American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN®

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Don Rucker, M.D.
National Coordinator for Health Information Technology
Office of the National Coordinator for Health Information Technology
U.S. Department of Health and Human Services
330 C Street, SW
Floor 7
Washington, DC, 20201

RE: Draft 2 of the Trusted Exchange Framework and Common Agreement

Dear Dr. Rucker:

The American Academy of Pediatrics (AAP), an organization of 67,000 primary care pediatricians, pediatric medical sub-specialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults, appreciates the opportunity to comment on Draft 2 of the Trusted Exchange Framework and Common Agreement.

The AAP is committed to the meaningful adoption of HIT for improving the quality of care for children, and commends the comprehensive approach being taken by the Office of the National Coordinator for Health Information Technology (ONC). We are particularly pleased that the ONC recently collected comments on the proposed rule to advance pediatric functionality of EHRs through the voluntary certification of health information technology for use by pediatric health providers to support the health care of children. Pediatricians have been early and ambitious adopters of HIT. Despite that fact, however, data from ONC has revealed that pediatricians' participation rates in the Medicaid Electronic Health Records (EHR) Incentive Program is quite low compared to other physicians, largely due to the fact that many EHR products do not fully support pediatric care and due to the difficulty for EHR vendors to comply with the 56 different Medicaid MU requirements for the states and territories.

There is tremendous potential for HIT to facilitate patient safety and quality improvement, specifically quality measurement and reporting through efficient data collection, analysis, and information exchange, and the AAP believes that enhanced certification requirements, improved interoperability and reducing information blocking could be key to realizing this potential.

In addition, the AAP applauds the ONC for outlining a common set of principles, terms, and conditions to support the development of a Common Agreement that would help enable nationwide exchange of electronic health information (EHI) across disparate health information networks (HINs). The AAP agrees with the ONC's

Approach of providing a single Health Information Exchange nationwide and agrees that the scalable network of networks is an efficient approach.

While supportive of the overall goal of the ONC to improve health information technology, the Academy offers the following general comments to Draft 2 of the Trusted Exchange Framework and Common Agreement.

Incentives to Participate in the Exchange

One point that the AAP has made in earlier comments to ONC and one that we would like to emphasize again is that there needs to be greater acknowledgement that Health Information Exchange (HIE) will only occur if both the sender and receiver are incentivized to participate in the exchange. While trust and ease of use matter tremendously and are correctly identified, building the functionality will not lead to utilization unless providers and institutions experience tangible benefits to accepting and integrating data into their EHRs. The AAP continues to encourage ONC to look for ways of incentivizing recipients of information to actively search for, integrate, and use receive data.

To highlight this point, we offer the example of an emergency department (ED) physician. A patient presents with symptoms requiring a CT scan of the head. Searching for the information on a Qualified Health Information Network (QHIN) may result in the CT scanner at the hospital being idle as the patient had a CT last week in another hospital. Further, it takes additional effort for the ED physician and exposes her to the risk of a CT interpretation by a radiologist that she has no trust relationship with. Unless the ED physician is incentivized, she will prefer to order a second CT.

A similar incentive issue exists for the proposed QHIN Message Delivery. What incentive does the receiving QHIN have to integrate the information received? Proper incentives will need to be utilized for all involved.

Naming Convention

The Academy would like to note that it is difficult from the names to differentiate between a participant and a participant member as they seem similar and are not self-explanatory. Terminology that allows a logical deduction of the type of role is encourage by the AAP (e.g. QHIN Organization, Participant Member would use different terms and may be easier to differentiate).

Use of Patient's Preexisting Data

One concern that the AAP has is the absence of language to prevent payers from using Health Information Networks to identify patients that have the FUTURE potential to be financially costly to insurers and discriminate against them. While currently preexisting conditions cannot be excluded, there are no prohibitions to use for example AI to predict conditions that may not yet be diagnosed and discriminate based on the knowledge gained. The AAP expects tight regulatory guidance for payers on what information may be used by them and for what purposes and encourages regulation that would clearly identify discriminating use as forbidden.

National Patient Identifier

In order to facilitate effective query of patients across QHIN's, the AAP supports the development of a national patient identifier. Further, without such an identifier, decisions by patients to take advantage of "meaningful choice" and opt out of information sharing will not be effectively distributed to all QHINs and violate the patient's decision.

Access Control and Security Measures

With medical records not only being of sensitive nature but also providing a very valuable target for hackers, the AAP encourages stricter access control and security measures. With a myriad of participant members being available to access and query information, the proposed restrictions that are of a passive nature are insufficient to actively identify an ongoing breach. The AAP encourages ONC to add requirements to QHINs to actively on an ongoing basis review queries across their network for potential malicious or unauthorized activity. Using tools designed to identify queries of malicious intent could identify large scale unauthorized access at an early stage and reduce risk to patients.
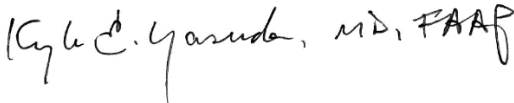
The AAP perceives the proposed security labeling insufficient. Especially in regards to adolescent health, the AAP encourages the implementation of DS4P across the board. Further labeling and segmentation should be able to occur on a lower level to allow for more data exchange and to reduce the risk of a recipient of information being able to deduce suppression of information. It is the AAP's opinion that implementation of DS4P is not only feasible (multiple pediatric EHR vendors confirmed that it can be done and they indicated the perceived usefulness for their customers) but critical to provide protection to vulnerable populations, who may not seek care due to concerns for privacy violations.

EHR Vendors

The AAP is concerned about the possibility of EHR vendors seeking to become QHINs. Currently, one vendor already has data from over 70% of US patients in its system. The predominance of certain vendors could lead to a data monopoly situation that in the opinion of the AAP is not desirable. The AAP encourages language that specifically forbids EHR vendors that exceed a certain market share measured by patients represented to become a QHIN. Information blocking has been a problem in the past and eliminating large vendors will prevent anticompetitive behavior and is congruent to the principle of non-discrimination as outlined by ONC.

The AAP appreciates the opportunity to provide comments on Draft 2 of the Trusted Exchange Framework and Common Agreement. The AAP is committed to the meaningful adoption of HIT for improving the quality of care for children and appreciates the work of the ONC in trying to facilitate a trusted exchange network. The Academy is willing and ready to work with HHS and ONC on any of the issues raised in these comments. If you have any questions on our comments, please contact Patrick Johnson in our Washington, DC office at 202/347-8600 or pjohnson@aap.org.

Sincerely,

Kyle E. Yasuda, MD, FAAP
President, American Academy of Pediatrics

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