



HITAC HTI-2 Proposed Rule Task Force 2024

Group 3: Information Blocking and TEFCA

Rochelle Prosser, Co-Chair

August 14, 2024





Call to Order/Roll Call

Seth Pazinski, Designated Federal Officer, ASTP

HTI-2 Proposed Rule Task Force 2024 Roster

Group 3 Information Blocking and TEFCA



Name	Organization	Name	Organization
Rochelle Prosser* (Co-Chair)	Orchid Healthcare Solutions	Anna McCollister*	Individual
Shila Blend*	North Dakota Health Information Network	Katrina Miller Parrish*	Patient.com
Hans Buitendijk*	Oracle Health	Kris Mork	Leidos
Sooner Davenport	Southern Plains Tribal Health Board	Eliel Oliveira*	Harvard Medical School & Harvard Pilgrim Health Care Institute
Derek De Young*	Epic	Randa Perkins*	H. Lee Moffitt Cancer Center & Research Institute
Steven Eichner*	Texas Department of State Health Services	Zeynep Sumer-King*	NewYork-Presbyterian
Lee Fleisher*	University of Pennsylvania Perelman School of Medicine	Naresh Sundar Rajan*	CyncHealth
Hannah Galvin*	Cambridge Health Alliance	Sheryl Turney	Elevance Health
Dominic H. Mack	Morehouse School of Medicine	Rachel (Rae) Walker	University of Massachusetts Amherst

* HITAC Member

** HITAC Federal Representative



Opening Remarks

Rochelle Prosser, Co-Chair

Agenda

- 11:00 AM** **Call to Order/Roll Call**
 - Seth Pazinski, Designated Federal Officer, ASTP
- 11:05 AM** **Opening Remarks**
 - Rochelle Prosser, Co-Chair
- 11:10 AM** **Information Blocking Enhancements**
 - Ben Dixon, ASTP
- 11:25 AM** **Discussion**
 - Rochelle Prosser, Co-Chair
- 11:35 AM** **Task Force Recommendation Worksheet**
 - Rochelle Prosser, Co-Chair
- 12:20 PM** **Public Comment**
 - Seth Pazinski, Designated Federal Officer, ASTP
- 12:25 PM** **Next Steps**
 - Rochelle Prosser, Co-Chair
- 12:30 PM** **Adjourn**



HTI-2 Proposed Rule Task Force 2024: Charge

Overarching Charge: The HTI-2 Proposed Rule Task Force will evaluate and provide draft recommendations to the HITAC on the Health Data, Technology, and Interoperability: Patient Engagement, Information Sharing, and Public Health Interoperability (HTI-2) Proposed Rule.

Specific Charge:

- Review and provide recommendations on the HTI-2 proposals on public health, standards and certification, and information blocking and TEFCA.
- Recommendations are due prior to the end of the 60-day public comment period.



Subgroup 3: Information Blocking and TEFCA

The Information Blocking and TEFCA Subgroup will review and provide preliminary recommendations for Task Force consideration on the following HTI-2 proposed rule sections.

- Administrative Updates
- **Information Blocking Enhancements**
 - Defined Terms; Exceptions That Involve Practices Related to Actors' Participation in TEFCA
 - Protecting Care Access Exception
 - Requestor Preferences Exception, "Interfere With" or "Interference"
 - Privacy Exception; Infeasibility Exception
- Trusted Exchange Framework and Common Agreement



Information Blocking Enhancements

Ben Dixon, ASTP

New Requestor Preferences Exception

PROPOSAL

A proposed [Requestor Preferences Exception](#) (to be codified in 45 CFR 171). This exception would apply where an actor honors a requestor's preference(s) expressed or confirmed in writing for:

1. Limitations on the amount of EHI made available to the requestor;
2. The conditions under which EHI is made available to the requestor;
3. When EHI is made available to the requestor for access, exchange, or use.

BENEFITS

- The exception would offer actors certainty that, under the exception's specified conditions, an actor's honoring these requestor preferences would not constitute information blocking.
- Would apply to honoring preferences of any requestor, including individuals, health care providers, and any other requestor of access, exchange, or use (for permissible purposes) of EHI the actor has.
- Flexible to accommodate, to the extent the actor may be able and willing to do so, the considerable variety of unique preferences it is possible for a requestor to have in comparison even to similarly situated requestors.



Privacy Exception Updates

Privacy Exception — “Individual” Definition

PROPOSAL

Correct typographical errors in the codified definition of the word “individual” within the Privacy Exception (§ 171.202)

BENEFITS

- Improves clarity for actors and other interested persons by including in each paragraph of the “individual” definition only the precise, accurate cross-references.
- Does not change the definition or how it would operate; merely corrects codified text to match the substance of the definition as explained in the ONC Cures Act Final Rules (85 FR 25846 through 25847)

Privacy Exception – Sub-Exception for Denying Individuals Access on “Unreviewable Grounds”

PROPOSAL

- Broaden the applicability of existing sub-exception (§ 171.202(d)) so that it would be available to any actor responding to a request for EHI under the same circumstances and subject to the same requirements an actor that is also a HIPAA covered entity or business associate could deny an individual access on “unreviewable grounds” without the denial constituting information blocking.
- Update name of sub-exception to be shorter and to align with proposed broader availability

BENEFITS

- Improved consistency for individuals, who may seek access to EHI from both actors who are required to comply with the HIPAA Privacy Rule and actors who are not required to comply with the HIPAA Privacy Rule.
- For actors not required to comply with the HIPAA Privacy Rule, assurance that they could choose to deny individual access on “unreviewable grounds” without committing information blocking (under the same circumstances and subject to the same requirements as an actor that is also a HIPAA covered entity or business associate could under the sub-exception as it stands today).
- Simpler exception for all actors.

Privacy Exception – Sub-Exception for Respecting Individual’s Request Not to Share EHI with Others

PROPOSAL

- Broaden the sub-exception’s availability by removing its existing limitation to individual-requested restrictions on EHI sharing that are permitted by other applicable law.
- Shorten the title of the sub-exception for ease of reference.

BENEFITS

- Improved assurance for any actor who elects to honor an individual’s request for restrictions on sharing of the individual’s EHI that applying those restrictions will not be considered information blocking if the requirements of this sub-exception are satisfied.
- Simpler exception that is easier for actors to avail themselves of, if they want to grant an individual’s request for restrictions.
- Enhanced assurance for individuals that information blocking regulations support actors’ choices to honor the individual’s request and not share EHI when the individual asks it not be shared.



Discussion

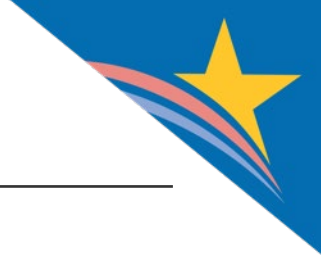
Rochelle Prosser, Co-Chair



Task Force Recommendation Worksheet

Rochelle Prosser, Co-Chair

Discussion Time



Topic	Time
Healthcare Provider Additional Discussion	5 min
Requestor Preferences Exception	10 min
Privacy Exception: “Individual” Definition	10 min
Privacy Exception: Sub-Exception for Respecting Individual’s Request Not to Share EHI with Others	10 min
Privacy Exception: Sub-Exception for Denying Individuals Access on “Unreviewable Grounds”	10 min

Public Comment

To make a comment please
Use the Hand Raise Function

If you are on the phone only, press “*9” to raise your hand

*(Once called upon, press “*6” to mute/unmute your line)*

All public comments will be limited to three minutes

You may also email your public comment to onc-hitac@accelsolutionsllc.com

*Written comments will not be read at this time,
but they will be delivered to members of the Task Force and made part of the public record*



Next Steps

Rochelle Prosser, Co-Chair

Upcoming Meetings

Task Force Meeting Date/Time

8/22 10 -11:30 AM

8/29 11 AM -12:30 PM

9/3 11 AM -12:30 PM (Full Task Force Meeting)

9/4 11 AM -12:30 PM (Full Task Force Meeting)

9/5 11 AM -12:30 PM (Full Task Force Meeting)

HITAC Meeting Date

8/15 TF provides updates to HITAC

9/12 TF delivers recommendations to HITAC

Register for 8/15 HITAC Meeting at: <https://www.healthit.gov/hitac/events/health-it-advisory-committee-71>



Adjourn