Meeting Notes
Health Information Technology Advisory Committee
Trusted Exchange Framework and Common Agreement
(TEFCA) Task Force
June 13, 2019, 12:00 p.m. – 1:30 p.m. ET
Virtual

Executive Summary

Task force members continued their review of recommendations slated for inclusion within the TEFCA Task Force transmittal letter to the Health Information Technology Advisory Committee (HITAC). Proposed enhancements to recommendations 7A, 7B, 8, 9, 10, 11A, and 11B were identified and discussed. There was one public comment submitted via phone, and additional comments in the public meeting chat via Adobe.

Event Summary

12:00 p.m. **Call to Order/Roll Call**
12:05 p.m. **Review Draft Recommendations**
1:20 p.m.   **Public Comment**
1:30 p.m.   **Next Steps and Adjourn**

Roll Call

John Kansky, Co-Chair, Indiana Health Information Exchange
Noam Arzt, HLN Consulting
Laura Conn, CDC Federal Representative
Cynthia A. Fisher, WaterRev, LLC
David McCallie, Jr., Individual
Aaron Miri, The University of Texas at Austin, Dell Medical School, and UT Health Austin
Carolyn Peterson, Individual
Mark Savage, UCSF Center for Digital Health Innovation
Sasha TerMaat, Epic
Sheryl Turney, Anthem Blue Cross Blue Shield
Denise Webb, Individual

MEMBERS NOT IN ATTENDANCE
Arien Malec, Co-Chair, Change Healthcare
Steve L. Ready, Norton Healthcare
Anil Jain, IBM Watson Health
Andrew Truscott, Accenture
Grace Terrell, Envision Genomics, Inc
Mark Roche, Federal Representative, Centers for Medicare and Medicaid Services (CMS)

ONC STAFF
Zoe Barber, Staff Lead
Lauren Richie, Branch Chief, Coordination, Designated Federal Officer

Opening Remarks

Task force members were informed that edits would be made to the Draft Transmittal Letter after the meeting to create a draft that will be presented at the next HITAC meeting scheduled on June 19, 2019.

Review Draft Recommendations

Proposed enhancements to recommendations 7A, 7B, 8, 9, 10, 11A, and 11B were identified and discussed.

RECOMMENDATION 7A and 7B

The Task Force agreed to rework the recommendations after the June 13, 2019 meeting based on the sentiments expressed during the discussion.

- Task force discussions centered on the need to avoid limiting patients access to their EHI. Specifically, the task force agreed on the importance of providing patients both read and write capabilities and to ensure that patients are an empowered member of their own healthcare decisions.

RECOMMENDATION 8

The following revisions were proposed:

- Include an exception for immunization registries
- Include an exception for when Public Health Authorities are acting as a provider (as defined under the Health Insurance Portability and Accountability Act (HIPAA))
- Request that the Office of the National Coordinator for Health Information Technology (ONC) clarify the ambiguity related to whether all participants and participant members are required to respond to individual access queries

POSSIBLE RECOMMENDATIONS: 4.2 PUBLIC HEALTH

The following recommendation was proposed:

- Define reciprocity and carefully determine which organizations are excluded from reciprocity

RECOMMENDATION 9

The following revision was proposed:

- Request clarification on whether Meaningful Choice only applies to TEF-mediated exchange or whether it propagates to non-TEF exchanges.

RECOMMENDATION 10

- The discussion centered on the "all-or-nothing" aspect of Meaningful Choice and the concern that patients could unintentionally restrict all data. No conclusion to amend the recommendation was reached.

RECOMMENDATIONS 11A AND 11B

The following revisions were proposed:

- Clarify that Meaningful Choice only applies to the prospective flow of information through entities governed by their contract with TEF, and legally cannot apply to data that's already been collected.
- Combine recommendation 11A and 11B
- Change the language of the recommendation(s) in a way to convey that it is understood that the prospective use of data is constrained, but the retrospective use of data can be continually used.
- Acknowledge that it is agreed that Meaningful Choice should be revocable, as the draft states.

Task force members were instructed to send any further feedback on Recommendations 1-11 to **Zoe Barber** by the end of day Friday, June 14, 2019.

Public Comment

Mary Savikus: expressed concerns on how HIPAA standards would be managed with the new TEFCA standards. She suggested that there be some explanation on how the new TEFCA standards will interplay with existing laws.

QUESTIONS AND COMMENTS FROM THE CHAT WINDOW

Aaron Miri: John - also on my comment, Title X considerations and others must be thought of ; hence why WRITE is important from day 1

David McCallie: There are many kinds of "write" - some are easy, and some are (much) harder. A broadcast message to your providers is relatively easy to fathom. An update to your EHR data is much harder. Let the RCE stage-gate the expansions.

Aaron Miri: +1 on David comment

Denise Webb: I think this IAS exchange purpose should have a minimum bar to meet but not be limited, such as to read only and competition for patient loyalty will drive the availability of services and technology for patients.

David McCallie: I assume that the "modality" of API access would be allowed, once the RCE expands the use-case. Maybe that needs clarification?

Sasha TerMaat: I think David's point about reciprocity being a very important principle is an important one.

Mark Savage: On Public Health, we should consider other registries besides immunization registries.

Mark Savage: Will RCE, QHIN, etc. fees fall within parameters of draft information blocking regulations?

Mark Savage: From Tiger Team letter: Tiger Team Recommendation 3.3: Meaningful Consent Guidance When Trigger Applies In a circumstance where patient's consent is "triggered," such consent must be

meaningful6• Allows the individual advanced knowledge/time to make a decision. (e.g., outside of the urgent need for care.) in that it:• Is not compelled, or is not used for discriminatory purposes. (e.g., consent to participate in a centralized HIO model or a federated HIO model is not a condition of receiving necessary medical services.)• Provides full transparency and education. (I.e., the individual gets a clear explanation of the choice and its consequences, in consumer-friendly language that is conspicuous at the decision-making moment.)• Is commensurate with the circumstances. (I.e., the more sensitive, personally exposing, or inscrutable the activity, the more specific the consent mechanism. Activities that depart significantly from patient reasonable expectations require greater degree of education, time to

Zoe Barber: Thanks Mark. I have the letter and will pull from it

Sasha TerMaat: Mark, how would you not use information if it stays in the medical record (and is not deleted)?

Sheryl Turney: sorry I have another call and need to drop

Adjourn
The task force is working to present draft recommendations at the June 19, 2019 HITAC meeting.

The meeting was adjourned at 1:30 p.m. ET