



Meeting Notes

Health Information Technology Advisory Committee (HITAC) Trusted Exchange Framework and Common Agreement (TEFCA) Task Force July 3, 2019, 2:00 p.m. – 4:00 p.m. ET Virtual

Executive Summary

The Trusted Exchange Framework and Common Agreement Task Force (TEFCA TF) reviewed previously debated recommendations and worked to finalize them. The TF will meet on July 9, 2019 prior to presenting their work to the HITAC at the July 11, 2019 meeting. There were no public comments, but there were comments in the public chat window via Adobe.

Agenda

- 2:00 p.m. **Call to Order/Roll Call**
- 2:05 p.m. **Review Draft Recommendations**
- 3:50 p.m. **Public Comment**
- 4:00 p.m. **Next Steps and Adjourn**

Roll Call

John Kansky, Co-Chair, Indiana Health Information Exchange
Arien Malec, Co-Chair, Change Healthcare
Noam Arzt, HLN Consulting
Laura Conn, CDC Federal Representative
Cynthia A. Fisher, WaterRev, LLC
David McCallie, Jr., Individual
Carolyn Peterson, Individual
Mark Savage, UCSF Center for Digital Health Innovation
Sasha TerMaat, Epic
Grace Terrell, Envision Genomics, Inc
Sheryl Turney, Anthem Blue Cross Blue Shield
Denise Webb, Individual

MEMBERS NOT IN ATTENDANCE

Anil Jain, IBM Watson Health
Aaron Miri, The University of Texas at Austin, Dell Medical School, and UT Health Austin
Steve L. Ready, Norton Healthcare
Mark Roche, Centers for Medicare and Medicaid Services (CMS)
Andrew Truscott, Accenture

ONC STAFF

Zoe Barber, ONC Staff Lead
Cassandra Hadley, HITAC Back up/ Support
Lauren Richie, Branch Chief, Coordination, Designated Federal Officer



Review Draft Recommendations

Recommendations 2A, 7A, 7B, 8A, 8B, 10, 12A, and 12B were reviewed and nearly finalized by the task force for presentation to the HITAC on July 11, 2019. It was explained that the recommendations would be approved based on a majority vote, but the presence of a strong minority would be noted in the presentation if needed.

QHIN TECHNICAL FRAMEWORK (QTF, EXCHANGE MODALITIES, EXCHANGE PURPOSES)

Recommendation 7a: Leave TEFCA as currently stated in the Draft 2. Require Qualified Health Information Networks (QHINs), Participants, and Participant Members to serve all defined exchange modalities and Purposes.

Recommendation 7b: The TF recommends that TEFCA should not require QHINs, Participants, and Participant Members to serve all defined exchange modalities and Purposes, but instead allow QHINs, Participants, and Participant Members to serve the subset of Exchange Purposes and modalities of their choosing. This clearly represents a compromise in that all modalities and Exchange Purposes would no longer be available at all points and levels across the TEFCA ecosystem, but in return it would make TEFCA a much more adoptable and implementable ecosystem with earlier and broader participation.

TEFCA TF Feedback

Discussion and outcomes included the following:

- Concerns were noted regarding allowing Qualified Health Information Networks (QHINs) to be specialized. ONC's preference is for full-service QHINs, and it was mentioned that there are no benefits by having QHIN's that are narrowly functioning.
- Members requested clarity from ONC and sought use cases related to QHIN message delivery. Language conveying the need for clarification will be included in the next draft, with an acknowledgment that the task force addressed this as a need.
- Recommendation 7c was created and when finalized will include language noting that participants and participant members can choose a subset of exchange purposes and modalities to serve based on their function, but QHINs must serve all exchange purposes and modalities.
- Recommendation 7d was created and when finalized, will include language noting that QHINs should not be restricted from supporting additional purposes and modalities above the minimum required. The minimum set of required services for QHINs should include master person index (MPI), record locator service (RLS), meaningful choice, security standards, interaction with other QHINs, reciprocal exchanges, and maintaining choices and preferences of patients.
- A combination of proposed recommendations 7c and 7d will be drafted and presented to the task force at the next meeting on July 9, 2019.

Alternative Recommendation 8a: ONC should expand the Individual Access Services (IAS) Exchange Purpose immediately to build in broader functionality for individuals that is not limited to obtaining and accessing a copy of their Electronic Health Information (EHI), and sending to a 3rd party. At a minimum IAS should include the right for an individual to request an amendment to their EHI, as defined in the Health Insurance Portability and Accountability Act (HIPAA) 45 CFR 164.526. Additional use cases to incorporate may/must include:

- The ability for providers, patients, and payers to participate in shared care planning and to share and retrieve a patient's dynamic shared care plan for purposes of coordinating care.



- EHI that is created by or recorded by the patient, i.e. patient-generated health data (PGHD), patient-reported outcomes, and remote monitoring.
- The Precision Medicine Initiative led by the National Institutes of Health (NIH) that allows patients to access their health information, as well as research that uses their data to more accurately predict treatment and prevention strategies for specific patient populations.

Alternative Recommendation 8b: ONC should establish a policy framework to get to broader individual services, including amendment, shared care planning, PGHD and data donation for research with a clear timetable. ONC and the Recognized Coordinating Entity (RCE) should roll out individual services that are ready for large scale adoption, starting immediately with IAS Exchange Purposes as described in Draft 2 — as this constitutes a significant step forward for patient access. ONC should work with the RCEs and QHINs to develop and test the additional forms of individual exchange within the timeline established for the expanded usage.

The TF also discussed the definition of Direct Relationship and various scenarios for who is required to respond to queries for Individual Access Services (IAS). Specifically, the TF discussed the requirement, as currently drafted in the Minimum Required Terms & Conditions (MRTCs), for public health agencies to respond to IAS. In addition, the TF noted an inconsistency in the Draft MRTCs regarding whether all participating entities must respond to requests or only those with a Direct Relationship with the individual who is the subject of the information.

TEFCA TF Feedback

- Recommendations 8a and 8b will be combined into a consensus recommendation to be drafted and presented to the task force at the next meeting on July 9, 2019.
- The urgency of the areas covered within these recommendations was emphasized during the discussion.

Recommendation 10: ONC should not require all public health agencies to respond to query, including IAS, particularly those that primarily exist for disease surveillance and do not maintain patient-centered data, except when it is required by Applicable Law (such as when a public health agency is acting as a CE under the HIPAA rules).

TEFCA TF Feedback

- The recommendation was revised to “do not maintain a longitudinal patient record” rather than “do not maintain patient centered-data.”

Alternative Recommendation 12a: ONC, in the MRTCs, should *not* allow for the use and disclosure of individuals’ previously-disclosed EHI following an individual’s exercise of Meaningful Choice. This does not mean, however, that one must delete the individual’s EHI from one’s records.

Alternative Recommendation 12b: Permitting the use and disclosure of individuals’ previously-disclosed EHI following an individual’s exercise of Meaningful Choice (MC) is reasonable, and practical in light of the significant challenge created in contemplating how to implement applying such a policy retrospectively.

Recommendation 12.5: As drafted, once an individual exercise their MC, TEFCA 2 constrains the prospective use and disclosure of their data to Exchange Purposes whereas prior to the exercise of MC, the use and disclosure was defined by 2.2.2. To avoid introducing unnecessary complexity, the TF



recommends that the prospective use and disclosure of an individual's information after the exercise of MC continue to be defined and constrained by 2.2.2 and not the narrower Exchange Purposes only.

TEFCA TF Feedback

- The TEFCA TF approved Recommendation 12b by voice vote. Carolyn Peterson opposed. None abstained.
- Recommendation 12a will not be included in the final draft; however, the strong minority position in favor of Recommendation 12a noted during the meeting will be mentioned in relation to Recommendation 12b.

OVERARCHING RECOMMENDATIONS

Recommendation 2a: ONC should align TEFCA rules and requirements with the Interoperability Rule:

- Key definitions such as HIE, HIN, and EHI should be the same across both rules.
- Active, good-faith participation in exchange provided through the TEFCA should address, and be evidence for compliance with, information blocking requirements relevant to cross network exchange purposes, uses and modalities provided through TEFCA.
- Because TEFCA only addresses a portion of information exchange activities relevant to information blocking, TEFCA participation alone should not be made a formal exception to information blocking or create a safe harbor
- Participation in TEFCA should not be a condition of certification or requirement for information blocking requirements. It should, however, be the easiest and most direct path to address relevant requirements.
- Placeholder for specific recommendation(s) related to the API requirements for 2015 Edition Certification after further discussion]

TEFCA TF Feedback

- **Mark Savage** offered to send suggested language for this recommendation to the task force co-chairs and to be included in the next draft.

Public Comment

There were no public comments.

QUESTIONS AND COMMENTS FROM THE CHAT WINDOW

John Kansky: BTW -- I think I agree with the suggestion Denise is making. 7c?

Grace E Terrell: I agree with David's perspective as well as Denise's.

Carolyn Petersen: Yes, let's see if we can draft a 7c that works for TF

Noam Arzt (HLN): My vote is for 7C

David McCallie: If a participant does something specialized, then their QHIN has to be specialized as well
Vote for 7D :)

Grace E Terrell: 7C



Noam Arzt (HLN): This gets complicated: not all exchange needs to be TEFCA-mediated. A specialized activity does not have to be a TEFCA activity.

Sasha TerMaat: Hi, this is Sasha. Apologies for joining late.

Noam Arzt (HLN): David, you are advocating for 7D *without* 7C?

David McCallie: The real value of QHINs is that they have MPI/RLS and Meaningful Choice knowledge. That can be leveraged for far more than just reciprocal exchange

David McCallie: Noam, I think 7D should allow for specialized participants, but not require all other QHIN to be capable of doing the special thing

David McCallie: that was supposed to be "Noam". Sorry

John Kansky: I can get behind 8b

Laura Conn: Laura has to sign off now.

Zoe Barber: Who was the last one?

Zoe Barber: Before Laura

Next Steps and Adjourn

If members cannot be in attendance at the next meeting scheduled for July 9, 2019, they were asked to submit comments prior to the meeting. The next TEFCA TF meeting will be used to prepare for the presentation to the HITAC on July 11, 2019. The meeting was adjourned at 3:30 p.m.