June 17, 2019

Donald Rucker, M.D.
National Coordinator for Health Information Technology
Office of the National Coordinator for Health Information Technology
U.S. Department of Health & Human Services
Mary E Switzer Building, M/S 7033A
330 C Street, SW
Washington, DC 20201

RE: TEFCA Draft 2

Dear Dr. Rucker,

We thank the Office of the National Coordinator (ONC) for the opportunity to comment on the second draft of the Trusted Exchange Framework and Common Agreement (TEFCA Draft 2).

Netsmart is the technology partner -- and bridge to the rest of healthcare -- for human services and post-acute provider organizations nationwide. We provide electronic health records (EHRs), health information exchange and other solutions for mental health, addiction treatment, child welfare, developmental disabilities, home care, hospice, palliative care, skilled nursing, assisted living, independent living, long-term acute care hospitals, and inpatient rehabilitation facilities. Our clients include more than 560,000 providers in 30,000 facilities that improve the quality of life for more than 25 million persons each day.

We support the ONC goal to bridge the gap between providers, patients and information systems to enable interoperability across disparate health information networks and appreciate the efforts to include the human services and post-acute providers in the interoperable continuum of care. We strongly believe it is critical to improve patient outcomes.

Overall, we support the ONC proposed TEFCA Draft 2, and have provided comments below where we believed additional clarification or consideration should be called out.

QHIN Message Delivery and definition

Netsmart agrees with the use case of push-based exchange to support care coordination because it plays a vital role in transition of care transactions. This accurately reflects that there are not only needs related to the type of provider, but also in the timing of the exchange as the patient progresses through the care continuum.

The ONC should consider both the type of exchange as well as the timing of when these exchanges occur during clinical processes. Examples of these exchanges include real-time event notifications when a patient presents to an Emergency Department, and electronic referrals sent at the time of referral and not after patient discharges.

QHIN Exchange Modalities and definition

Netsmart agrees with the implementation of network "best practices" to ensure reliability of the network and to prevent performance issues from overutilization of broadcast queries.

The ONC should also consider a limitation of queries to a geographical postal code radius and/or to a specific provider that has a known treating relationship with the patient.

QHIN Common Agreement and Exchange Purposes

Netsmart continues to be concerned with the validation or certification of third-party application access to the patient EHI. We believe these applications should be classified as a HIPAA covered entity in order to support current data sharing policies and practices with treating providers and electronic health records.

We recommend the ONC work with CMS and the Office of Civil Rights (OCR) to develop data sharing practices for third party application access to patient EHI.

We also recommend the ONC make the Additional Required Terms & Conditions (ARTCs), to be drafted by the RCE, available for public comment. Further, we recommend ONC fees associated with participating in TEFCA be waived for entities excluded from HITECH incentives in order to encourage interoperability across the spectrum of care.

EHI Disclosed outside the United States

Netsmart recommends that all EHI data sharing adhere to HIPAA policy and regulations established and governed in the United States. There are policy concerns which would require a significant investment to enable data sharing outside of the United States.

We recommend the ONC focus on ensuring privacy and security of protected health data, wherever it is stored or maintained, and ensure compliance with the respective federal and state laws.

Comments to the Appendix 1: TEF Draft 2

Netsmart recommends the ONC to align a common governance structure, or "rules of the road," from a model that is already working in Carequality. Carequality established a private/public collaboration of diverse stakeholder and common governance structure across the healthcare continuum. Implementors align to and provide commonality down to

the individual provider level to enable data sharing across a broad network-of-networks model.

Appendix 3: Qualified Health Information Network (QHIN) Technical Framework

Netsmart agrees with development of a process to standardize QHIN data exchanges and the expectation of meeting a minimum level of functionality to be considered.

We recommend the ONC require any organization wanting to serve as a QHIN certify they are capable of supporting RESTful APIs, specifically FHIR, for the transmission of data. We also recommend that the R3 specification be designated as the minimum version of FHIR needed to certify. Many organizations that would consider themselves QHINs do not currently meet this level of functionality, and this standardization will be necessary to successfully integrate information exchange as part of TEFCA.

We also recommend that ONC require FHIR implementation and USCDI as a minimum data set for QHINs. This reflects the ONC proposal outlined in the Information Blocking proposed rule in which the USCDI is the minimum standard of data classes and elements to be transacted.

Appendix 3: QHIN Query

Netsmart recognizes the work done in the industry by interoperability partners like Carequality and those who have participated in the development and implementation of this framework. We feel a disruption in continued use of an industry established standard would be a setback to the many partners who are currently participating in successful queries and exchanges. Carequality has established a private/public collaboration of diverse stakeholders and common governance structure across the healthcare continuum. Carequality partners align to and provide commonality to enable data sharing across a broad network-of-networks model.

We recommend the ONC support the use of the XCA query as undertaken by the Carequality workgroup to facilitate document exchange via FHIR. Data will need to be available to not only other providers, but also consumers who may have a need to see document types above and beyond the C-CDA. Adopting the FHIR class also supports the ONC Information Blocking proposed rule.

Appendix 3: QHIN Patient Identity Resolution

As noted above, Netsmart finds benefit in the industry work already in place by interoperability partners like Carequality and their establishment of a governance and data structure that enables data sharing across a broad network. We support the idea that a QHIN needs to have a standardized approach to implementing a Record Location service.

We recommend the ONC consider The Sequoia Project, through CareQuality, best practice standards as it has already enabled hundreds of thousands of providers to query information. Although the standard has not required Record Location Services in the past, the standards utilize the XCPD Responding Gateway actor, which can support Health Data Location.

Appendix 3 – Directory Services

Netsmart agrees with the notion of providing transparency to providers who are participating in TEFCA; however, CMS now requires providers to provide digital contact information in the National Plan & Provider Enumeration System (NPPES), which is a public directory.

We recommend ONC consider the use of the NPPES information for use in a TEFCA directory instead of developing a separate directory service.

Appendix 3 – Meaningful Choice notices

Netsmart agrees that patient privacy and consent is a major concern with both technical and legal complications. We support data sharing across the care continuum and ensuring the patient makes informed choices about where, how and with whom their EHI is shared.

There are many initiatives addressing the definition of "patient consent", what it means and how it is handled. We encourage the ONC to remain vigilant in maintaining alignment with updates to "patient consent" and address any changes as they are adopted. Further, we recommend the ONC consider the Consent Resource (FHIR Resource), as the transport for "patient consent".

Appendix 3 – Error Handling

Netsmart supports the use of standards that are currently in place and encourages the ONC to consider the type of Error Messages (FHIR Resource) that Carequality or the Direct Trust Exchange utilize today. As noted, these standards are adopted today and widely used by many providers. Additional work is needed to refine some error messages, such as the Inability to Query, No Results Displayed, User Authentication locks, Unable to Send Data, and other Patient Matching errors.

Thank you for the opportunity to comment on the TEFCA Draft 2 proposed rules. I hope the information and recommendations we provided are helpful as you move toward finalization of these important items. We are available for any further conversations as you review our concerns and recommendations.

Sincerely,

Kevin Scalia
Executive Vice President, Corporate Development
Netsmart