



## Meeting Notes

### Health Information Technology Advisory Committee Information Blocking Task Force Workgroup 1: Relevant Statutory Terms and Provisions March 21, 2019, 1:00 p.m. – 3:00 p.m. ET Virtual

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The March 21, 2019, meeting of the Information Blocking Task Force Workgroup 1: Relevant Statutory Terms and Provisions of the Health IT Advisory Committee (HITAC) was called to order at 1:00 p.m. ET by Lauren Richie, Designated Federal Officer, Office of the National Coordinator for Health IT (ONC).

**Lauren Richie** called the meeting to order and conducted roll call.

### Roll Call

#### MEMBERS IN ATTENDANCE

**Andrew Truscott**, Co-Chair, Accenture  
Cynthia Fisher, Member, WaterRev, LL  
John Kansky, Member, Indiana Health Information Exchange  
Sheryl Turney, Member, Anthem

#### MEMBERS NOT IN ATTENDANCE

**Michael Adcock**, Co-Chair, Individual  
Denni McColm, Member, Citizens Memorial Healthcare

#### ONC STAFF

Cassandra Hadley, ONC  
Penelope Hughes, ONC Backup/Support  
Mark Knee, ONC Staff Lead  
Lauren Richie, Branch Chief, Coordination, Designated Federal Officer  
Lauren Wu, SME

**Lauren Richie** turned the meeting over to the co-chair, Andy Truscott.

### Health information networks/exchanges

Andy Truscott suggested diving into the shared Google document to review language updates that have been made. He took a moment to orient the group to the shared document and the way that updates have been included in the document.

Andy Truscott reviewed the following comments.



The workgroup believes that this is a strong definition of “electronic health information” that covers the breadth of data which requires addressing within the regulations. We recommend some slight modifications to language to cover both current and future tenses (can vs. could) to address where discrete data may not identify an individual, however, in aggregate it may.

An additional minor update would be to be clear that we are not seeking to promote a reduction in the payment of transactions which take place (use of the singular “payment”); instead we desire that information for all payments should be covered within this definition — to this end, pluralizing “payment.”

In addition, we do think that making clear that “information” could be that which is “human readable” (e.g., narrative text captured within clinical notes) and “machine readable” (e.g., codified information using terminologies or classifications such as LOINC, SNOMED CT, CPT, ICD) are specifically covered to prevent ambiguity, and this should be updated within the preamble.

**Our intent is that this is a very broad definition, and can capture furthermore, “information” shall be inclusive of all data that can be electronically transmitted or maintained and may include imaging.**

**Discussion has also looked at whether with 21<sup>st</sup> Century Cures (Cures) was seeking to aid transparency across the healthcare ecosystem and should not be limited to Identifiable Health Information and should also include all information within healthcare.**

**Sheryl Turney** and **Cynthia Fisher** expressed the need for this to be broad. Due to this discussion, Andy added the following (in red above):

- Our intent is that this is a very broad definition, and can capture furthermore, “information” shall be inclusive of all data that can be electronically transmitted or maintained and may include imaging.

There was significant discussion around whether the regulation text in red: (2) Any other information that identifies the individual, **or with respect to which there is a reasonable basis to believe the information can could be used to identify the individual and** is transmitted by or maintained in electronic media, as defined in 45 CFR 160.103, or is derived from identifiable patient data that relates to the past, present, or future health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment(s) for the provision of health care to an individual.

**Mark Knee** noted that ONC built on the Public Health Service Act (PHSA) definition for electronic health information.

**John Kansky** felt that this clause “or with respect to which there is a reasonable basis for believing the information can be used to identify the individual and” is unnecessary, even though it comes from the Health Insurance Portability and Accountability Act (HIPAA).

- **Andy Truscott** suggested that removing it narrows it too much. He suggested editing “can” to “could” (also noted above).

**Cynthia Fisher** expressed concern that the definition goes beyond the definition of HIPAA.



The members of the workgroup were not in agreement regarding how to move forward. There were differing opinions, and it became hard to come to a consensus. There was a lot of discussion, but it became difficult to identify a shared path forward.

**John Kansky** suggested a few different options:

1. Staying as similar to HIPAA as possible.
2. Remove the clause he mentioned above.
3. Keep as broad as possible (this is not his preferred option).

**Sheryl Turney** agreed with staying as similar to HIPAA as possible.

**Andy Truscott** suggested adding a reference to the HIPAA definition. He then questioned how to handle the other information types not handled by HIPAA.

**John Kansky** noted that he doesn't believe that this NPRM is the place to solve price transparency, but it can go a long way to help.

**Andy Truscott** suggested that the entire group has to do homework before the next call. He suggested that members send proposed verbiage for this definition to have a more thoughtful conversation during the next call.

**Lauren Richie** opened the lines for public comment.

## Public Comment

There was no public comment.

## Next Steps and Adjourn

The next meeting is scheduled for Thursday, March 27 at 12:00 p.m. ET.

**Lauren Richie** adjourned the meeting at 3:00 p.m. ET.