

## Response to the Elements of the Common Agreement

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ONC TEFCA Recognized Coordinating Entity  
Sequoia Project  
8300 Boone Blvd.  
Suite 500  
Vienna, Virginia 22182Submitted electronically to: [rce@sequoiaproject.org](mailto:rce@sequoiaproject.org)

Re: Elements of the Common Agreement

To whom it may concern:

UW Health appreciates the opportunity to provide comments regarding the recently published Elements of the Common Agreement.

UW Health is the integrated health system of the University of Wisconsin-Madison, serving more than 700,000 patients each year in the Upper Midwest and beyond with 1,849 physicians and 21,000 staff at seven hospitals and more than 80 outpatient sites.

Our organization was an early adopter of eHealth Exchange and Carequality and has been active in the interoperability space for a substantial amount of time and feel that we can provide meaningful feedback to the Elements of the Common Agreement document.

While we recognize and encourage the goals of TEFCA, we wanted to provide comments on several components addressed in the Elements of the Common Agreement.

1. The documentation provides minimal information on the responsibilities of the originating organization in terms of breaches or inappropriately used protected information once that information has been sent to the QHIN. We expect that the QHIN assumes the responsibility for the use and security of that data once it is in their possession, but this is not addressed in the document in a way that comprehensively details information ownership during the exchange process.
2. The Elements of the Common Agreement states that it will not support a broad-level patient opt-out process. How does this method support the goal of the patient having ownership of their private health care data? If a program-level opt-out process is not desired or possible, there needs to be an established procedure to include a requirement that each participating organization adheres to and details the patient's desire to opt-out if they so choose to.
3. There needs to be a fully scoped procedure to support the speedy remediation of possible chart issues, such as the shared information being furnished is regarding the wrong patient or if the originating organization has found incorrect charting in their record. As data is flowing between, potentially, a large number of organizations, the risk that one piece of inaccurately charted information would proliferate to several organizations is substantial without a comprehensive process to correct.
4. Details need to be provided explaining which entity is responsible for maintaining and reporting out an accounting of all the places with which a patient's PHI or PII was exchanged.
5. As explained in the documentation, when QHINS receives encrypted data, they will unencrypt all of the PHI and PII that they receive and have access to patient information without cause to have it available to them. Their ability to unencrypt and hold the patient information increases the risk of that data being potentially accessed and used in a manner that the originating organization did not approve.

7. The reasons for exchange are included with the onus on the originating organization to ensure the minimum necessary rule is met. For example, the request reason of payment encompasses a broad range of record needs. There is an outstanding question of what level of specificity these requests will provide to ensure that our organization can continue to support the minimum necessary rule.

8. A more robust explanation of the participation fee will be vital as organizations evaluate whether they will participate in this interoperability framework. When considering the participation fees, the cost to the organization to develop and support the exchange platform internally should be regarded as the work to move to this type of interoperability framework will cause organizations to incur substantial costs as most of these exchange reasons have not been supported previously.

9. There should be a standard language requirement that all organizations participating in TEFCA must include in their notice of patient privacy documentation to ensure that patients are appropriately notified of how their information may be exchanged if the organization engages in TEFCA.

Again, we appreciate the opportunity to review the Elements of the Common Agreement and provide feedback and look forward to seeing the draft of the Common Agreement, and we hope to have additional opportunities to provide feedback.

Sincerely,

UW Health's Health Information Exchange Steering Committee