
What HIOs Need to Know about the Trusted Exchange Framework and Common Agreement in the 21st Century Cures Act

The 21st Century Cures Act attempts to address a number of interoperability and patient access issues, most of which will have an impact on health information organizations (HIOs). This is Part 2 in a series of three white papers highlighting the impact of the 21st Century Cures Act on HIOs. [Click here for Part 1 which focused on patient access.](#)

Trusted Exchange Framework and Common Agreement

The bill includes a number of provisions around the Office of the National Coordinator for Health Information Technology (ONC) establishing both a trust exchange framework and a common agreement for health information networks, including:

- ONC must convene public and private stakeholders to develop or support a single trusted exchange framework and a single common agreement to enable exchange between networks, publish the trusted exchange framework and common agreement, provide technical assistance to the industry on implementing a trusted exchange framework, and support pilot testing of the trusted exchange framework;
- ONC must publish a directory of health information networks that have adopted the common agreement and use its regulatory authority to establish a process for networks to attest that they abide by the trusted exchange framework and have adopted the common agreement;
- Federal agencies may require as part of their contracts with health information networks that they abide by the trusted exchange framework and common agreement

The provisions in 21st Century Cures to create or support a trusted exchange framework are a logical follow-on to ONC's [Interoperability Roadmap](#), where the need for a framework and a minimal number of agreements was called out. The bill requires that ONC work collaboratively with the private sector to develop or support a framework. It's important to note that ONC is not required to develop a framework or common agreement from scratch. In fact, ONC is directed to take into account existing frameworks and agreements and avoid disrupting exchange that is currently occurring across networks. There are five major (i.e. not limited to a small region) trusted exchange frameworks in existence today: Carequality, Commonwell, DirectTrust, eHealth Exchange, and the Strategic Health Information Exchange Collaborative (SHIEC). Each has its own common agreement, for example the eHealth Exchange uses the Data Use and Reciprocal Services Agreement (DURSA). ONC will likely collaborate closely with all of these organizations to use their frameworks as a starting point

and understand where there is overlap and gaps. By June, ONC must convene a group of public and private stakeholders to start to come to consensus on a single trusted exchange framework and a common agreement. HIOs who aren't currently participating in any of these organizations should take steps to familiarize themselves with each organization's framework and agreements and understand how they can participate in the discussion that ONC will facilitate.

Once the industry comes to a consensus on the trusted exchange framework and common agreement, ONC will have to publish each on its website. ONC in collaboration with NIST must pilot the trusted exchange framework. Historically, ONC has financially supported pilots via grants; though no specific funds were appropriated to support piloting this work. Finally, ONC must also provide technical assistance to help with implementing the trusted exchange framework. Technical assistance can take many forms, including: a community of practice (CoP) similar to what ONC has done for grantees, a playbook similar to the Health IT Playbook ONC created for providers, updates to the Interoperability Roadmap, and best practices or reports.

The 21st Century Cures Act also directs ONC to create a directory of all of the organizations that have adopted the framework and common agreement. Likely, this would look something like the [Certified Health IT Product List \(CHPL\)](#). Further, ONC is directed to use the rulemaking process (where a notice of proposed rulemaking is followed by a final rule) to create a standard process for HIOs/health information networks to attest that they follow the framework and common agreement. It's not clear how heavy-handed of a regulation this would be. It could be quite lightweight or be something more akin to the [Governance RFI](#) ONC released in 2012. What is clear is that we're not likely to see a proposed rule on this topic until 2018, depending on how quickly the industry coalesces around a framework and common agreement. Nonetheless, HIOs should make sure they watch out for federal regulations related to this area and participate in the comment periods to ensure their voice is heard.

While ONC is required to work with the industry to identify a trusted exchange framework and common agreement, the bill is clear that adoption of both by HIOs/health information networks is voluntary. However, just because it's voluntary doesn't mean there aren't ways that ONC could work with other agencies to push organizations to adopt the framework and common agreement. In addition to ONC posting the list of organizations that follow the framework and common agreement, all federal agencies are instructed in the bill that they may require that organizations contracting with them abide by the framework and common agreement. Organizations who have contracts with the Veterans Affairs (VA), Social Security Administration (SSA), Centers for Medicaid and Medicare Services (CMS), ONC, and any other federal agency who purchases and uses health IT could build this requirement into their contracts and likely will be encouraged to do so. HIOs who already have or are considering contracts with these agencies should be aware that this requirement will likely be added to all new contracts, and they should pay special attention to the trusted exchange framework and common agreement as they are developed.

[Up next, Part 3: Information Blocking, Patient Matching, and Provider Directory.](#)