@txeha.org

(512) 536-1340