



Meeting Notes

Health Information Technology Advisory Committee Trusted Exchange Framework and Common Agreement Task Force May 28, 2019, 12:00 p.m. – 2:00 p.m. ET Virtual

The May 28, 2019, meeting of the Trusted Exchange Framework and Common Agreement (TEFCA) Taskforce of the Health IT Advisory Committee (HITAC) was called to order at 12:00 p.m. ET by Lauren Richie, Designated Federal Officer, Office of the National Coordinator for Health IT (ONC).

Lauren Richie conducted roll.

Roll Call

Arien Malec, Co-Chair, Change Healthcare
John Kansky, Co-Chair, Indiana Health Information Exchange
Cynthia A. Fisher, WaterRev, LLC
Anil Jain, IBM Watson Health
David McCallie, Individual
Aaron Miri, The University of Texas at Austin, Dell Medical School, and UT Health Austin
Carolyn Petersen, Individual
Mark Savage, UCSF Center for Digital Health Innovation
Grace Terrell, Envision Genomics, Inc
Sasha TerMaat, Epic
Sheryl Turney, Anthem Blue Cross Blue Shield

MEMBERS NOT IN ATTENDANCE

Noam Arzt, HLN Consulting
Steve L. Ready, Norton Healthcare
Andrew Truscott, Accenture
Denise Webb, Individual

FEDERAL REPRESENTATIVES

Laura Conn, Centers for Disease Control and Prevention (CDC)
Mark Roche, Federal Representative, Centers for Medicare and Medicaid Services (CMS)

ONC STAFF

Zoe Barber, Staff Lead
Michael Berry, SME
Cassandra Hadley, HITAC Back Up/Support
Alex Kontur, SME
Kathryn Marchesini, Chief Privacy Officer, ONC
Steve Posnack, Executive Director, Office of Technology



Lauren Richie, Branch Chief, Coordination, Designated Federal Officer
Kim Tavernia, SME

Lauren Richie turned the meeting over to John Kansky, co-chair.

John Kansky shared an overview of the agenda and turned the meeting over to Arien Malec, co-chair.

Arien Malec noted that after the May 24, 2019 meeting it was discovered that there was a difference between the definition of directed exchange targeted query and broadcast query.

Overview of TEFCA Exchange Modalities

Alex Kontur reviewed the slides related to TEFCA Exchange Modalities.

DISCUSSION

- **Mark Savage** noted that according to the slides, electronic health information (EHI) appeared to be considered a broad term. He stated that in his opinion, it should be narrow in scope and limited to the United States Core Data for Interoperability (USCDI). He noted that it is a minimum requirement and asked if it is also a limit. He went on to ask if somebody could choose to expand it.
 - **Alex Kontur** answered that it is not a limit, only the minimum required.
 - **Mark Savage** requested to flag this as an area of concern, encouragement to exchange more if possible is not present.

Obligations

DISCUSSION

- Referring to the functional requirements, **Arien Malec** sought to confirm whether a qualified health information network (QHIN) that receives a request is obligated to appropriately identify all the sources of data that are responsive to that request.
 - **Steve Posnack** answered that the statement seems fair.
- **Arien Malec** sought confirmation of his understanding that the difference between the definitions of targeted query and broadcast query is that targeted query asks one or a subset of QHIN's and broadcast query asks all QHIN's.
 - **Steve Posnack** answered that functional requirements are not contained within the short definitions of the terms but rather within the specific provisions such as 2.2.1 and 7.1 where one can see the obligation to request EHI from appropriate participants or members.
- **John Kansky** asked if a QHIN gets a query from another QHIN, does the receiver know if it's a broadcast query or a targeted query.
 - **Steve Posnack** answered that there is no way to distinguish these in the example transaction, but one would be able to infer based on the text of the request.
 - **Alex Kontur** clarified that all of the QHIN's need to be queried and they need to figure out where the data lies and deliver that to the initiating QHIN.
- **David McCallie** noted the following:



- The TEFCA TF should distinguish between ‘inter’ and ‘intra’ regarding QHIN responsibilities.
- The right path is to defer abstractions to external stakeholders who are better-suited to solve such issues.
- There’s a concern that for every patient, a query is done for the network to fetch the record, which is internally processed and matched against what is known about the patient. He went on to ask that from a technical point of view regarding broadcast, what happens if every QHIN responds to every patient visit and this process is followed.
- **Arien Malec** stated his concern that participants and participant members are leaking out of QHIN’s.
 - **Steve Posnack** stated that in instances where it is known who to send to, but not how to send, this is where the QHIN to QHIN interaction can occur. He further noted that there are a lot of built-in functions that have already been explored with a query that would be reused to help QHIN's process message delivery.
- **John Kansky** asked if the following example was possible, it is known who to send the message to, but it isn’t known how therefore it is sent to my QHIN. However, it turns out the person who was meant to receive it is not participating in the ecosystem.
 - **Steve Posnack** answered that this scenario is possible, but that it would become increasingly infrequent as time passes.
- **David McCallie** noted that the message delivery obligation is a disastrous part of the TEFCA proposal, as there is already a network that would accomplish the same goals and fulfill the same requirements. He went on to note that it was unlikely the new proposal would be any better than what is currently done with Direct, and it is likely to create chaos because ‘or’ means ‘and’ to the vendor. If the vendor has to offer both choices, it is double the work. Finally, he stated that if patient information needs to be sent, it has to be sent to the right place or the sender will be in breach.
- **Mark Roche** asked if TEFCA plans to provide a centralized directory of all the participating providers and healthcare institutions so that a provider practicing in one hospital will have the ability to know which hospital the providers are covered within the network and which ones are not.
 - **Arien Malec** answered that directory services are not one of the TEFCA obligations.
- **Sasha TerMaat** referred to an earlier comment regarding knowing who to send to but not knowing how to send to them. She sought to understand if the necessary amount of information for addressing uniquely is something that is standardized or left to each QHIN to determine. She went on to ask how one QHIN would communicate with another using non-standardized amounts of information to identify recipients.
 - **Steve Posnack** answered this was changed on subsequent versions of TEFCA documents in response to public comments. He then noted that there are technical issues that need to be resolved and the goal was to set-up the structure for the RCE to take the feedback and begin considering how to either improve on existing services or make something that would work on QHIN's that can be more specialized.
- **David McCallie** suggested seeking input from someone who represents Direct Trust regarding pertinent use cases.



- **John Kansky** referred to the overall purpose and policy goals of TEFCA and asked how the exchange network will be used when there are other means that exist in the world for all the exchange purposes.
 - **Alex Kontur** answered that it's important to be mindful of the congressionally mandated purpose which is focused on the network to network level. He further stated the goal isn't to disrupt what exists, but rather to make sure that what exists can talk to the other entities and groups that are trying to do the same thing.

TEFCA Discussion Matrix

INDIVIDUAL ACCESS SERVICES DISCUSSION

- **Mark Savage** referred to the definition of Individual Access Services (IAS) (2.2.4. 7.14, 8.14) and noted that the way it is defined it limits everything about what the individual does to a right-to-exercise and a right-to-access under the Health Insurance Portability and Accountability Act (HIPAA) privacy rule. He noted there are a host of other purposes for which an individual might want to use a trusted exchange framework, and it is not just about exercising their right to access a copy or to transmit a copy to somebody. Mark noted that there are use cases that are being ignored if the definition remains constrained as currently written.
 - **Zoe Barber** answered by noting the definition is specific to the right to access and obtain a copy and to send it to a third-party.
 - **David McCallie** stated that he understands Mark's concern that it might be too limited but noted that it would be a major success if TEFCA could fulfill the notion that an individual should have a simple way to accumulate all of their provider-controlled health data.
- **David McCallie** asked if it was okay for an IAS participant only to pull data and not respond to IAS queries.
 - **Zoe Barber** answered by noting if you are only doing IAS services, you only have to respond to IAS, but if you have other services and you are offering treatment, then you have to respond to all queries.
- **David McCallie** presented an example where there is a QHIN with a health record bank that was built with the consumer's permission and now wants to be able to respond for direct treatment queries as if the entity was a legitimate provider under a covered entity (but it is not a provider). He went on to note that it's understood they can consume the data, but asked if they are allowed to share it back just for direct treatment?
 - **Zoe Barber** answered that this is the case only if it is a covered entity or business associate who has a relationship with that patient. Specifically, for the treatment exchange purpose, it is limited to the HIPAA definition of treatment.
 - **David McCallie** followed-up by asking if it would have to be a HIPAA covered entity?
 - **Zoe Barber** answered that she thinks the answer is that it would not have to be a HIPAA covered entity.
- **Mark Roche** referred specifically to individual access services and asked how TEFCA will store consent received from patients.
 - **Zoe Barber** answered by noting that the word consent can be confusing and misleading, and there are several different versions of consent or approval or meaningful choice



within the TEFCA. She went on to note that rather than attempting to directly answer the question, she suggested that members review the applicable language.

- **Cynthia A. Fisher** suggested the TEFCA TF take into consideration the ability for patient control to privacy and access and the ability to utilize technologies where the sharing of the information could be timed out or denied by the patient and shared to the appropriate caregivers.
- **Mark Savage** mentioned two areas he referred to as use cases which he hoped the TEFCA TF would consider:
 - The patient's right to submit amendments under the privacy rule.
 - The precision medicine initiative. He also referred to the ONC NPRM and stated that the focus is on EHI export which goes beyond the USCDI, but the focus in the current document is on USCDI, to which he asked why it is not limited in one place but is in another.
- **Alex Kontur** answered that the minimum obligation is to respond with all electronic health information in USCDI.
 - **Mark Savage** suggested flagging to add language encouraging that people go beyond the minimum.
- **John Kansky** referenced the scenario where there is a participant who uses a QHIN of choice and from that QHIN comes a request for individual access to their information. He asked, given this scenario, who has to respond to that request. He also asked that if it's against state law for a public health authority to disclose the information, they do not disclose it. But if there is no law saying that they must not, are they required to respond to IAS queries.
 - **Alex Kontur** answered that they must respond.
- **John Kansky** asked if you're IAS-only, can you respond to other exchange purposes.
 - **Zoe Barber** answered that if you are a HIPAA covered business associate, you can respond, you are just not required by the terms of the contract to respond.
 - **David McCallie** noted that this concerned him and would limit a very useful kind of participant.

PERMITTED AND FUTURE USES DISCUSSION

- **John Kansky** led the discussion on Permitted and Future Uses (2.2.2, 7.2, 8.2) by noting his understanding as once data has been accumulated through normal exchange purposes there are two things that can be done: 1) anything that is not against the law; 2) anything for which the individual provides permission.
 - **Zoe Barber** answered stating that this is correct but discouraged phrasing it as anything that is not against the law but rather, anything that is explicitly permitted by applicable law. She noted the intent behind that section is that HIPAA permits all treatment, payment, and operations.
 - **John Kansky** clarified that his understanding is that one of the permitted purposes for a QHIN is to use research as long as it does not require individual authorization.
 - **Kathryn Marchesini** agreed but suggested adding the requirement under HIPAA to use the information for research.

Lauren Richie opened the lines for public comment.



Public Comment

There were no public comments.

Comments in the Public Chat feature of Adobe

Julie Maas: Unless you are a Direct Messaging QHIN only?

Mark Savage: Can we see discussion topics for this meeting. For example, I want to discuss EHI limited to USCDI for query and push generally, and persons/patients in particular.

Sasha TerMaat: Is the unique identification of recipients something that is left to the discretion of individual QHINs, or is that something standardized?

John Kansky: In response to Mark's question.... can we post the discussion matrix when we transition to IAS?

Laura Conn: Direct should be included under TEFCA - need trust framework and business associate authorities that TEFCA will allow.

Next Steps and Adjourn

Lauren Richie adjourned the meeting at 2:00 p.m. ET