



Physicians Caring for Texans

April 28, 2014

Karen B. DeSalvo, MD, MPH, MSc
National Coordinator for HIT
Hubert H. Humphrey Building; Suite 729D
200 Independence Avenue SW.
Washington, DC 20201

Re: Voluntary 2015 Edition Electronic Health Record (EHR) Certification Criteria Proposed Rule

Dear Dr. DeSalvo,

The Texas Medical Association (“TMA”) is a private, voluntary, nonprofit association of Texas physicians and medical students. TMA was founded in 1853 to serve the people of Texas in matters of medical care, prevention and cure of disease, and improvement of public health. Today, our maxim continues in the same direction: “Physicians Caring for Texans.” TMA’s diverse physician members practice in all fields of medical specialization.

On behalf of our more than 47,000 member physicians and medical students, TMA appreciates this opportunity to review and offer comments on the above referenced proposed rule relating to the 2015 EHR certification criteria.

Overarching Comments

CMS and ONC should consider that when physicians are forced to transition to another EHR, the data migration is very expensive and, in fact, cost-prohibitive for small practices. TMA has heard from numerous members experiencing extreme difficulty as they try to transition patient data and maintain a complete legal record. Many EHR vendors suggest that practices create a PDF file of every patient record. Some will transition the data, but only discrete data elements, and the cost is very high. One vendor recently asked a physician to pay \$10,000 for what amounted to three hours of the vendor’s work. The practice could have transitioned its own data if the EHR’s “utility function” had been activated. The vendor refused to activate this functionality as it would have exposed propriety elements of the EHR. EHR vendors should be required to provide a complete legal record at cost to physicians just as physicians are required to maintain a complete legal record and provide it at cost to patients.

One possible solution to this problem would be to require vendors to tag with standardized XML key data element that would typically be moved in an EMR transition. Vendors also would need

to be able to receive and process data feeds with this standardized XML, storing it in their native tables. This process is used for the continuity of care document/record (CCD/CCR) but on a limited scale. This process would also assist with transfers of Meaningful Use data to health information exchanges (HIEs).

ONC should consider the implications to physicians of any new certification criteria. Many EHR vendors use the release of these new criteria as an opportunity to charge practices higher fees for new, upgraded software. Physicians are continuously asked to pay more for EHR upgrades and modules to the point that it costs them significantly more than the incentive gleaned from the Meaningful Use program. The unintended consequence is that physicians will discontinue participation in Meaningful Use. A recent example of this is explained below:

ONC made changes to Stage 1 Meaningful Use in the Stage 2 final rule. Most of the changes were positive. One change, however, requires physicians participating in Stage 1 to now make available the “view, download, and transmit” functionality for patients. ONC reasoned that since the 2014 certification criteria provided the needed functionality, this change “does not impose a significant burden on providers.” Unfortunately, this is not the case. Practices participating in Stage 1 must now implement the patient portal module of their EHR. One vendor charges \$1,500 to add this module, and then an ongoing subscription fee of \$69 per month. When the practice suggested they could not afford that price tag, and would shop elsewhere, the vendor alerted them that the interface fees to integrate patient information with a third-party portal provider would be even higher. This puts physicians in a terrible position of trying to meet the criteria, do what is right for their patients, and meet vendor demands.

TMA recommends that ONC adopt any certification changes with very careful consideration of the unintended consequences.

Thank you for the opportunity to comment on the certification criteria. Should you have any additional questions or need any further information, please do not hesitate to contact Shannon Vogel, (512) 370-1411, at the Texas Medical Association.

Sincerely,

A handwritten signature in black ink that reads "Matt Murray". The signature is written in a cursive, slightly slanted style.

Matt M. Murray, MD
Chair, *ad hoc* Committee on Health Information Technology