Meeting Notes

Health Information Technology Advisory Committee
Information Blocking Task Force
May 16, 2019, 9:00 a.m. – 11:00 a.m. ET
Virtual

The May 16, 2019 meeting of the Information Blocking Task Force (IB) of the Health IT Advisory Committee (HITAC) was called to order at 9:00 a.m. ET by Lauren Richie, Designated Federal Officer, Office of the National Coordinator for Health IT (ONC).

Lauren Richie conducted roll call.

Roll Call

MEMBERS IN ATTENDANCE

Michael Adcock, Co-Chair, Individual
Andrew Truscott, Co-Chair, Accenture
Cynthia Fisher, Member, WaterRev, LLC
Valerie Grey, Member, New York eHealth Collaborative
John Kansky, Member, Indiana Health Information Exchange
Steven Lane, Member, Sutter Health
Anil Jain, Member, IBM Watson Health
Arien Malec, Member, Change Healthcare
Denni McColm, Member, Citizens Memorial Healthcare
Aaron Miri, Member, The University of Texas at Austin, Dell Medical School, and UT Health Austin
Sasha TerMaat, Member, Epic
Sheryl Turney, Member, Anthem

MEMBERS NOT IN ATTENDANCE

Denise Webb, Member, Individual

ONC STAFF

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

Call to Order

Lauren Richie called the meeting to order and turned the meeting over to Andrew Truscott, co-chair.

Andy Truscott shared that there has been a lot of discussion about health information exchange and health information network definition.

John Kansky noted that he is okay with going forward with the non-verb version of health information, but there may be unintended consequences that will need to be discussed in the Trusted Exchange Framework and Common Agreement Task Force (TEFCA TF). He doesn't understand how a product can be a health information exchange.

Andy Truscott suggested an updated definition: any entity performing the access exchange, transmittal, processing, handling or other such use of electronic health information who is not considered a provider, health information network, or health IT developer.

- **Steven Lane** questioned why health information network was removed.
- **Andy Truscott** suggested that this could avoid the protectionist approach that could exist.
- **John Kansky** commented that this will provide the ability to catch everyone in the definition.
- **Andy Truscott** noted that a payer would be included as an actor under HIE.
    - **Sheryl Turney** questioned if this would apply to the data shared within the association and affiliates. She thought this might be problematic from a payer perspective.
- The task force approved of the newly amended definition by voice vote. No members opposed. **Sheryl Turney and Steven Lane** abstained.

The task force discussed the additional of the (3) Electronic information which can reasonably be used to inform care decisions, including by the patient, including pricing information which may or may not be identifiable.

- **John Kansky** noted that he thought the task force decided not to include pricing information.
- **Anil Jain** noted the same and asked to limit the definition and let the request for information (RFI) process play out and come back to this.
- **Valerie Grey** noted that she felt the same as John Kansky and Anil Jain.
- **Andy Truscott** clarified that the information should be attributed to the individual. He suggested including pricing information which can be attributable to an individual patient.
    - **Anil Jain** questioned the use of attributable instead of identifiable, which is used throughout the document.
- The task force approved of the newly amended definition by voice vote. No members opposed. No members abstained.
- **Andy Truscott** noted that Cynthia Fisher's minority opinion is represented in the transmittal letter.

RECOMMENDATION 5

The IBTF notes that availability of individually specific ~~and generalized price~~ information enables patient to shop for and make decisions about their care, and that it should be included in the scope of EHI as per our recommendations.

- Andy Truscott noted that this should be added to work from a new task force.
- The task force agreed to remove generalized price (as indicated above).

The IBTF wishes to promote innovation and prevent barriers for entry for products that may have important benefits to patients and is also mindful that by limiting the applicability of the regulation to

only developers of certified health IT there might be the unintended consequence of encouraging developers to not comply with the regulation, which could encourage information blocking practices amongst those non-regulated vendors. This, coupled with a movement towards self-developers and operators of healthcare-related services could create a "second track" of non-compliant actors being detrimental to the integrated patient care and transparency we desire to foster and promote.

Discussion

- **Anil Jain** noted that while he agrees with the intent of the language, he believes there is a way to write it more concisely.
- **John Kansky** agreed with Anil Jain.
- **Andy Truscott** worked to make the language a bit more concise, which is reflected above. The task force approved the newly amended definition by voice vote. No members opposed. No members abstained.

RECOMMENDATION 7

The task force agreed to remove this recommendation because of the changes made to health information exchange.

RECOMMENDATION 9

The task force agreed to remove this recommendation because it was redundant.

RECOMMENDATION 10

- **Mark Knee** noted that there is a "Health Care Provider Definition and Cross-Reference Table" available on ONC's website here.
- **Andy Truscott** noted that the task force believes that retail pharmacies should be included and refined the language around this clarification.

RECOMMENDATION 33

- **Arien Malec** shared that the intent is that there should be a distinction between value added services and basic access.
- There was a lot of discussion around this recommendation in regards to basic access, which resulted in the following.
    - If an entity is considered a covered entity, information within the designated record set;
    - If an entity is considered an HIE or HIN, the information that was collected on behalf of a Covered Entity; and
    - Basic transformation of data required to implement standards (from the core standards list) reasonably required to enable exchange or implement the intended use of a certified technology.
- The task force approved the newly amended definition by voice vote. No members opposed. No members abstained.
- There was additional discussion around this language due to public comment, but the task force did not alter the language.

Lauren Richie opened the lines for public comment.

Public Comment

Daniel Carnese, Patient Precision, commented that he appreciated the effort that the task force is going through to try to get these definitions. I think the last thing was really the most important of all of the topics. I think the idea of having basic information be, strictly speaking, a syntactic transformation of the conclusions that have already been made; I think that really gets at the intention of what you are going for. What we don't want is to have a situation where there is a value-added service, whether it is a person or a value-added comes from a person or software. That this information access is supposed to mandate triggering. So, we say that, for example, if you have a decision and you have advanced artificial intelligence (AI) based service, that is doing something more than providing a representational transformation. Syntactic transformation of the information there. That is what we want to be value-added. But if an AI program has already made a conclusion, it has already been paid for one way or another, and this is the doctors conclusion, has been paid for, I think it makes sense that once that information has been explicitly inferred, put in the record, that should be part of basic access. Because, it would not be right to have to take multiple times for the same inference, whether it is from a person or from software.

Comments in the Public Chat

John Kansky: I think the HIE definition recommendation we just voted on has the added benefit of clarifying the difference between a provider and an HIE. Now no org will be both.

Mark Knee: https://www.healthit.gov/sites/default/files/page/2019-04/HC_Provider_Definitions_508.pdf

Daniel Carnese: The proposed definition of basic access would seem to include clinical notes, since they are not facts. That doesn't seem consistent with the basic goals of the rule.

Daniel Carnese: Correction: would seem *not* to include

Daniel Carnese: If notes are part of the Designated Record Set because they are used for decision making, why have the "raw" clause at all?

Daniel Carnese: Then provide the definition of Designated Record Set

Daniel Carnese: Might a simpler proposal for Basic Access be "retrieving existing data or a representational transformation of existing data"?

Daniel Carnese: Transformation implies syntactic transformation. with no additional information inferred.

Daniel Carnese: Thank you I will :-)

Daniel Carnese: Is there a reason to include "basic"?

Daniel Carnese: No, I think you covered it

Daniel Carnese: You had used the term "basic syntactic", and that is what I was raising as an issue

Andy Truscott: Thank you for your contribution here.

Daniel Carnese: Thank you for facilitating participation, Andy.

Next Steps and Adjourn

Andy Truscott thanked the task force for all their hard work.

Mark Knee noted his appreciation on behalf of ONC.

Lauren Richie adjourned the meeting at 11:00 a.m. ET.