



Physicians Caring for Texans

June 19, 2014

Fred Upton, Chairman
House of Representatives
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 201515-6115

RE: Your letter of June 3, 2014, to Office of the National Coordinator; Karen DeSalvo, MD, MPH, MSc,

Dear Chairman Upton,

On behalf of the Texas Medical Association (TMA) and our physicians who are laboring to integrate complex health information technology (HIT) tools into our daily patient care activities, we thank you for your June 3 letter to the Office of the National Coordinator (ONC). We want you to know that we believe all of your questions are absolutely on target, and we encourage you to press for specific answers. We also ask you to consider additional issues discussed below.

The TMA is a private, voluntary, nonprofit association of more than 47,000 Texas physicians and medical students. Founded in 1853 to serve the people of Texas in matters of medical care, prevention and cure of disease, and improvement of public health, our charge today is little changed. We represent physician members practicing in all fields of medical specialization.

We have followed closely the activities of ONC since its inception in 2006 and support much of its work on Meaningful Use since the HITECH Act was passed in 2009 because we believe HIT has the potential to improve health care when implemented and used well. We have openly encouraged Texas physicians to adopt electronic health records (EHRs) and educated them on how to select and implement them successfully in their offices. We have closely collaborated with all four Regional Extension Centers (RECs) established in Texas through the State HIT Cooperative Program and ensured that at least 50 percent of the Texas REC governing boards consist of physicians in order to increase physician trust in this HITECH Act program. ONC data shows that subsequent to these efforts Texas physicians have worked hard and in good faith to meet the requirements of the federal Meaningful Use (MU) program.

We also have educated Texas physicians on the potential for health information technology to impede quality health care if it is implemented poorly or used poorly. It takes a lot of time and resources for physicians to ensure their EHRs are safe including the execution of annual privacy and security assessments required by HIPAA and Meaningful Use. Along this line we have advocated in our comments to ONC on several occasions for the development of an HIT Patient Safety entity that can collect patient safety concerns identified across all providers and all HIT vendor products and effectively manage those issues. Right now this process is opaque, as it is managed behind closed doors between the individual physician office that identifies patient safety issues and the individual vendor whose product is involved. There is no oversight to identify issues that are pervasive. As a result of this patient safety impediment, we strongly support the Food and Drug Administration Safety and Innovation Act (FDASIA) report's recommendation to establish an entity that has the authority to regulate HIT/EHR products, but we are concerned about who really has the ability and authority to do so.

We also want you to know that despite Texas physicians' significant increase in EHR adoption and the high number of successful attestations for Stage I Meaningful Use in the past 3 years, we are now encountering an increasing amount of disenchantment from our physicians. They are feeling overloaded by the myriad new Stage 2 Meaningful Use measures imposed on them from CMS, from different quality measures imposed on them from each individual payor, and from other regulatory demands such as the conversion to ICD-10, which was fortunately delayed this year. In addition, physicians recognize that there is a lack of evidence showing improved health care outcomes between physicians who have met Meaningful Use and those who have not successfully attested.

TMA believes that the Stage 2 measures are overly burdensome, redundant, and in some cases will actually detract from patient care. In addition, these new measures will require new electronic health record (EHR) certifications that are costly to all industry stakeholders, especially smaller physician practices. Specifically:

- ONC is proposing a process of multiple certifications, not just with each MU stage. We believe this certification process has become too costly, may work against its realistic adoption, and may suppress innovation by EHR developers.
- EHR vendors have been slow to retool their systems to meet the complexities of higher meaningful use stages.
- When they do retool, EHR vendors have passed on these additional costs via upgrade fees to the end users – physicians and hospitals.
- The end users must then test the upgraded systems before fully implementing and using them. Human resources are the most expensive operating line items, especially when utilizing highly skilled technical manpower.
- Some upgrades are so extensive that additional training is required of all users. This is costly for large health care organizations and a significant time constraint on small practices
- Most importantly, because of the complexity of the technology and the change in clinical work flow processes involved, patient safety is at risk each time an EHR is upgraded. These risks can be difficult to identify without comprehensive testing of the upgraded product before implementation. The launch of the federal Health Insurance

Exchange website last October is an example of launching a complex technology with insufficient testing, but that project did not directly involve patient safety as does an EHR upgrade.

Therefore, TMA strongly recommends that CMS or Congress suspend the EHR penalties on Medicare charges that are scheduled to take effect Jan. 1, 2015. We believe CMS will put patient safety at risk by requiring EHR vendors to meet overly burdensome certification requirements and physicians to implement complex EHR upgrades in a compressed period of time. That will lead to the unintended consequence of both EHR vendors and physicians not taking the necessary time to sufficiently test their systems for patient safety issues.

While CMS recently proposed rules to add some flexibility, the timing and the manner of the proposal likely will cause even further industry disruption. This disruption also puts patients at risk as system upgrades are hastily developed and delivered to market with the increased risk of inadequate testing.

From what we are hearing from physicians, we believe Texas physicians – out of frustration – will withdraw from the Meaningful Use program at alarming rates. Across the nation only 440 physicians and 8 hospitals have, at this time, attested to Meaningful Use in 2014. This may be evidence that the frustration and difficulties are not limited to Texas.

TMA further recommends that Congress not require any new meaningful use criteria. For Stage 3, simply increasing the achievement goals for existing criteria would add enough work. The cost is simply too great.

We fully appreciate that “the efficient and effective deployment of health information technology has been priority” for your committee. We are grateful for your ongoing committee oversight, and we encourage you to press for adequate answers and a realistic way forward from ONC.

Sincerely,

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

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

cc: The Hon. Joe Barton
The Hon. Michael C. Burgess
The Hon. Gene Green
The Hon. Ralph Hall
The Hon. Pete Olson