



The Office of the National Coordinator for  
Health Information Technology  
Health IT Advisory Committee

## Trusted Exchange Framework Task Force

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Arien Malec, co-chair  
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March 2, 2018



# Charge

- **Overarching charge:** The Trusted Exchange Framework Taskforce will develop and advance recommendations on Parts A and B of the Draft Trusted Exchange Framework to inform development of the final Trusted Exchange Framework and Common Agreement (TEFCA).
- **Detailed charge:** Make specific recommendations on the language included in the Minimum Required Terms and Conditions in Part B, including—
  - » **Recognized Coordinating Entity:** Are there particular eligibility requirements for the Recognized Coordinating Entity (RCE) that ONC should consider when developing the Cooperative Agreement?
  - » **Definition and Requirements of Qualified HINs:** Recommendations for further clarifying the eligibility requirements for Qualified HINs outlined in Part B.
  - » **Permitted Uses and Disclosures:** Feedback on enhancing or clarifying the six (6) permitted purposes and three (3) use cases identified in Part B.
  - » **Privacy/ Security:** Are there standards or technical requirements that ONC should specify for identity proofing and authentication, particularly of individuals?

# Discussion Questions

- What enhancements or clarifications do you recommend for the permitted purposes?
  - » Individual Access
  - » Public Health
  - » Benefits Determination (non-healthcare benefits)
  - » Any comments on Treatment, Payment, Healthcare Operations
- What enhancements or clarifications do you recommend for the uses cases?
  - » Population-Level Data
  - » Broadcast and Directed Queries
- What enhancements or clarifications do you recommend for the data reciprocity, aggregation, and future uses requirements being placed on QHINs?
- What enhancements or clarifications do you recommend for the participant and end user obligations?

# Permitted Purposes: Individual Access

- **Definition of Individual:** Includes the following: an individual as defined by 45 C.F.R. § 160.103, as amended; any other person who is the subject of the electronic health information being accessed, exchanged, or used; a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g), as amended; a person who is a legal representative of and can make health care decisions on behalf of an individual described in this definition; or an executor, administrator or other person having authority to act on behalf of a deceased individual or the individual's estate under State or other law.
- **Definition of Individual Access:**
  1. With respect to the Permitted Purposes definition, an individual's right to access and obtain a copy of ePHI pursuant to all Applicable Law including, without limitation, 45 C.F.R. §164.524 which sets forth the right of an individual to direct that a copy of ePHI in one or more designated record sets be transmitted to another person designated by the individual. Individual includes a personal representative of the individual in question to the extent permitted under Applicable Law.
  2. With respect to a Query/Pull for Individual Access, the response shall be provided as required by these terms and conditions regardless of whether it was initiated for the individual by a consumer or patient-facing application or product selected by the individual that complies with all appropriate privacy and security requirements of this agreement

# Permitted Purposes: Individual Access, continued

- **6.1.1 Individual Access:** Each Qualified HIN agrees and acknowledges that individuals have a right to access, share and receive their available ePHI in accordance with the HIPAA Rules, section 4006(b) of the 21st Century Cures Act, and the terms and conditions of the Common Agreement. Each Qualified HIN agrees and acknowledges that individuals have a right to direct a HIPAA Covered Entity to transmit a copy of ePHI in a designated record set to any third parties designated by the individual in accordance with Applicable Law. Similarly, each Qualified HIN agrees and acknowledges that individuals have a right to direct a Participant or End User to transmit a copy of EHI to any third parties designated by the individual in accordance with Applicable Law.
- **7.1 Obligation to Respond to Queries/Pulls:** Each Qualified HIN shall respond to all Queries/Pulls by providing all of the EHI in the data classes in the then Current USCDI when and to the extent available, requested and permitted by Applicable Law for the Permitted Purpose of Individual Access, provided that the requesting Qualified HIN has adhered to the privacy and security requirements outlined in Section 6. Notwithstanding the foregoing, a Qualified HIN shall not be required to include individuals as Participants or End Users.
- **7.2 Individual Requests for No Data Exchange:** Each Qualified HIN shall provide a method for individuals who do not wish to have their EHI exchanged and post instructions on its public website for both recording and communicating such requests to the Qualified HIN at no charge to the individuals. Each Qualified HIN shall process all requests from individuals or from Participants on behalf of individuals in a timely manner and ensure that such requests are honored by all other Qualified HINs on a prospective basis. As a HIPAA Business Associate, the Qualified HIN must also enable a Covered Entity to process the request consistent with the right of an individual to request restriction of Uses and Disclosures.

# Permitted Purposes: Public Health

- **Definition of Public Health:** with respect to the definition of Permitted Purposes, a use or disclosure permitted under the HIPAA Rules and any other Applicable Law for public health activities and purposes, including, without limitation, 45 C.F.R. §164.512(b) and 45 C.F.R. §164.514(e) of the HIPAA Rules.

# Permitted Purposes: Benefits Determination

- **Definition of Benefits Determination:** a determination made by any federal or state agency that an individual qualifies for federal or state benefits for any purpose other than healthcare (for example, Social Security disability benefits).

# More Permitted Purposes

- Any comments/recommendations on Treatment, Payment, Healthcare Operations



# Use Cases: Population-Level Data

- **Definition of Population Level:** a type of exchange of EHI of multiple individuals in a single transaction, sometimes referred to as a bulk transfer.
- **8.1 Population Level Data**
  - » 8.1.1 Query/Pull: Within twelve (12) months of the standard referenced in 3.1.5 being formally adopted by HL7, the Qualified HIN's Broker shall be able to exchange EHI regarding as many individuals as satisfy the search parameters or are otherwise specified by any requesting Qualified HIN in response to a single Query/Pull.
  - » 8.1.2 A Qualified HIN may limit responses to Population Level EHI Queries/Pulls to specific time periods to minimize system disruption due to a lack of bandwidth provided that such limitations are reasonable and do not extend for more than a twenty-four (24) hour period.
  - » 8.1.3 Each Qualified HIN must support Population Level EHI Queries/Pulls as described above for all of the Permitted Purposes in accordance with Applicable Law.

# Use Cases: Broadcast & Directed Queries

- **Definition of Broadcast Query:** an electronic method of requesting EHI (sometimes referred to as a “pull”) that asks all Qualified HINs and their Participants and End Users if they have EHI of an individual or set of individuals rather than asking specific Qualified HINs and their Participants and End Users if they have EHI of an individual or a set of individuals.
- **Definition of Directed Query:** an electronic method of requesting EHI (sometimes referred to as a pull) that asks only specific Participants and/or End Users if they have EHI on an individual or set of individuals.
- **5.4 Broadcast and Directed Queries:** Except as required by the HIPAA Rules or other Applicable Law, no Qualified HIN shall enter into any agreement other than the Common Agreement with another Qualified HIN who has also adopted the Common Agreement with respect to any Broadcast Query or Directed Query with respect to any of the Permitted Purposes.

## What enhancements or clarifications do you recommend for the data reciprocity, aggregation, and future uses requirements being placed on QHINs?

- **5.1 Permitted Purposes and EHI Reciprocity:** To the extent permitted by Applicable Law, each Qualified HIN shall support all of the Permitted Purposes by providing, upon request, all of the EHI in the then current USCDI to the extent the EHI is available.
- **2.1 No Limitations on EHI Aggregation:** A Qualified HIN shall not limit the aggregation of EHI that is exchanged among Participants, provided that any such EHI aggregation is in support of the Permitted Purposes and in accordance with all Applicable Law.
- **2.2 Permitted and Future Uses of EHI:** Once EHI is shared with another Qualified HIN, the receiving Qualified HIN may exchange, retain, Use and Disclose such EHI only to perform functions in connection with the Permitted Purposes in accordance with the Common Agreement and the Qualified HIN's Participant Agreements or as otherwise permitted by Applicable Law.

# What enhancements or clarifications do you recommend for the participant and end user obligations?

- **9.1.1 Permitted Purposes:** Each Participant shall support all of the Permitted Purposes by providing all of the data classes in the then current USCDI when and to the extent available when requested and permitted by Applicable Law. Each Participant shall respond to Queries/Pulls for the Permitted Purposes.
- **10.1.1 Permitted Purposes:** Each End User shall support all of the Permitted Purposes by providing all of the data classes of the then current USCDI to the extent available when requested and permitted by Applicable Law. Each End User shall respond to Queries/Pulls for the Permitted Purposes.

# Homework- Privacy/Security

- Definitions
  - » Electronic Health Information (EHI) (Page 25)
- All of Section 6- Privacy, Security, and Patient Safety (Pages 36-43)
- Participant Obligations (Sections 9.1.4, 9.1.5, 9.1.6, & 9.1.7, page 45)
- End-User Obligations (Sections 10.1.3, 10.1.4, & 10.1.5, page 47)

# Workplan

Meeting Date	Discussion Items
February 20 <sup>th</sup> , 2-3pm ET	Welcome, review of TECCA, and review of Task Force project plan
February 23 <sup>rd</sup> , 1-2pm ET	Recognized Coordinating Entity (RCE) eligibility requirements
February 26 <sup>th</sup> , 2-3pm ET	Qualified HIN definition and eligibility requirements
March 2 <sup>nd</sup> , 2-3pm ET	Permitted Uses and Disclosures
March 5 <sup>th</sup> , 2-3pm ET	Privacy/Security Begin drafting recommendations
March 9th	NO MEETING- Continue drafting recommendations
March 12 <sup>th</sup> , 2-3pm ET	Review draft recommendations
March 16 <sup>th</sup> , 2-3pm ET	Finalize recommendations
March 19 <sup>th</sup> , 2-3pm ET	Send final recommendation to full committee for review
March 21 <sup>st</sup> , 2-3pm ET	Present recommendations to full committee



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