Meeting Notes
Health Information Technology Advisory Committee
Information Blocking Task Force
Workgroup 1: Relevant Statutory Terms and Provisions
March 27, 2019, 12:00 p.m. – 2:00 p.m. ET
Virtual

The March 27, 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 12:00 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

Michael Adcock, Co-Chair, Individual
Cynthia Fisher, Member, WaterRev, LL
John Kansky, Member, Indiana Health Information Exchange
Sheryl Turney, Member, Anthem

MEMBERS NOT IN ATTENDANCE

Andrew Truscott, Co-Chair, Accenture
Denni McColm, Member, Citizens Memorial Healthcare

ONC STAFF

Mark Knee, ONC Staff Lead
Morris Landau, ONC SME
Lauren Richie, Branch Chief, Coordination, Designated Federal Officer
Lauren Wu, SME

Lauren Richie turned the meeting over to Mark Knee.

Health information networks/exchanges

Mark Knee led the review of the following regulatory text, as Andy Truscott was not able to join and Michael Adcock was running late.

REGULATORY TEXT RECOMMENDATION
Electronic Health Information (EHI) means—
(1) Electronic protected health information (as defined in HIPAA); and

(2) Any other information that identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual and is transmitted by or maintained in electronic media, as defined in 45 CFR 160.103, 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 shared thoughts from Andy Truscott who thought the group should discuss audit trails. Andy thought there might be something to include about who has access to data.

- **Sheryl Turney** noted that simpler is better, in regards to provenance. What needs to be focused on is the ability to share data and have a good record of where the data came from.
- **Cynthia Fisher** commented on the importance of empowering the patient by providing consumer-driven care.
- **John Kansky** commented that he prefers not to add anything more into the definition.
- **Cynthia Fisher** suggested putting the audit information into the preamble.
- **Sheryl Turney** expressed concern, as this will be difficult for payers and others to provide this information.

John Kansky thought he was in the minority in trying to simplify the definition. Others were concerned with narrowing the definition. He commented that he wants the definition to be something that is easy for everyone to understand.

There was a discussion about "or as derived from identifiable data" and the group came to consensus on taking it out.

John Kansky commented that he would like to remove "or with respect to which there is a reasonable basis to believe the information can be used to identify the individual," he understood that the other members did not agree with him.

- **Sheryl Turney** noted she thought it was necessary to keep this in.

Cynthia Fisher asked for the following note to be added to the shared document: There is a use case where patients should not be blocked from accessing analytics that compares identifiable data against broader population base, and we do not want to exclude relevant portions of EHR.

There was discussion around whether the change from "can" to "could" made a material difference, but ultimately it was decided that the change was not worthwhile and was removed as a proposed addition.
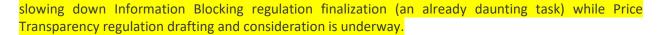
Electronic health information, including the price information request for information

The following was drafted in the shared Google document and reviewed by Mark Knee with the group.

The workgroup profoundly agrees that Price Transparency is a desirable goal that is achievable. We further believe that policy levers are required to move the healthcare ecosystem in that direction given the nature of reimbursement. We believe that tying together Information Blocking regulations too tightly with the regulations required to promote Price Transparency may have the unintended consequence of

==slowing down Information Blocking regulation finalization (an already daunting task) while Price Transparency regulation drafting and consideration is underway.==

The definition of Electronic Health Information encapsulated within the draft regulations includes clear reference to "...or the past, present, or future payment(s) for the provision of health care to an individual.". This ensures that the right information is being exchanged for Price Transparency Regulations could be built upon a solid interactive base.

To this end, we recommend that ONC instantiates through HITAC a Task Force under SEC.3002.b.D specifically charged with producing recommendations for Regulations specifically to address improving price transparency across the healthcare ecosystem.

Discussion

Cynthia Fisher disagrees with the highlighted sentence above.

Mark Knee suggested that the chairs reach out to the members to solicit additional language to be inputted into the shared Google document.

Michael Adcock committed to sending out homework to the members. He commented that this eases discussion.

Mark Knee suggested close of business on Monday for all comments from members to be submitted around price transparency.

Health Information Exchange/Health Information Network

John Kansky pointed the group to the language below that that Andy Truscott added in the shared document.

We recognize that there are multiple uses of the terms "HIE" and "HIN" in use across healthcare. Having them overlap within the regulations, it likely to cause a degree of confusion. If we tie these to HIE being a process, which can be undertaken by a HIN, or a Provider, using software and/or services created by a HIT Developer then we should provide a level of clarity. Removing the word "exchange" from the definition of "Exchange" should assist too.

Mark Knee noted that this could be problematic because these are recognized as two different groups of actors by Congress in 21st Century Cures.

Lauren Richie opened the lines for public comment.

Public Comment

There was no public comment.

Comments in the Public Chat

Sheryl Turney: got disconnected will be dialing back in

Sheryl Turney: I agree with the Michael and I have to drop. Sorry.

Next Steps and Adjourn

Michael Adcock asked members to provide their feedback into the shared document in preparation for future meetings.

The next meeting is scheduled for Thursday, March 28 at 1:00 p.m. ET.

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