Meeting Notes
Health Information Technology Advisory Committee
Information Blocking Task Force
Workgroup 1: Relevant Statutory Terms and Provisions
March 7, 2019, 1:30 p.m. – 3:00 p.m. ET
Virtual

The March 7, 2019, meeting of the Information Blocking Task Force Workgroup 1 of the Health IT Advisory Committee (HITAC) was called to order at 1:30 p.m. ET by Lauren Richie, Designated Federal Officer, Office of the National Coordinator for Health IT (ONC).

Roll Call

MEMBERS IN ATTENDANCE

Andrew Truscott, Co-Chair, Accenture
Michael Adcock, Co-Chair, Individual
Cynthia Fisher, Member, WaterRev, LL
John Kansky, Member, Indiana Health Information Exchange
Denni McColm, Member, Citizens Memorial Healthcare
Sheryl Turney, Member, Anthem

ONC STAFF

Mark Knee, ONC Staff Lead
Morris Landau, ONC Back Up/ Support
Lauren Richie, Branch Chief, Coordination, Designated Federal Officer

Call to Order

Lauren Richie called the meeting to order, conducted roll call, and turned the meeting over to the co-chairs.

Andy Truscott welcomed the workgroup and began the discussion on the request for comment related to price information.

Request for Comment Regarding Price Information

- **Cynthia Fisher** initiated the discussion. She felt that the intent in 21st Century Cures (Cures) is to get at price transparency. Everyone would benefit from seeing prices, and it can be done. HITAC needs to identify how to do this and distribute it industry-wide. She understands that it could be disruptive, but it is time for there to be transparency and consumer-driven care. It is time to change the game and empower the consumer and drive costs down.

- **Denni McColm** commented that price transparency is out of scope. She felt that it dilutes the objectives. While she is for price transparency, this is not the place for it.
- **John Kansky** noted that he philosophically agrees with the ideas, but doesn't necessarily think about it as a part of information blocking.
- **Michael Adcock** shared that he is for price transparency, but felt that it is a stretch for this rule.

Implications of including price information
- **John Kansky** noted that health information exchanges tend not to deal with financial information. No financial information is shared because it dramatically impacts sharing. He would argue against broadening to include pricing.
- **Cynthia Fisher** commented that information blocking is the way to force this to happen. It holds everyone to the same set of rules.
- **Denni McColm** commented that this is out of scope and dilutes the effect of what we are trying to do which is to prevent information blocking.
- **Sheryl Turney** agrees with Denni McColm and expressed concern with conflicts with state laws.
- **John Kansky** noted that policy is a blunt instrument. Vagueness is not good and trying to broaden a blunt instrument, makes it blunter. While we want price transparency, it dilutes the attempts to achieve liquidity of healthcare information.
- **Andy Truscott** noted that he has never seen financial information included in the definition of personal health information.
- **Cynthia Fisher** shared that the patient should have access to information, per Cures.
- **John Kansky** agrees with the philosophy, but the regulation needs to be implementable. Everyone agrees that the patient should have access to their data, but the regulation requires information sharing between a lot of entities that are not the patient.
- **Cynthia Fisher** recommends that information blocking be used as a tool to deliver a competitive market place to the patient.
- **Denni McColm** shared that there currently is no way to attach price information to information shared with the next provider from a clinical perspective.
    o **Sheryl Turney** noted that this might be possible from a claim.
- **John Kansky** noted that the Health Insurance Portability and Accountability Act (HIPAA) defines what to be shared and information blocking is about sharing.
    o **Cynthia Fisher** noted that the point of HIPAA was for patients to have access to their data. It is the portability act.
- **Andy Truscott** noted there are three points of view within the workgroup currently, but would like to come back to this at a later time:
    o This is out of scope
    o Price transparency is necessary
    o This is a good act and an opportunity to engender price transparency, but not sure adding to the definition is a good way to do it

Request for Comment on Practices that May Implicate the Information Blocking Provision

Examples of types of formal restrictions that would likely implicate the information blocking provision:

- Health system's internal policies or procedures require staff to obtain an individual's written consent before sharing any of a patient's EHI with unaffiliated providers for treatment purposes even though obtaining an individual's consent is not required by state or federal law.
    - The workgroup felt this example made sense.

- A HIN's participation agreement prohibits entities that receive EHI through the HIN from transmitting that EHI to entities who are not participants of the HIN.
    - **John Kansky** noted that he would follow-up with his concerns on this.

- A health system implements locally-hosted EHR technology certified to proposed § 170.315(g)(10) (the health system acts as an API Data Provider as defined by § 170.102). As required by proposed § 170.404(b)(2), the technology developer provides the health system with the capability to automatically publish its production endpoints (i.e., the internet servers that an app must "call" and interact with in order to request and exchange patient data). The health system chooses not to enable this capability and provides the production endpoint information only to apps it specifically approves. This prevents other applications— and patients that use them—from accessing data that should be made readily accessible via standardized APIs
    - **Andy Truscott** noted that there needs to be some control.
    - **Mark Knee** shared that exceptions are acting as controls.

Lauren Richie opened the lines for public comment.

Public Comment
There was no public comment.

Next Steps and Adjourn
The next meeting will be on Wednesday, March 13 at 12:00 p.m. ET.

Lauren Richie adjourned the meeting at 2:58 p.m. ET