



For Immediate Release

**ONC's draft plan for trusted information exchange actually *denies* patients easy access to and beneficial use of their health records, will not work as a data system, violates crucial aspects of the Cures Act, and may well elicit successful legal challenges, according to The Health Record Banking Alliance**

Washington, DC, February 23, 2018.

TEFCA, the recently proposed federal plan for the exchange of electronic health records, would be harmful to patients, clinicians, and medical researchers, according to the Health Record Banking Alliance (HRBA). ("TEFCA" stands for Trusted Exchange Framework and Common Agreement.) The plan was released in draft on January 5<sup>th</sup> by the Office of the National Coordinator for Health Information Technology (ONC), an office in the Department of Health and Human Services (HHS).

HRBA's formal Comments on TEFCA were filed with ONC on February 20, 2018, and are available on the [HRBA web site](#).

HRBA's analysis of the draft plan shows that TEFCA, if implemented, would deny patients easy, routine access to, or use of, their medical information. This would contravene Congress's promise to patients explicitly made in the 21<sup>st</sup> Century Cures Act, which directed ONC to create TEFCA.

HRBA's analysis explains how and why the TEFCA draft plan cannot work technically. Further, if adopted, the plan would violate specific Cures Act design requirements. HRBA highlights the plan's design flaws and significant deviations from Cures Act specifications. These defects would enable patient, provider, and medical research coalitions to challenge the TEFCA plan successfully in federal court.

Under the Cures Act, TEFCA must enable exchange of patient data housed today in diverse, incompatible medical record systems in hospitals and physician offices. The Act specifies that medical record exchanges must be easy, reliable, and secure, with no special effort required on the part of consumers (patients), clinicians, and other users.

HRBA notes that ONC's draft TEFCA plan concentrates mainly on difficulties currently experienced by clinicians trying to exchange information using the multiplicity of exchange networks that were created by earlier, predominantly unsuccessful data exchange plans from ONC. But even within this limited scope, HRBA points out, the TEFCA plan specifies data exchange technology that has been tried and proven not to work. It also would require special effort by all users, would be particularly vulnerable to hackers, and is both overcomplicated and needlessly expensive.

“The TEFCA draft virtually ignores the growing interests and reasonable needs of today’s increasingly “engaged” U.S. patient/consumer population relating to health and medical information about themselves,” said Dr. Bill Yasnoff, MD, PhD, HRBA President and Chief Executive Officer. In particular, HRBA points out, the TEFCA architecture would not let patients gather medical records easily, compile them in one “lifetime,” “computable” record that they can use and control, and allow them to share that record with clinicians, medical facilities, and researchers.

“The common, and consistently unsuccessful, approach to integrating disparate records for individuals is still institution-centric, leaving the records where they are created and then attempting to integrate them in real-time when needed,” said Yasnoff.

“Further pursuit of this unworkable, institution-centric approach to medical records only postpones the day when the U.S. will realize the benefits that Congress has mandated and our country so desperately needs: more effective and efficient care based on comprehensive individual health records that patients can access easily and furnish to clinicians and researchers,” he said.

The Cures Act also specifies tight deadlines for ONC to complete its work. HRBA points out that ONC’s draft TEFCA plan cannot possibly meet the Cures Act’s deadline for implementation. It is too complex and bureaucratic – actually creating more delay through the standing up of a wholly new, superfluous, public-private entity (the “Recognized Coordinating Entity” or “RCE”). But Congress will not tolerate more delay in making medical records accessible and exchangeable, especially if the delay results from ONC’s creation of more bureaucratic superstructure. (Under the Cures Act, ONC can and should do any needed coordination itself.)

HRBA urges ONC to withdraw its draft plan for TEFCA and quickly publish a replacement. HRBA’s comments focus on the necessity for ONC to adopt and enforce a ***national digital health data exchange standard*** so that health records in hospitals and physician offices can be easily, affordably, safely, and reliably exchanged. An exchange standard is a simpler mechanism than any that ONC has proposed since its existence, and it will work. It was in fact required under the HITECH Act of 2009, but ONC did not implement it.

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*The Health Record Banking Alliance promotes technology to enable consumer-owned and controlled longitudinal (lifetime), aggregated, computable, easily used digital health records stored securely in consumers’ accounts in private sector repositories. HRBA is committed to three key principles: 1) Each patient’s records should be functionally stored in one place (but not all patient records in the same place); 2) Each patient should control access to his/her own medical records; and 3) Medical records should be stored under patient control by a trusted organization. For more information, go to: [www.healthbanking.org](http://www.healthbanking.org).*

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