Information Blocking Workgroup 3

Transcript
March 14, 2019
Virtual Meeting

SPEAKERS

Name	Organization	Title
Michael Adcock	Individual	Co-Chair
Andrew Truscott	Accenture	Co-Chair
Cynthia A. Fisher	WaterRev LLC	Member
Valerie Grey	New York eHealth Collaborative	Member
Anil K. Jain	IBM Watson Health	Member
John Kansky	Indiana Health Information Exchange	Member
Steven Lane	Sutter Health	Member
Arien Malec	Change Healthcare	Member
Denni McColm	Citizens Memorial Healthcare	Member
Aaron Miri	The University of Texas at Austin, Dell Medical School and UT Health Austin	Member
Sasha TerMaat	Epic	Member
Lauren Thompson	DoD/VA Interagency Program Office	Member
Sheryl Turney	Anthem Blue Cross Blue Shield	Member
Denise Webb	Individual	Member
Lauren Richie	Office of the National Coordinator	Designated Federal Officer
Mark Knee	Office of the National Coordinator	Staff Lead
Lauren Wu	Office of the National Coordinator	SME
Penelope Hughes	Office of the National Coordinator	Back Up/ Support

Lauren Richie – Office of the National Coordinator – Designated Federal Officer
Good afternoon, everyone. Welcome to the Work Group 3, conditions and maintenance of certification
as it relates to information blocking. We're going to start right in with a quick roll call. I know Andy
Truscott is a little bit late. Michael Adcock?

Michael Adcock – Individual – Co-Chair
Here.

Lauren Richie – Office of the National Coordinator – Designated Federal Officer
Denise Webb? I think she's going to join us shortly. She's coming from another call. Sasha TerMaat?

Sasha TerMaat – Epic – Member
Here.

Lauren Richie – Office of the National Coordinator – Designated Federal Officer
Lauren Thompson? Aaron Miri? All right. Hopefully, the others will join, but why don't we go ahead
and get started, starting with revisiting some of the outstanding issues from other calls?

Michael Adcock – Individual – Co-Chair
Yeah, and if the others don't join quickly, Sasha and I will finish all this before they join.

Sasha TerMaat – Epic – Member
Sounds great. Are we looking at a particular document that I should pull up?

Lauren Richie – Office of the National Coordinator – Designated Federal Officer
I think we're pulling it up now.

Mark Knee – Office of the National Coordinator – Staff Lead
Is it on the screen for you guys? I think I'm sharing my screen.

Michael Adcock – Individual – Co-Chair
It is, yes.

Sasha TerMaat – Epic – Member
Do we also have a link to that?

Mark Knee – Office of the National Coordinator – Staff Lead
It should be the same Google Doc link. I can send you the link if you need it.

Sasha TerMaat – Epic – Member
That would be great. I'm just trying to find it.

Mark Knee – Office of the National Coordinator – Staff Lead

I have an email open. Let me just…

Sasha TerMaat – Epic – Member
Thank you so much.

Michael Adcock – Individual – Co-Chair
Mark, once you send that to her, I guess we're just going to walk through the outstanding items that were left open from last time, and then go through, revising any of our comments or recommendations so that we can have those recommendations – as many as possible – complete and ready to go so that you can compile those with the list of all the other workgroups and task forces to prepare for our next meeting on Tuesday or Wednesday.

Mark Knee – Office of the National Coordinator – Staff Lead
And, just like we just talked about, this is a preliminary draft, so we don't need to necessarily finalize anything. At this point, it's more of just a preliminary draft recommendation. But, that sounds good. All right, Sasha, I just sent it. I think you should get it.

Sasha TerMaat – Epic – Member
Thank you so much.

Mark Knee – Office of the National Coordinator – Staff Lead
Michael, I guess it's your show. What do you want to start with?

Michael Adcock – Individual – Co-Chair
I was just wondering if you could pull up whatever is the first outstanding issue we have, because it says "Go through outstanding issues." I assume there's some outline.

Mark Knee – Office of the National Coordinator – Staff Lead
Sure. So, I think information blocking, condition of certification – it looks like everyone said to leave it intact. If anyone feels differently, speak now. So then, on to assurances. Let's see what we've got here.

Sasha TerMaat – Epic – Member
I think we finished that one, too. I think I put a comment in the document where we left off, actually.

Mark Knee – Office of the National Coordinator – Staff Lead
Okay.

Sasha TerMaat – Epic – Member
Maybe I didn't.

Mark Knee – Office of the National Coordinator – Staff Lead
How about this? I was going to say I'll open it up to any issues people want to discuss on assurances, but it's just the three of us.

Sasha TerMaat – Epic – Member
I think for the TEFCA part, we were okay with that one for both of them – oh, you're above that. I was fine with those two, and I think we did discuss that last time.

Michael Adcock – Individual – Co-Chair
We did, yes.

Mark Knee – Office of the National Coordinator – Staff Lead
Actually, I had a question. Could you clarify this proposal? "ONC should retain records on the CHPL, and definitely for ongoing reference, of which products were certified." So, you're just talking about certifications – you guys are saying that indefinite –

Sasha TerMaat – Epic – Member
Yes. So, I think it was Andy who had a concern that later, as a provider, you might want a reference point to say that even though a product is no longer certified, it was certified over a particular timeframe, and so, the suggestion was that the CHPL could be that reference as long as it remained available.

Mark Knee – Office of the National Coordinator – Staff Lead
Okay, got it. Thank you.

Lauren Wu – Office of the National Coordinator – SME
Mark, this is Lauren Wu. Could I just make some clarifying comments for background?

Mark Knee – Office of the National Coordinator – Staff Lead
Yeah, please.

Lauren Wu – Office of the National Coordinator – SME
So, Sasha, today, the CHPL can accommodate that. You can use the filters to display inactive certificates and the information about those. It's not the default view. By default, the CHPL will just pull up those active certificates, but there is a way to use the filters to pull that up.

Sasha TerMaat – Epic – Member
Yes. I think Aaron's concern was just that this provision was about retention periods, and we weren't clear that the CHPL would have an indefinite retention period of all of that data.

Lauren Wu – Office of the National Coordinator – SME
Sure, that's fair. I think the other additional – I was thinking about this as I was listening to the conversation – just to be clear, the proposal here is concerning a lot of the detailed records regarding certification and adherence to the assurances condition of certification that may not be available on the CHPL. So, I think you know this very well, Sasha, but the CHPL has a limited public-facing amount of information about the certificate, but testing and certification, as you know, has a significant number of records about the testing and certification process that are not publicly available on CHPL, and I

believe this proposal is really referring to the developers' records of all the activity, not necessarily what is public-facing on the CHPL.

Sasha TerMaat – Epic – Member
Yes. I think the discussion we had understood that. There was some back and forth because I think that Andy was assuming that these retention periods discussed here of the more detailed information would be necessary for a purpose, which I suggested could be met by the CHPL as it is today if that information continues to be available. And so, his worry was if we needed to increase retention periods because of the potential need more than 10 years later to simply know if a certain product was certified at a particular point in time, but I pointed out the burden of indefinite retention of such a large volume of material.

So, this proposal was intended to represent a clarification, in a sense, that there are some smaller portions of information which are represented on the CHPL for which it's necessary that they continue to be available for longer than 10 years, even though the retention periods proposed for the detailed background information would stay as proposed, if that makes sense. Lauren, I do think we understood the distinction that you're making.

Lauren Wu – Office of the National Coordinator – SME
That's helpful. Okay, understood. Thanks.

Sasha TerMaat – Epic – Member
Should we go on to the TEFCA?

Michael Adcock – Individual – Co-Chair
Yes.

Sasha TerMaat – Epic – Member
I think that is fine.

Michael Adcock – Individual – Co-Chair
Yes, I agree.

Sasha TerMaat – Epic – Member
Okay. So, going on to communications. Here, I think we had a lot of text. And so, if – okay, I think this is where we left off. And, I see my note to myself – "Sasha to maybe clean up this language" – and I don't know that I totally did. So, we had a variety of proposed things…what are we calling them? Proposals?

Michael Adcock – Individual – Co-Chair
Yeah.

Mark Knee – Office of the National Coordinator – Staff Lead
Yes.

Sasha TerMaat – Epic – Member
So, this was one of them. This is now in the one below. And then, this is stuff that Andy had put in... I don't exactly know how this last part was a recommendation. And then, did we catch everything from within this section?

Michael Adcock – Individual – Co-Chair
I'm looking back. I've got the Google Doc pulled up as well.

Sasha TerMaat – Epic – Member
Oh, we missed the contracting.

Mark Knee – Office of the National Coordinator – Staff Lead
Is there a section you want me to go to?

Sasha TerMaat – Epic – Member
I got it. I think we have the parts now in the bottom below this line, and I'm just clearing up the language. So, the first one – "A proposed recommendation: Adjust definitions to clarify that administrative functions of health IT would be non-user-facing aspects based on the assessment," that those –

Mark Knee – Office of the National Coordinator – Staff Lead
I have a question about that as far as the intent of the group. Do you want it to say "would" or "could"? In all situations, or it could be non-user-facing?

Sasha TerMaat – Epic – Member
I think it could be non-user-facing. That's reasonable.

Michael Adcock – Individual – Co-Chair
I agree.

Sasha TerMaat – Epic – Member
Okay. And then –

Denise Webb – Individual – Member
I agree too. This is Denise. I'm on.

Sasha TerMaat – Epic – Member
Oh, thanks, Denise.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
I agree as well. This is Aaron.

Sasha TerMaat – Epic – Member

Oh, wonderful. Okay. So, that's the first one, unless anyone has any further edits to the language. The second one…seems pretty clear. Oops, lost a word.

Andrew Truscott – Accenture – Co-Chair
It's very quiet on here.

Sasha TerMaat – Epic – Member
We're just group editing. It's always very quiet.

Michael Adcock – Individual – Co-Chair
It's because we're working, Andy. Welcome.

Andrew Truscott – Accenture – Co-Chair
Sorry I'm late, guys. I was waiting in a very long line in immigration, it turns out.

Michael Adcock – Individual – Co-Chair
I'm glad they let you through.

Andrew Truscott – Accenture – Co-Chair
Indeed.

Sasha TerMaat – Epic – Member
Just to clarify…

Michael Adcock – Individual – Co-Chair
Andy, while she's typing, what we were doing is going through the proposed recommendations and cleaning them up in all the individual sections. We've gotten through a couple of them now.

Andrew Truscott – Accenture – Co-Chair
That's awesome. Fundamentally, I don't have any concerns that this group will come to a series of well-thought-out, well-constructed, well-defined recommendations. No worries at all in that regard.

Sasha TerMaat – Epic – Member
Do we have – so, I know in another task force, we had a little acronym we were using to refer to ourselves, and in this one I'm highlighting now, we just say "task force." Do we have an acronym, we're supposed to use, like, "Work Group 3"?

Denise Webb – Individual – Member
Is this the IBTF –

Andrew Truscott – Accenture – Co-Chair
No.

Denise Webb – Individual – Member

Work Group 3?

<u>Andrew Truscott – Accenture – Co-Chair</u>
"IBTF" is fine because we're going to consolidate everything into one series of recommendations for the whole task force to consider.

<u>Sasha TerMaat – Epic – Member</u>
Okay.

<u>Denise Webb – Individual – Member</u>
We just wanted to call out which task force so as to differentiate who did the work on these.

<u>Andrew Truscott – Accenture – Co-Chair</u>
Okay. I'll make sure it says you two did it personally. For the tape, that was facetiousness. We'll track where it comes from in the source documents. At the end of the day, the idea is that for Mike and me, these are consolidated into a single recommendation series that comes from the task force, and we will discuss all of these in the task force.

<u>Sasha TerMaat – Epic – Member</u>
I'm just cleaning these up, and I'm assuming that folks will correct me if I'm doing it poorly.

<u>Denise Webb – Individual – Member</u>
I'm reading along as you're doing this.

<u>Sasha TerMaat – Epic – Member</u>
What do I need to think about here? Are the – so, the underlined portion…

<u>Denise Webb – Individual – Member</u>
Can you scroll up a little bit? Scroll down, I should say – the other way. Okay.

<u>Sasha TerMaat – Epic – Member</u>
I don't understand B2III. Did that come from Andy?

<u>Andrew Truscott – Accenture – Co-Chair</u>
I believe so.

<u>Denise Webb – Individual – Member</u>
Is he on mute?

<u>Andrew Truscott – Accenture – Co-Chair</u>
I'm on mute, yeah.

<u>Michael Adcock – Individual – Co-Chair</u>

So, Andy, I think it was you that put a comment on here under B2III. "The roadmap required by Paragraph B of this section must…remediation…contravention of Paragraph A of this section within five years of the effective date of this rule."

Denise Webb – Individual – Member
Did you mean "must remediate"?

Andrew Truscott – Accenture – Co-Chair
I think so, yeah.

Denise Webb – Individual – Member
Okay.

Sasha TerMaat – Epic – Member
"…roadmap required by B must remediate contravention of Paragraph A." I still don't understand. Talk me through it.

Andrew Truscott – Accenture – Co-Chair
The point was we were trying to move away from the two-year "resolve by." So, within two years, we have a roadmap, and then, if there is a problem, you have to remediate it within five. And, the five years was kind of like "Let's discuss this" because we haven't discussed it, but it's just to say, "Look, you need a roadmap in two," and the roadmap says, "Well, in 27 years, we'll get this done." That would be foolhardy and inappropriate. So, it's saying, "Look, I think a five-year number" – Sasha, if you reach back into our daytime jobs, I think five years is a reasonable number to have got through this. Assuming there's contravention across the entire shop, two years is not – between yourselves and us, we are probably at the top end of a number of extant contracts that would need consideration.

Sasha TerMaat – Epic – Member
So, would it be fair instead to just say, "The plan required by Paragraph II of this section must not exceed beyond five years"? Do you mean five years from –

Andrew Truscott – Accenture – Co-Chair
The effective date of the regulation.

Sasha TerMaat – Epic – Member
I'm going to suggest some edits here for clarity for my own sake, and then if there's a piece remaining, let me know.

Andrew Truscott – Accenture – Co-Chair
No, no, just change it. Don't worry about proposing edits. Make the changes. You and I seem to be thinking the same way, and I think the term "the effective date of the regulation" is a perfectly valid one because it's used elsewhere. It might actually be used in here. Mark, is it helpful that we're proposing this level of revision, that we're actually bothering with the language, or would you rather we just gave you principles and told you to work it out?

Mark Knee – Office of the National Coordinator – Staff Lead
Whatever you all think is the best means of making recommendations. Either way, if you just give us the broad strokes of what the timeframe is that you would recommend and it's something that we would want to incorporate, we could come up with the language, but if it makes more sense to actually draft it, go right ahead.

Andrew Truscott – Accenture – Co-Chair
Okay. We'll carry on because I think it helps us as well. Frankly, we're all trying to reduce the burden.

Denise Webb – Individual – Member
Andy, it doesn't hurt to give them the language, but I can tell you, having spent the time I did in government, typically there are legal folks that write the actual regulatory text, or that finalize it. So, they have specific words and terms they use, so sometimes, it is better to just give the overarching theme of what we're asking of them or suggesting that they do.

Andrew Truscott – Accenture – Co-Chair
Okay, that's cool. We'll mix it up a bit. I just want to reduce the burden for the actual revisions when ONC goes through them.

Sasha TerMaat – Epic – Member
Okay. Do we have any other edits or recommendations on the communications section?

Andrew Truscott – Accenture – Co-Chair
How did we capture the form of communication?

Mark Knee – Office of the National Coordinator – Staff Lead
For what? When there's an issue?

Andrew Truscott – Accenture – Co-Chair
No, when we – remember, I can't see a screen. We said that communication had to go – it wasn't fair to say just by email. It had to go by mail as well.

Sasha TerMaat – Epic – Member
I think that's in a different section. Wasn't that not in the communication section?

Denise Webb – Individual – Member
That's enforcement.

Mark Knee – Office of the National Coordinator – Staff Lead
That's the enforcement section.

Andrew Truscott – Accenture – Co-Chair
Enforcement, yeah.

Denise Webb – Individual – Member

We're not in enforcement right now. We're in communication.

Andrew Truscott – Accenture – Co-Chair

I thought we'd had a conversation about whether we should potentially add something here. If not, that's fine. Frankly, it's been done elsewhere, so I'll move on. I talked myself out of it.

Denise Webb – Individual – Member

Yeah, I'm not recalling that conversation.

Andrew Truscott – Accenture – Co-Chair

Don't worry. I've talked myself out of it. If you let me talk long enough, I tend to.

Michael Adcock – Individual – Co-Chair

Was there anything else under communication? If not, we can keep moving.

Sasha TerMaat – Epic – Member

We actually had another section of communications in the next box, too. I'm cleaning it up here. Does that seem clear?

Denise Webb – Individual – Member

I might add that ONC should add a category of communications to their framework entitled "Unprotected Communications." It just reads funny. And then, you could put a period. "This category would not be – communications in this category would not be extended these protections, including communications such as…"

Andrew Truscott – Accenture – Co-Chair

Yeah, that makes sense.

Sasha TerMaat – Epic – Member

Okay.

Denise Webb – Individual – Member

Thank you.

Michael Adcock – Individual – Co-Chair

Let's go to the next one. Thanks, Sasha, for doing that.

Sasha TerMaat – Epic – Member

No problem.

Michael Adcock – Individual – Co-Chair

Mark, we can scroll.

Mark Knee – Office of the National Coordinator – Staff Lead
Okay.

Sasha TerMaat – Epic – Member
This is where I think your mail comment comes in.

Denise Webb – Individual – Member
So, Andy, we're in this – you don't see a screen, right? We're in the section on enforcement.

Sasha TerMaat – Epic – Member
This is on ONC review.

Denise Webb – Individual – Member
The process for notifying a health IT developer that an action is going to be taken.

Michael Adcock – Individual – Co-Chair
Andy, are you looking at the document, or are you offline?

Andrew Truscott – Accenture – Co-Chair
Unfortunately, I'm standing in a line, waiting to board an aircraft.

Michael Adcock – Individual – Co-Chair
Okay. Well, this is where we discussed the…

Denise Webb – Individual – Member
We can read it to you.

Andrew Truscott – Accenture – Co-Chair
Go on, then.

Denise Webb – Individual – Member
This is the one that you asked about on mailing notifications. So, our proposed recommendation is "ONC should use both email and certified mail for notices of initiating direct review, potential nonconformity, nonconformity, suspension, proposed termination, and termination."

Andrew Truscott – Accenture – Co-Chair
Sounds good to me.

Denise Webb – Individual – Member
What about bans? We didn't mention that.

Andrew Truscott – Accenture – Co-Chair
Isn't termination a ban?

Denise Webb – Individual – Member
No, you could have a module terminated, but not be completely banned. Isn't that correct, Mark? You could have certification for a particular module terminated, but not be totally banned from the program.

Mark Knee – Office of the National Coordinator – Staff Lead
Yeah. So, the termination would go to the product, I believe. It has to do with the ONC directory.

Andrew Truscott – Accenture – Co-Chair
Okay. Add "ban," then. That's fine.

Denise Webb – Individual – Member
We added it.

Lauren Wu – Office of the National Coordinator – SME
This is Lauren. The distinction is the ban applies at the developer level.

Michael Adcock – Individual – Co-Chair
Very good. So, is everyone good with this?

Mark Knee – Office of the National Coordinator – Staff Lead
Yup.

Michael Adcock – Individual – Co-Chair
Okay. Let's keep moving.

Sasha TerMaat – Epic – Member
Okay. Certification ban is next.

Andrew Truscott – Accenture – Co-Chair
I like this group. It's very efficient.

Sasha TerMaat – Epic – Member
I don't think we had any recommendations in the certification ban section.

Mark Knee – Office of the National Coordinator – Staff Lead
Can I ask a question before we move on? Just about one of the recommendations you all talked about – sorry, I'm scrolling up to it. It had to do with communications. The one about the third category of – "Unprotected communications." So, I guess in your opinion, that would not – those things would not be caught in the permitted prohibitions and restrictions section? I guess I'm just asking about the necessity of a third category.

Sasha TerMaat – Epic – Member

I don't think there's anything in the permitted prohibitions that addresses things like false communications or communications protected by attorney/client privilege.

Denise Webb – Individual – Member
I'm looking.

Sasha TerMaat – Epic – Member
Is there something we should look at, Mark?

Mark Knee – Office of the National Coordinator – Staff Lead
No, I'm just asking whether – not necessarily even whether there's language already, or if it could be incorporated into that section instead of creating a different category.

Sasha TerMaat – Epic – Member
I guess there are two thoughts. One is that I don't think false communications or communications protected by attorney/client privilege should be – I think that should preempt the other category, too – of the always-protected communications. They should only always be protected if they are not libel, for example. I think a third category is helpful as a distinction from that perspective. And then, the permitted restrictions category is sort of a different class in my mind. I would suggest a third category.

Mark Knee – Office of the National Coordinator – Staff Lead
Okay. I just wanted to raise it.

Andrew Truscott – Accenture – Co-Chair
I think this might be a recommendation from the practicality of executing this in the field. There are certain levels of communication that aren't top of mind when you're thinking this out. I think this is a good one, and an important one because of one of the embedded principles about attorney/client privilege, for example. Shall we move on, Mike?

Sasha TerMaat – Epic – Member
To Mark's point, I added a clarifying sentence in case anyone wants to look at that.

Mark Knee – Office of the National Coordinator – Staff Lead
I'll scroll up to there so we can have it on the screen. Let me see.

Michael Adcock – Individual – Co-Chair
That'd be great. I had to step away for a second.

Sasha TerMaat – Epic – Member
It says, "Unprotected communications should not receive unqualified protection or necessitate permitted restrictions," which is the reason we discussed making a separate category.

Denise Webb – Individual – Member
That's good.

Michael Adcock – Individual – Co-Chair
Yes, I'm fine with that.

Mark Knee – Office of the National Coordinator – Staff Lead
I'm sorry, wait. I'm still processing. Maybe I'm buffering right now. One more time?

Sasha TerMaat – Epic – Member
"Unprotected communications, such as false communications, communications protected by attorney/client privilege, et cetera, should not receive unqualified protection or necessitate permitted restrictions."

Mark Knee – Office of the National Coordinator – Staff Lead
Meaning that for those types of communications, it would not fall out of the cover of having to – I'm not saying I didn't get it or whatever. What are we trying to say there? There's a whole other category of what?

Denise Webb – Individual – Member
Well, Mark asked whether we really needed this additional category, and couldn't we add these types of communications under the prohibited or restricted?

Mark Knee – Office of the National Coordinator – Staff Lead
Right. Okay, all right.

Denise Webb – Individual – Member
We didn't agree, and this clarifies that.

Mark Knee – Office of the National Coordinator – Staff Lead
Right, that's what I thought we were – thank you, that was it. I thought that we were agreeing for whatever reason, and I didn't follow, but now I get it.

Sasha TerMaat – Epic – Member
So, back down to…

Michael Adcock – Individual – Co-Chair
Ban.

Sasha TerMaat – Epic – Member
The ban. I don't think we had anything on the ban section. And then, we're into public listing of bans, and we proposed they copy this down to our section at the bottom.

Lauren Wu – Office of the National Coordinator – SME
So, Sasha, while you're doing that, there was a request for some information about the ban from us at the last meeting, so I'm happy to provide that update whenever you guys are ready.

Sasha TerMaat – Epic – Member
Okay.

Lauren Wu – Office of the National Coordinator – SME
So, I think there was a question of what the practice is today for displaying those developers who have been subject to the certification ban on the CHPL. And so, I went back to my team, and the process today would be if the developer seeks remediation, is approved by ONC, and is no longer under the ban, then that information would no longer be on the CHPL in that it would not be discoverable that the developer had ever been subject to a ban. So, essentially, today on the CHPL, it really lists the current status of the developer.

So, the request for comment in this rule concerns whether ONC should take a different approach and put – as you stated here – the beginning and ending dates of developers who have ever been on a certification ban for historical purposes. The other thing I wanted to mention is I don't think it's pulled into the template you're working on here, but there is some additional request for comment in the preamble of the rule on Page 301 that says, "We seek comment on whether ONC should impose a minimum certification ban length before a health IT developer can request ONC remove the ban for health IT developers who are noncompliant with a condition of certification more than once."

Denise Webb – Individual – Member
Well, on the first part of this, I actually think they should change their practice, and they should publish and keep past records of the starts and stops of bans on the CHPL.

Michael Adcock – Individual – Co-Chair
Right, I think we all agree.

Andrew Truscott – Accenture – Co-Chair
Didn't we agree on that in the last call?

Sasha TerMaat – Epic – Member
Yup, we've got that proposal in there.

Denise Webb – Individual – Member
The only thing I would suggest we say differently here – it doesn't specify a time period – is that this would stay in the CHPL. We're not suggesting it's only out there for a period of time. Do we want to specifically state that?

Andrew Truscott – Accenture – Co-Chair
I must confess – my point of view on this is I wouldn't want to set a minimum time limit that has to expire before you can ask for a ban to be lifted because I think that might have unintended consequences on a large organization that has a ban in one piece of the organization for some reason which is remediated very quickly. I wouldn't put that minimum limit on.

Sasha TerMaat – Epic – Member
I think we're just talking about the timeframe for listing it on CHPL, not the timeframe of the ban.

Andrew Truscott – Accenture – Co-Chair
I was talking specifically about a minimum time limit that has to expire after the ban for you to apply to be un-banned.

Denise Webb – Individual – Member
I think we understood that, but we haven't gotten to discussing that. We're just trying to cover this first point on how long it should be published that somebody had a ban, even if it ended.

Sasha TerMaat – Epic – Member
I thought our previous consensus was that it should be published indefinitely.

Michael Adcock – Individual – Co-Chair
Correct.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
Yes.

Denise Webb – Individual – Member
Right. Okay, so, that is true that we all agree. You added it.

Sasha TerMaat – Epic – Member
Yup.

Denise Webb – Individual – Member
You fixed it.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
So, let me ask you a question. What difference would it be? HHS keeps the wall of shame up forever of people who have had breach. What difference is this? People who are behaving badly are out there for the world to see.

Denise Webb – Individual – Member
I don't think anybody's arguing that. It's just that their current practice does not do this, so we're recommending –

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
No, I agree. I'm just giving weight to the argument. I'm just giving other data points that show precedent. That's all.

Denise Webb – Individual – Member
Oh, okay. I thought you were trying to convince us.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
No, no. I agree.

Denise Webb – Individual – Member
We're already convinced.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
Denise, you and I are birds of a feather here.

Denise Webb – Individual – Member
So now, do we want to talk about the second part that Andy made a suggestion on – on the other question ONC asked?

Michael Adcock – Individual – Co-Chair
I think that's a question that was asked in the preamble that we should at least answer, and I happen to agree with Andy. I don't think there should be a minimum time. If someone's able to remediate something quickly, as long as there's still documentation up that they had received a ban, I don't know why we would want to make them wait. If they're willing to correct it quickly, let's correct it and move on.

Sasha TerMaat – Epic – Member
So, we're suggesting a second proposed recommendation that there is no minimum time a ban must last.

Denise Webb – Individual – Member
Yeah, and I think what ONC was qualifying as well is that if they had two occurrences – is that correct, Mark?

Lauren Wu – Office of the National Coordinator – SME
Yeah. This is Lauren. That's correct.

Denise Webb – Individual – Member
Oh, Lauren.

Lauren Wu – Office of the National Coordinator – SME
It's okay. I'm sort of tag-teaming here. The idea of this request for comment was exactly that. If they're repeat offenders, should ONC consider a different approach for those repeat offenders?

Denise Webb – Individual – Member
So, do we want to add that? Does our work group want to say, "We do not recommend establishing a minimum time period over which a ban must last, even if the health IT developer is a repeat offender"? Do we all agree with that? Does that change anybody's opinion?

Sasha TerMaat – Epic – Member
I agree.

Denise Webb – Individual – Member
I think if they satisfy the requirements to get the ban removed and they do it promptly and carry through, they should be allowed to carry on.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
Well, they should be allowed to carry on – I'm trying to think of what I'm deciding between vendors. I do take development and behavior patterns into account to figure out who I'm going to partner with in various things. While I agree they should be able to carry on, does that expunge their record?

Denise Webb – Individual – Member
No, no. It's our comment that there's indefinite communication of past records. So, you'll know that they were banned twice.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
Okay, got it.

Denise Webb – Individual – Member
I'm with you there, Aaron.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
I'm trying to triple-multitask.

Denise Webb – Individual – Member
No, I care about that.

Michael Adcock – Individual – Co-Chair
Any other comments on that section? Hearing none…let's scroll. Now, we're into the self-development area.

Sasha TerMaat – Epic – Member
Yes. I just corrected a typo in our proposed recommendation.

Michael Adcock – Individual – Co-Chair
Just because I can't see below, was that our only recommendation in that area?

Sasha TerMaat – Epic – Member
Yes.

Michael Adcock – Individual – Co-Chair
Okay. Then, that's pretty much the end of the document, isn't it?

Sasha TerMaat – Epic – Member
It is.

Michael Adcock – Individual – Co-Chair
So, Andy, this was the part – since you can't see it, this was the part where we talked about the exception for self-development so that communications by health IT users aren't restricted by virtue of being employees of the same company doing the development. So, if a hospital developed its own software, the staff wouldn't be restricted.

Denise Webb – Individual – Member
Right, the users of the health IT. We're making sure they can still speak out.

Michael Adcock – Individual – Co-Chair
Right. I thought that was very well thought out. It seems clear to me.

Denise Webb – Individual – Member
And, while we're on this piece on self-development and the conditions of certification and maintenance, on our task force on our debrief call, Lauren and Kate were on, and we talked about the conditions of certification and maintenance task force taking on the discussion of self-developers for the rest of the conditions, but we need to take that up with our entire task force and have a public call on it, so we'll probably do that after the HITAC meeting at our next meeting, just so everybody knows what we're doing.

Michael Adcock – Individual – Co-Chair
So, are there any other outstanding issues? Mark…?

Mark Knee – Office of the National Coordinator – Staff Lead
I'll leave that to you guys. I will say if you don't have any more and there is some time, I'd ask If there's any more – do you want to drill down any more on any of them?

Denise Webb – Individual – Member
The gift of time would be nice as well.

Mark Knee – Office of the National Coordinator – Staff Lead
I agree with you. It's a beautiful day here.

Denise Webb – Individual – Member
Oh, I know. I gave up the beach today because of these meetings.

Mark Knee – Office of the National Coordinator – Staff Lead
Oh, no. That was a mistake, I think.

Denise Webb – Individual – Member
No, it's not – it's still sunny. It's not too late. I can hop on my bike and go that way.

Michael Adcock – Individual – Co-Chair
I don't have anything else to add to them. I think that we gave them all – there are plenty of discussion notes, there are plenty of comments, and I think the recommendations are pretty clear. I don't have anything to add. I don't know if anybody else does – Andy, Sasha, Denise?

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
No, it's good.

Sasha TerMaat – Epic – Member
It's good.

Michael Adcock – Individual – Co-Chair
Andy? Are you on mute? Are you on a plane?

Mark Knee – Office of the National Coordinator – Staff Lead
He might be on a plane.

Michael Adcock – Individual – Co-Chair
He's left us again. That's fine. Well, unless somebody else has something they want to add, I know we're early, but I'm assuming we can still go to public comment and then end the call early.

Lauren Richie – Office of the National Coordinator – Designated Federal Officer
Yeah, we can definitely do that. If we could give the – got it? Okay, operator, can you open the line?

Operator
If you would like to make a public comment, please press *1 on your telephone keypad. A confirmation tone will indicate your line is in the queue. You may press *2 if you would like to remove your comment from the queue. For participants using speaker equipment, it may be necessary to pick up your handset before pressing the star key.

Sasha TerMaat – Epic – Member
Great. Mark, from your perspective – I know we've got to clean up the slide deck and everything for presenting next week, but is there anything outstanding before we wrap today?

Mark Knee – Office of the National Coordinator – Staff Lead
No, I don't think so. I was just scrolling through to make sure I didn't miss anything, but it looks like we've covered all the topics. I guess one last opportunity – any other issues anyone wants to discuss before we break?

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
I'm just curious – what is the process for next week for the HITAC? Are we going through each section of these? Is it just going to be the chairs and co-chairs talking through it? How does it work?

Lauren Richie – Office of the National Coordinator – Designated Federal Officer
Let me pause there. Do we have any public comments in the queue, operator?

Operator
There are no public comments at this time.

Lauren Richie – Office of the National Coordinator – Designated Federal Officer
Okay. So, that was Aaron, right?

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
Yes.

Lauren Richie – Office of the National Coordinator – Designated Federal Officer
So, the plan is we'd have – once we get everything cleaned up, we'll send draft recommendations as they are to Andy and Michael today. We'll have them take a look at it, but it will be the co-chairs who actually present the slide deck. I'll let Andy and Michael figure out how they want to split that up, but we'll certainly have Mark and the rest of the ONC team on hand.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
Awesome. Okay.

Michael Adcock – Individual – Co-Chair
Right. Andy and I will certainly discuss that. We'll also have some time on the task force call tomorrow to maybe go through – definitely go through the recommendations, but we'll have some more discussion on that. If there's not anything from anybody else, I'd just like to say thank you. This has been amazing. It's not – as many of these calls we've been on, even this week and last week, as a task force co-chair, this one has been extraordinarily efficient, and I appreciate everybody's hard work and thoughts in between the calls that you put in there, and Sasha, I certainly appreciate you doing all that typing. You type amazingly quickly. But, thank you for all the work, thank you for the efficiency, thank you for the thoughts. This has honestly been a pleasure.

Sasha TerMaat – Epic – Member
Thank you.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
Not to be the bearer of bad news, but we still have a number of weeks, but I agree with everything you said, Michael. It's been good.

Michael Adcock – Individual – Co-Chair
Don't rain on the parade. We did well today, Denise is going to get to the beach – everybody's happy.

Aaron Miri – The University of Texas at Austin, Dell Medical School and UT Health Austin – Member
No, I'm thrilled. All right, thanks, everyone.

Michael Adcock – Individual – Co-Chair
Thanks, y'all.

Sasha TerMaat – Epic – Member
Thank you. Bye-bye.