

**HIT Policy Committee
Meaningful Use Workgroup &
Certification & Adoption Workgroup
Transcript
March 26, 2013**

Presentation

MacKenzie Robertson – Office of the National Coordinator

Thank you. Good afternoon everybody. This is MacKenzie Robertson in the Office of the National Coordinator for Health IT. This is a joint meeting of the HIT Policy Committee's Meaningful Use Workgroup and the Certification & Adoption Workgroup. This is a public call and there is time for public comment built into the agenda. The call is also being recorded, so please make sure you identify yourself when speaking. I will go through the Meaningful Use workgroup first. Paul Tang?

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Here.

MacKenzie Robertson – Office of the National Coordinator

Thanks Paul. George Hripcsak? David Bates? Christine Bechtel? Neil Calman? Art Davidson? Marty Fattig? Leslie Kelly-Hall? David Lansky? Deven McGraw?

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Here.

MacKenzie Robertson – Office of the National Coordinator

Thanks Deven. Marc Overhage? Charlene Underwood?

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

Here.

MacKenzie Robertson – Office of the National Coordinator

Thanks Charlene. Amy Zimmerman? Tim Cromwell? Joe Francis? Yael Harris? Greg Pace? Robert Tagalicod? And any ONC staff members for the Meaningful Use Workgroup?

Michelle Consolazio Nelson – Office of the National Coordinator

Michelle Consolazio Nelson.

MacKenzie Robertson – Office of the National Coordinator

Thanks Michelle. And the roll call for Certification & Adoption Workgroup. Marc Probst?

Marc Probst – Intermountain Healthcare – Vice President & Chief Information Officer

Here.

MacKenzie Robertson – Office of the National Coordinator

Thanks Marc. Larry Wolf?

Larry Wolf – Kindred Healthcare – Senior Consulting Architect

Here.

MacKenzie Robertson – Office of the National Coordinator

Thanks Larry. Joan Ash?

Joan Ash, PhD, MLS, MS, MBA – Oregon Health & Science University School of Medicine – Professor and Vice Chair, Department of Medical Informatics and Clinical Epidemiology

Here.

MacKenzie Robertson – Office of the National Coordinator

Thanks Joan. Carl Dvorak? Paul Egerman? Paul, I know you're on, you might be on mute. Joe Heyman? Liz Johnson? Charles Kennedy? Donald Rucker?

Donald W. Rucker, MD, MS, MBA – Siemens Corporation – Vice President and Chief Medical Officer

Here.

MacKenzie Robertson – Office of the National Coordinator

Thanks Donald. Paul Tang, you are here. Micky Tripathi? Scott White? And Marty Rice? And any ONC staff members for the Certification & Adoption Workgroup? Okay, with that I will turn the agenda back to you Paul.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Great, thank you MacKenzie. This call will probably will end early. This is a follow up to our other call where we had a number of recommendations and we had a couple on hold. And let me try to go quickly through the recommendations and then point out the 2 that we had on hold to discuss today. Our first recommendation was to move clinical documentation from menu, which is where it is right now, into core in Stage 3. Second, that we would not, we decided against prohibiting some kinds of methods of clinical documentation, like copy/paste or to prescribe certain pieces, we decided there was just too much variability that was legitimate to constrain that. I'll skip over to the next one and come back to the ones on hold. One, we wanted – the thought was to improve the accuracy of the record and to improve patient engagement and to guard against fraud, that we really wanted to seriously consider what was demonstrated in OpenNotes project, that is provide progress notes as part of the meaningful use objective for VDT.

Next, we wanted to try to ask for more research and innovation to make what data are in EHRs to be more fit for human consumption that is like graphical views. Things that, meaningful ways of displaying information so that it can be, the content can be gleaned more quickly than just text. Next one was really to increase the education about E&M coding. Some of the distortion of text or pollution of text in the progress note, for example, in clinical documentation, is due to what's perceived as E&M coding criteria, or requirement and some of that's actually unnecessary. So there could be an outreach to education to inform people more about the coding criteria, although it's still complex to understand, so that at least the spurious things that are put in because people perceived need for that in meeting coding requirements, can be removed.

The two areas we wanted to talk about today. One was, we came up with an idea that seemingly could help both the accuracy and the reader's ability to find out what's changed or what's new and to look for potential fraud and abuse by using sort of what's known in Microsoft Word as "track changes." So if you could – if the reader, this is mainly to benefit the reader, if the reader could understand what information was created new, it could be something that was brought forward or copy/pasted, but then changed, to be able to quickly find out what the changed information is, and to know what was copied or used as part of a template, would be informative for the reader and help the reader to find important information and also really to give some level of confidence to the rest of the other information in that...text. So, to be clear, the way it would appear...the way the clinical documentation would appear to the reader now, in this new world, would look exactly the way it does now, in the sense that it would be a clean copy. Similarly, while it would be transmitted to another organization, would be this "clean copy." The additional functionality we'd ask for is this button or some way of activating track changes so that you could see essentially the provenance of the information in that document. So for all intents and purposes, it would appear the same in the future, in this proposal, as it does now. It would be transmitted the same, but you have the ability to look at track changes.

The second area we wanted to explore further, which came up in the hearing, is the notion of a legal medical record. And what became clear is what's contained in the entire medical record for a patient, i.e. the legal medical record that could be produced for legal proceedings, may be quite different from what was accessed in the course of some encounter, whether that encounter is an office visit or ...

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

Right, right.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

... a hospitalization. So, what are the implications for what's defined in the certification criteria for a legal medical record, if at all? That's one piece. And the second piece is: Is there value in producing what was used at the time, because those could be very different and it probably is mostly very different because there's so much information in the record that you can't possibly get through in just one encounter? So, those were the two pieces. In support of the first piece, which is the track changes proposed functionality, a number of folks provided some examples, because we wanted to say, hey, is this even possible. And those were both included in the materials to, attached to the agenda, as well as distributed in email prior. So I don't know where we want to start, but let's see, I don't have these labeled – let me go to – there's one that had orange bar, I think was in the title and I think that might have been the last one. Oh, there we go.

Okay, so that's an example of saying, hey, something in this sentence following this orange bar was changed, and that's sort of a standard markup way of indicating. So that's an example. There was another one, I do remember, it was supplied by George, I don't know what it's marked, but it had the track changes essentially, well just put up another one and we'll lo – yeah, okay. So let's look at this one – yeah, this is the one from George. So you can see that in this particular note, instead of...somebody corrected the – what was previously the right diaphragm and corrected to the left diaphragm, which is of course very important. But you can see one that somebody did this, so you can presume that it was possible somebody acted on the one saying right diaphragm. And so that just gives you a bit of provenance, presumably there's a way, or maybe there's a functionality we'd want to specify that you can drill down like you do in a track changes and say, oh, who made that change and at what time, and then you could figure out who might have acted on it, etcetera. So, that's another example.

Why don't you put up another attachment, please? So here it's clear. This was a final report, the document has been updated and you can see...in the following way. So, Heather Owen on July 28th at this time added cough and so on. So this is more examples of things like track changes. And I want to put up another example please/

Rebecca Armendariz – Altarum Institute

I think – this is Rebecca from Altarum, I think those are the only three examples I have.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay. There was one more, but anyway ...

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

Yeah, I sent one in, too.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Yeah.

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

It was a carry forward where you could drill down, like you carry forward...

Rebecca Armendariz – Altarum Institute

Here we go.

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

... and it's just linked and then you can drill down to what that...where the source was, again, it's that same kind of concept.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay.

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

So I think there's a lot of functionality, this carry forward concept.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Yeah. So, I mean one of the things we've proved then is, one, in commercial systems, some of the stuff already exists ...

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

Yeah.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

... and so that rather answered our question, which was feasibility. So, it does exist, obviously what's behind this, in terms of the metadata that supports this kind of markup is...exists in the system and is stored. So I wonder if people are comfortable – so, let me get reactions and the question is, are people comfortable moving towards this as a recommendation that we might make to the Policy Committee? That is, this kind of provenance, this track changes kind of functionality.

Marc Probst – Vice President & Chief Information Officer, Intermountain Healthcare

Paul, this is Marc. I'm comfortable. The way you explained it at the beginning and just clarification for me, all readers would have this capability, right, to me as just the consumer. If I got that record, I could still see track changes, right?

W

Um hmm.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Correct.

Marc Probst – Vice President & Chief Information Officer, Intermountain Healthcare

Okay. A great recommendation.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

I think this could be fairly dramatic in terms of both improving the information content and the question of fraud and abuse.

Donald W. Rucker, MD, MS, MBA – Siemens Corporation – Vice President and Chief Medical Officer

I think ...

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

Paul again – oh, go ahead Don.

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

I think it's going to be – I think that the devil is in the details here, right, because it's sort of that somebody implemented in one way for one system, sort of there's lots of ways the text come in, whether it's typing or templates. I mean, what would you do, let's say you have a template and you pick something and then you said, oops, I picked the right and I meant the left and immediately sort of went back and changed it within a minute or 30 seconds, would that show up? You know, you misspelled something and you sort of went back and did it – I think there's – I would definitely – this is a very, very deep technical issue with lots and lots of sort of things involved in it. I would – this is something that I think needs some kind of further public comment or prototyping or something before it becomes broad public policy.

I just, I think, I mean, clearly there are examples of this, I guess, and we certainly all know track changes, but when you think about it in healthcare, I'm just not sure that we've gotten the whole complexity of this and I have a sneaking suspicion that what's going to happen is ... I think it also has to be analyzed just from usability, because you can put in – if you search has to wide net on changes, you're going to have a lot of stuff to sort of look at, and it may even slow the systems down, the computational issues with that. And I wonder about things like, for example, predictive typing, right? So, I mean if you're on your iPhone and you type something, it gives you another suggestion and you click "yes" or "no," it's sort of a slippery slope. I just don't know how we define that, I'm just sort of concerned that it may be a lot more complex than we think it is ... my thoughts.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

So let me respond, just one, in two ways. One is the process and two is to answer some of your specific questions, just give some possible answers. So one, from a process point of view, we're at the stage where we want to have this workgroup, I mean this subgroup make a recommendation that goes up to the Policy Committee. And the Policy Committee can decide, hey, this doesn't make any sense. If it were approved, then it would go over to standards to have Standards Committee render some of the – it's opinion a lot on some of the details that you described. So, we're in the figuring out whether this is good policy to recommend to address some of the concerns that have been raised about clinical documentation.

The second answer to your quest – I mean, one opinion in terms of the question you raised, is well when do you – the predictive spelling, when do you consider something changed. I would probably do something similar to version control. So in many EHRs there's almost a commit, in our terms it's accept, there's some kind of commit function where you're saying, this is – I am completed with this note. It's at that time when – it's like amendments and no further changes will be made, all changes would be notable. So, once I have copy pasted and I've changed at the moment I commit, then all the changes I made would not show up to the next reader as, in a different color with my annotations. So, I mean, I'm just trying to address, give an overview of how – we didn't mean to attach every little chan – everything that's made in the formative process, but looking from one version to another in a sense.

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

But wouldn't the commit have every microscopic change? Right, I mean if you have – on track changes, I think that's the challenge in track changes is that if you backspace one and re-space forward or just do some little thing, all of those show up as – even with Microsoft where they control the entire environment from the operating system entirely through the app, even there there's a ton of stuff that sort of shows up, and I think the commit thing would just commit the changes. Unless you're saying – which I don't think would get at the fraud issue, the cut and paste issue, because if it's sort of at the commit stage, then I think you don't, that wouldn't catch the whole – I copied the entire history and physical exam.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

No, it – so, the thought is, when you copy pasted, that would show up, let's say, I'll just make it example color, in red. And then if you changed anything, that shows up in blue, the changes you made, but the note would – the part that you copied and pasted would show up in red, if I push this button. Again, the native view looks entirely like it does now, so we have not disturbed workflow, we have not disturbed how it might look to a recipient of this information, but in your native system, you can click a button and have track changes turned on.

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

So would you propose then, because if you're going to sort of say that, I believe technically that's equivalent to saying that you're going to highlight everything that was chosen from a template versus manually typed in, right? Because how is a system going to know the difference necessarily between a cut and paste and a template or something like that?

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

The answer is yes. So it would be transparent, when you push this button that this came from a template. And if you meant for it to come from a template, which you do, and that – then that's totally fine, all its doing is making that transparent to the reader. And that's accepted practice, of course.

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

Yeah.

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

Umm, yeah, I mean that's a huge – if you're going to sort of say you're doing that on templates, I think that sort of has a lot of unintended consequences and that everybody who's trying to do templates for quality measures and all that stuff.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Well nobody would be – everybody would be doing that deliberately and all it is saying it's transparent.

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

Yeah – I mean, if the process is as you describe, I guess we could sort of let somebody else sort of address the problem, but I just, it seems to be quite a complex issue in terms of provenance of text in these modern systems, so I think ...

Joan Ash, PhD, MLS, MS, MBA – Oregon Health & Science University School of Medicine – Professor and Vice Chair, Department of Medical Informatics and Clinical Epidemiology

So this is Joa – excuse me, this is Joan and I thought I'd jump in here and just express the fact that I'm really in favor of this, and in fact, the way it's worded here, it's quite open-ended. It seems like vendors could interpret it many different ways and they could even compete with one another to see how they could address this in the best way possible. It seems like it gets the job done that the users need to have done and at the same time it's open-ended enough so that it can be interpreted differently.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Thanks Joan.

Larry Wolf – Kindred Healthcare – Senior Consulting Architect

This is Larry. I wanted to support some of what Joan and Paul have been saying. What I like about the way this wound up being worded is it really is intending to be pretty broad in the ways in which it could be done. Some of the examples that we looked at, they're all very different and I think we want to embrace that diversity of approaches and really see this as the challenge here is how do you communicate – how do you improve the communication value of the information that's in the record? And one way we think you can do – that it can be done is with this notion of showing some of the provenance of the data. So it could be some of this came from template and some of this was edits to the template or some of this was prior information that subsequently has been updated, and we've seen a variety of ways those can be presented. I think this is part of a challenge that we've got really broadly of, and number 5 talks about this is well, is how do you better present the information that's in the record? So, I think the kind of some acknowledgement of this is not necessarily easy, and that getting the details right is going to be really important to it being useable and effective, but nonetheless, this feels like an area where we actually have seen suggestions of how to make things better.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Thank you.

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

This is Charlene. One of the – just in terms of clarification, again current practice, at least within our system, is more if it's not necessarily derived, I mean this is ... get variation from a template, it's more if it's derived from an external source and imported and/or certainly we've got capability in terms of indicating a change. But again, that's one vector to think about because again, it's the depth and scope. And then the other piece is how inclusive, clinical documentation we've talked about that, it's broadly defined, are we talking about simply clinical note or are we talking all kinds of documentation? So that's a whole other aspect in terms of planning care and that type of thing. So, if it's – that would be the other factor that I think would come up in the conversation.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Thank you. Deven – go ahead.

Donald W. Rucker, MD, MS, MBA – Siemens Corporation – Vice President and Chief Medical Officer

I don't know. The other concern I have is that when you think, a lot of times there are a lot of people involved in these notes, the triage nurse or the intake nurse, the clerk putting in the patient's later blood pressure, we're going to have a lot of sort of notations on data fields. It's going to be a very busy – I think it's going to be a very busy note and I don't believe you can just do it with color. You know, the track changes is okay, because most people are rarely going over one or two colors, but in clinical notes, you're not going to have to be able – you're not going to be able to do it with colors, so you're going to have to do it with sort of paragraphing or text annotations or both.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Deven, I wonder if you have a legal perspective on this?

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Well, I mean I definitely – this arguably falls at least partly in the category of sort of documentation in a record that will help a health care provider create and maintain the legal medical record, which are sort of the pieces that prove for – in a circumstance where questions are raised about the care that was delivered, whether it's fraud and abuse context or a legal malpractice context or even maybe in some circumstances in terms of payment, that there is some way of tracking what was accessed when the patient was treated, what changes were documented in the record, who entered those comments, on what occasion and the sort of capability to be able to access track changes, even if they're not always all visible, seems to me like it's going to be pretty critical.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay. Anybody else want to make a comment on this?

Paul Egerman – Businessman/Software Entrepreneur

Yes. This is the other Paul.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Oh, thank you Paul.

Paul Egerman – Businessman/Software Entrepreneur

I have a question; I'm a little confused, is this operational in any EHR system, the sort of track changes capability?

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

Um hmm. Yeah.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Yes.

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

In some, not across the board. I – this is Charlene – I didn't go and ask because it gets a little tricky for me to ask all the competitors if we do this or not, but within some systems it's there today, but we don't know how pervasive it is, so that's a good question.

Paul Egerman – Businessman/Software Entrepreneur

Because I've also seen variations – it's very simple, which is the text, once it's entered, it's like – close, you're not allowed to change it, and then if you want to make a change, you simply post it as an amendment, so if there's a note and somebody writes another note saying well, what they just said above isn't quite right and here's why, and so that's another way of doing it. The technology is a lot simpler and you don't have these issues of multiple colors and a lot of this in text, and there are a lot of legal analogies in the way contracts used to be written. You know, you'd write a contract and there'd be like three pages of amendments rather than try to change the text in the body.

Donald W. Rucker, MD, MS, MBA – Siemens Corporation – Vice President and Chief Medical Officer

I would say that's more of a version change really than a track change, right, fundamentally – different versions rather than track changes – that I think happens informally now.

Paul Egerman – Businessman/Software Entrepreneur

It's another vehicle to do the same thing though ...

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

Right.

Paul Egerman – Businessman/Software Entrepreneur

... it gives you a complete legal ...

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

Yeah, I would.

Paul Egerman – Businessman/Software Entrepreneur

... track record of everything that happens. It's perhaps not as elegant, but in some settings, it possibly could work, right, because ...

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

Right.

Paul Egerman – Businessman/Software Entrepreneur

... it's just another vehicle in a lot of settings, the – doesn't go into the record until it has been reviewed and approved by the physician who dictated it, if there's a dictation, once it's approved, it gets like cast in stone, it's – reason to make a change, usually that's done as an amendment.

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

But I think the question here is whether the changes like copy and paste and template use are things that are used to generate the original note or whether there's an update. Those are two, I think, very separate things technically certainly and legally actually probably as well, I think there's some confusion about what is ... which is what here.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Yeah Paul, so I think you're describing the common approach to amendments, which is taking a body of text and then altering it. I think Don summarized it correctly, we're talking about the formative process of creating the thing that becomes the final version and we're identifying and making transparent the provenance of the text.

Arthur Davidson, MD, MSPH – Director – Denver Public Health Department

Paul, this is Art. I have a comment.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Yes sir. Yup, please.

Arthur Davidson, MD, MSPH – Director – Denver Public Health Department

I think I really like the idea and agree that this concept of track changes makes a lot of sense. But I hear inside of Don's comments a little bit of concern, and I'm trying to imagine how this works. So currently when I work on a document that someone sent to me, it attributes my name to the changes that I make. But if I copy and paste something from another document into that, it attributes my name to that copy and paste. It doesn't – if that document was from a prior visit or from a radiology report, does it carry the provenance of the source of the copy and paste, or just attribute it back to me?

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

That's a good question. I think the intent, and I believe this is the way it works in Microsoft, so if you move a paragraph from page 1 to page 3, a paragraph that Art wrote on page 1 and move it to page 3. That actually shows up as a track change, which I think would fit the criteria we want to preserve as well, which is, copying something in a different context and placing it here isn't a true copy paste it is an insertion of prior material, and that's what we want to make known to the reader.

Donald W. Rucker, MD, MS, MBA – Siemens Corporation – Vice President and Chief Medical Officer

So, but implicit in that is an assumption that you're not allowing anything to come in to the note from any other app, right, so you're not using the operating system. So, things like speech recognition that's not embedded in the app, the clipboard that's an operating system concept, you know operating system typing buffers like in the Apple app environment. If you lock all of those things out of the application to provide that control, you can do that, but that's a huge, huge usability hit that I'm not – I think you'd have to – I mean I guess you could somehow say it went to the – made an operating system call and then somebody could do some audit trail and figure out well, if it went to the operating system from this, what file did it go from. But, you're cutting out a lot of modern sort of electronic functionality, I think, by assuming it's all sitting in the application. Because these things are fundamentally in part, not track changes in Word, but the kind of stuff that people are doing in other systems these days are operating system functions.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

So Don, let's try to – let's let the Standards Committee work on some of the finer details, the technical details on this.

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

Okay.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

And see if we can hit the policy part, at this point anyway.

Donald W. Rucker, MD, MS, MBA – Vice President and Chief Medical Officer, Siemens Corporation

All right.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

I think we've heard from everybody. Is the group ready to move this forward to the Policy Committee?

Marc Probst – Intermountain Healthcare – Vice President & Chief Information Officer

Yes.

Joan Ash, PhD, MLS, MS, MBA – Oregon Health & Science University School of Medicine – Professor and Vice Chair, Department of Medical Informatics and Clinical Epidemiology
Yes.

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs
Yeah.

M
Yeah.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director
Yup.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay. Thank you. Okay, let's move on to the legal record. One action we can take certainly is to ask the Standards Committee first is there already a certification requirement or actually – do we know Michelle if there already is a certification requirement for a push the button and a legal medical record pops out?

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director
No, there's not.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director
This isn't Michelle, it's Deven.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Deven, yeah.

Michelle Consolazio Nelson – Office of the National Coordinator
Thank you Deven.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

... sweeter voice than I do. There isn't, but I don't know if you would want to frame it that way, because any response to any request for information that's needed for any particular legal basis, would likely be different, depending on the question, right? So I don't know that it makes sense, it's like presto here's the legal medical record, right. But I think rather what probably needs to happen is a directive to the Standards Committee that's maybe a little bit more general in nature that asks them to look at what standards may be needed to ensure that certified EHR technology can help providers create and maintain a legal, a medical record, a legal medical record. Or a medical record that's helpful for legal business and disclosure purposes was the term used by AHIMA, but I'm not sure exactly what they mean by disclosure as distinct from legal and business purposes.

But, so, it's, we may need to just sort of shoot more broadly, but give a clear directive to the Standards Committee, because there certainly are certification criteria around data integrity, and certification criteria around audit trails. But, what we heard from the testimony from the hearing is that it's not going to be sufficient to enable the production of materials that a provider might need to produce in order to provide legally acceptable documentation about the care that was provided, about the data that was relied on to deliver the care, etcetera. And again, I think that this "track changes" discussion that we just had is relevant to a bigger subset of changes that the Standards Committee, I think, is the right body to look at, and from a policy matter, it seems to me that we just need to tell them that this is something that is important for them to focus on.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

So again, it would be asking the Standards Committee to investigate current certification standards and develop any additional standards that are needed to help an organization create and maintain a sound health record for legal and business purposes. So.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay. Any amendments to that from the group? Okay, and the related question is, is there any further guidance needed regarding the record that was used to make decisions on a particular encounter?

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Meaning?

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Meaning – okay, so the context was when Chad brought up this legal case and the plaintiff's attorney says, hey, here's what was available during that encounter and why did you make decisions? And the defense says, that's not what I saw.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Right.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

... so sort of to answer that question.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Right.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

We've never said anything about that, that's more than just a legal issue, it's sort of like, is there – should there be some representation available to say what was viewed?

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

What was viewed, what was accessed?

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Yeah.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Yeah, what – so, I actually think that that's just a single instance of probably a lot of other examples of where records are needed – records where the data quality and integrity is high, are needed for a particular purpose. But in terms of illustrating by example, it seems like it would be good to include that. And that is exactly what we heard, right?

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Yeah. To include that as one of the challenges.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Yeah.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Needed to address with your question about standards in support of ...

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Right. That's right, for example we heard of a circumstance where – I mean, just in terms of sort of fleshing out what we mean by this particular set of ...

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

... issues, right? Because I think people don't necessarily understand what's meant by the concept of the legal medical record, right?

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Right. Okay.

Larry Wolf – Senior Consulting Architect – Kindred Healthcare

And I guess to support that – this is Larry – to support that, there are some very practical things, you gave the oversimplified example earlier, push a button app that's the legal medical record.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Yeah.

Larry Wolf – Senior Consulting Architect – Kindred Healthcare

Well, on the other extreme, I've seen systems that, I don't want to overly identify them in any way, but that really didn't have a good way to even print the entire thing.

Deven McGraw, JD, MPH – Center for Democracy & Technology – Director

Um hmm. Right.

Larry Wolf – Senior Consulting Architect – Kindred Healthcare

And so we have on the one hand – well, I didn't look at the whole thing, well that's true, but I should at least be able to print out everything that could have been looked at at the time, this is sort of the state of the world.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Um hmm.

Larry Wolf – Senior Consulting Architect – Kindred Healthcare

And all of our discussions about track changes in some ways apply to this as well. The conventions of is this just an audit log, is this a – is it giving me snapshots or what dynamic things look like over time or just updates and I have to figure out, what was the current order list? Well, I don't know, I can see when the orders were written, I can see when they were discontinued, but I don't see them assembled together. So, I think it's a pretty rich area to be explored and I think Deven's comments about for what purpose is this record being produced? It's probably not as simple as just, give me the authoritative version, because it isn't as simple as that.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay.

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

And this is Charlene. I would agree with Deven because, or agree with the comments that were made because in the context of, and I think it's really hard, what was the current context of the decision making, it's an area to be explored because that's a really – you capture it, but to reproduce that at that moment in time is – would be a challenge, I think, for the industry right now.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay. Any further comments on this point? All right. I think we may have accomplished our goals for this call. Michelle, have we ...?

Michelle Consolazio Nelson – Office of the National Coordinator

I think we're done.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay. So we are moving forward on the "track change" recommendation for the Policy Committee to react to. If they do approve it, we would move it on to Standards Committee and delve into some of the details. And we are moving forward with our request to HIT Standards Committee about the standards needed for certified EHR technology to produce a legal medical record – legal medical record contents fitting for the purpose of the inquiry. Okay and we can give the example of this what was accessed during the encounter to make decisions.

Charlene Underwood – Siemens Medical – Director, Government & Industry Affairs

Um hmm.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Any further discussion about this? I think this was one, a very meaty topic and two a very informative hearing. And that I think we have some concrete recommendations that can move the value of clinical documentation forward and address, as was pointed out, one for this hearing, which was dealing which was dealing with the potential for fraud and abuse in using EHRs. And I think we have sort of an elegant recommendation that both addresses that risk as well as potentially can improve the value of the information that is in there. Any last words before we go to public comment? Okay, why don't we open it up please?

Public Comment

MacKenzie Robertson – Office of the National Coordinator

Operator, can you please open the lines for public comment.

Rebecca Armendariz – Altarum Institute

If you would like to make a public comment and you are listening via your computer speakers, please dial 1-877-705-2976 and press *1. Or if you are listening via your telephone, you may press *1 at this time to be entered into the queue. We have no public comment at this time.

Paul Tang, MD, MS – Palo Alto Medical Foundation – Vice President, Chief Innovation and Technology Officer

Okay, well thank you everyone and we will see some of you next week.

MacKenzie Robertson – Office of the National Coordinator

Thanks everybody.