

From: Charles Stellar <cstellar@wedi.org>
Sent: Thursday, October 24, 2019 5:06 PM
To: privacyframework <privacyframework@nist.gov>
Subject: NIST Privacy Framework Comments

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October 24, 2019

Submitted Via Electronic Mail to:

privacyframework@nist.gov

Katie MacFarland
National Institute of Standards and Technology
100 Bureau Drive
Stop 200
Gaithersburg, MD 20899

RE: NIST Privacy Framework: Preliminary Draft Comments

Dear Ms. MacFarland:

I am writing on behalf of the Workgroup for Electronic Data Interchange (WEDI), the nation's leading nonprofit authority on the use of information technology to create efficiencies in health care information exchange. We appreciate the opportunity to respond to the National Institute of Standards and Technology (NIST) proposed Privacy Framework as published in the Federal Register on September 9, 2019.

About WEDI

WEDI was formed in 1991 by then-Secretary of HHS Dr. Louis Sullivan. Named in the bipartisan Kassebaum-Kennedy HIPAA legislation as an advisor to the HHS Secretary, we have worked closely with every Administration since our founding. WEDI is a multi-stakeholder organization whose membership includes ambulatory providers, hospitals, health systems, health plans, health information technology standards organizations, health care information technology vendors and government entities. We actively work with both the public and private sectors advocating to reduce health care administrative costs and facilitate improvements in information exchange through voluntary collaboration.

WEDI has been an instrumental in establishing, and later enhancing, HIPAA standards for electronic administrative transactions, data privacy and data security. WEDI has also

helped identify opportunities to drive down the costs associated with manual, paper-based transactions and increasing the confidentiality of patient information through the use of technology. Our robust workgroups, white papers, informative conferences, surveys and online webinars provide critical industry education and foster collaborative partnerships among diverse organizations to solve the challenges of real-world data exchange.

We have also worked closely with both the Centers for Medicare & Medicaid Services and the Office for Civil Rights on industry outreach and education.

General Comments

WEDI is committed to protecting the privacy and security of consumer health information as mandated in the HIPAA regulations for covered entities. For the past 20 years, the HIPAA Privacy and Security Rules have engendered public trust and have been effective in protecting identifiable health information. Overall, the preliminary draft Framework provides a good set of guiding principles and structural elements to help entities build a solid privacy foundation. We believe the Privacy Framework will help improve privacy practices across all healthcare sectors, particularly those entities that do not have baseline privacy practices. We also believe the payers, providers and vendors that we represent are an example of successful practices for protecting information privacy and security.

We believe it is important to continue the emphasis on care coordination that aligns with the continued practice of protecting consumer health information. As NIST further develops their framework, we encourage collaboration with industry stakeholders such as WEDI and support the agency's approach of developing the Framework in collaboration with public and private stakeholders. As an advisor to the Secretary of the Department of Health and Human Services (HHS) and a multi-stakeholder organization, WEDI offers the structure for intra-industry collaboration. WEDI has proven leadership engaging the industry to address the most impactful changes of our time, including the National Provider Identifier, ICD-10, health claim attachments and prior authorization.

The NIST Privacy Framework must be voluntary for HIPAA-covered and similarly situated entities. Health entities are currently governed by both federal laws and regulations and a multitude of state legal requirements and as such, we endorse the Privacy Framework as a voluntary tool that can further assist entities with identifying, assessing, managing, and communicating privacy risks to foster the further development of to protecting an individual's privacy.

We believe that health entities need the flexibility to utilize the NIST Privacy Framework to complement their already robust privacy and security programs and processes with the understanding that refinements and improvements should always be made to keep pace with industry best practices and to avert developing threats to privacy. The Privacy Framework should not be used as a new layer of mandated and duplicate requirements for the healthcare sector.

Current practice allows non-HIPAA covered entities, such as some private entities and public organizations, to access, use, transmit or disclose health information without having to comply with federal or state privacy laws. NIST and other agencies could be helpful in identifying gaps for protecting consumer health data, and to work with the Administration and Congress to help promote better privacy protections of consumer health information by these non-HIPAA entities.

WEDI appreciates the opportunity to collaborate with NIST and stand ready to assist as needed. Charles Stellar, President and CEO of WEDI, or I would be pleased to answer any questions pertaining to WEDI's recommendations, which are enclosed herein.

Sincerely,

/s/

Jay Eisenstock
Chair, WEDI

cc: WEDI Board of Directors