



January 28, 2019

The Honorable Alex M. Azar II, JD
Office of the Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

The Honorable Seema Verma, MPH
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dr. Don Rucker
Office of the National Coordinator for Health IT
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

RE: Strategy on Reducing Regulatory and Administrative Burden Relating to the Use of Health IT and EHRs

Submitted Electronically at healthit.gov.

Dear Secretary Azar,

On behalf of the 1,500 members of the American Alliance of Orthopaedic Executives (AAOE), the 15,000 physicians they serve, and the 70,000 people they employ, we are pleased to provide comments on the Office of the National Coordinator for Health IT's (ONC) draft Strategy on Reducing Regulatory and Administrative Burden Relating to the Use of Health IT and EHRs. We thank the Department of Health and Human Services (HHS), the Centers for Medicare and Medicaid Services (CMS), and ONC for their work on this document and their attempts to reduce the burden that health IT poses to our members and their clinicians.

Health information technology in the 21st century has the potential to transform patient care towards better outcomes and more efficient operations. Unfortunately, the number of rules for health IT have become overly burdensome and complex, preventing health IT tools from achieving their promise. These overly burdensome requirements cause our physicians and clinical staff to lose faith in the transformative power of health IT and may even prevent patients from utilizing these new tools to proactively track their health. The recommendations from ONC, CMS, and HHS are a start towards a more responsive and permissive health IT regulatory structure, however, the recommendations do not address some of the biggest challenges facing healthcare providers in implementing health IT.

Cost Burden of Health IT Not Adequately Addressed

Unfortunately, the cost burdens of health IT have not been adequately addressed in the draft strategy. The second recommendation in strategy four attempts to address the budgetary effects of health IT on healthcare providers, however, the recommendation does not go far enough. While it is true that many practices do not fully understand the on-going budgetary effects of establishing and implementing a



health IT environment in a medical practice, a lack of understanding is hardly the only burdensome issue facing our members and it is wrong for the agencies to place the burden of understanding these effects solely on the end-user. ONC, CMS, HHS, and Congress must address the questionable practices of health IT vendors that treat healthcare providers as never-ending sources of income.

Electronic health record (EHR) vendors have utilized business tactics that would be questionable in any other industry but a blind eye has been turned to those tactics in healthcare for far too long. For example, many vendors include exorbitant costs to extract patient data from the EHR when a clinician wishes to switch vendors. The cost may vary based on the amount of data needing extraction, however, regardless of cost variances, the practice is abusive and designed merely to pad the pockets of these vendors seeking to enrich themselves at the expense of patient care. This is data about our patients, data that we are responsible for and we should be free to extract it as we need to for whatever legal purpose we see fit. Unfortunately, the current environment does not permit this.

Additionally, EHR vendors will charge large fees to set-up interoperable channels between health IT devices. The American Association of Orthopaedic Executives (AAOE) provides a registry solution for musculoskeletal health providers to collect data for the Merit-based Incentive Payment System (MIPS), send patient-reported outcomes surveys, and collect patient satisfaction data. The AAOE Registry, a Qualified Clinical Data Registry (QCDR), is a cost-conscious attempt to improve care delivery in orthopaedics and connect clinical and operational data to improve the patient experience. Our discussions with EHR vendors on connecting their systems to the Registry have yielded little buy-in from these vendors on establishing cost-free connections for medical practices. Despite being capable of developing direct connections that can work for numerous clients at little cost to the vendor, these vendors have indicated that they will charge each practice wishing to connect upwards of \$15,000. These costs are assumed not because they are necessary to compensate the vendor for \$15,000 worth of work but simply because the vendors can charge it. Further, the costs of EHR use increase each year. In an environment of decreasing reimbursements from Medicare and third-party payers year-over-year, it is getting harder for our members to justify the investment in health IT.

We suggest that ONC, CMS, and HHS develop, with stakeholders, a provider Health IT Bill of Rights that would:

- Ensure fair market value for the costs of implementing health IT solutions;
- Establish transparency in health IT vendor operations and contracting; and,
- Provide predictability to EHR pricing and allow for more predictable budgeting.

A provider Health IT Bill of Rights, as well as enforcement mechanisms to ensure compliance with this bill of rights, is critical to reducing the cost burden of health IT for clinician groups. We encourage your agencies to develop and implement these policies hastily.

Clinical and Cost Benefits of Registries Absent from Draft Strategy

AAOE joins other specialty societies in expressing our disappointment that clinical data registries such as the AAOE Registry were not included in the draft strategy as a tool to reduce burden in health IT. Registries are unique in that they permit the longitudinal tracking of patient care quality and outcomes without adding an additional burden on physicians and their staff. Some registries, including the AAOE



Registry, also permit participating clinicians to benchmark their performance on outcome measures, patient satisfaction, and patient-reported outcomes to further improve the quality of care provided. This benchmarking allows for the identification of best practices based on real-world evidence that will ultimately prove transformative for patient care.

We encourage ONC to revisit the draft strategy and provide recommendations that encourage the use of clinical data registries to further our movement towards improved, efficient care for the millions of current and future Medicare beneficiaries while limiting the burden of implementing health IT in a medical practice.

Certification Standards Inhibit Health IT Functionality

Since ONC launched the Health IT Certification Program in 2010, we have seen four versions of certification standards that EHR vendors must meet in order to remain certified and thus eligible for use in Medicare reporting. This has led to EHR vendors focusing their development attention on the certification standards rather than user interface. This negatively impacts our clinicians who must manage to converse with and treat their patients while maintaining a record of the encounter in the EHR. More intuitive user interfaces can make maintaining these records easier and less burdensome than it currently is. Longer periods between certification standard updates would also take some of the financial pressure off of our members' practices who currently must pay for consistent IT upgrades to keep up with the most recent certification standards.

We encourage ONC to pursue certification standards that are both relevant to the clinical practice of medicine at the time they are proposed but also enduring in order to allow health IT vendors to maintain compliance with the standards while also refining their user interfaces.

Remove Public Health and Clinical Data Registry Reporting Objective from MIPS

The Merit-based Incentive Payment System (MIPS) is the value-based payment program that touches the majority of our members. We encourage CMS to remove the Public health and Clinical Data Registry Reporting objective in the Promoting Interoperability category of MIPS. We were heartened to see CMS solicit comment on this in the 2019 Physician Fee Schedule rulemaking. The objective is not relevant to many of our members and makes the category burdensome to them.

We thank CMS for establishing exceptions to the measures included in this objective and while they provide some relief from this burden, nothing short of removal of the objective will provide full relief.

We thank your agencies for soliciting stakeholder feedback reports on the draft strategy. If you require additional information, please do not hesitate to contact AAOE's Manager of Government Affairs, Bradley Coffey, MA at bcoffey@aaoe.net.



Sincerely,

A handwritten signature in black ink that reads 'Karen Sollar'.

Karen Sollar, CMPE
2018-2019 President
American Alliance of Orthopaedic Executives

CC: Addy M. Kujawa, CAE, *Chief Executive Officer*, AAOE
Kitchi Joyce, *President-Elect*, AAOE