



Physicians Caring for Texans

November 12, 2014

Marilyn B. Tavenner, Administrator
Department of Health and Human Services
Centers for Medicare & Medicaid Services
Room 445-G, Hubert H. Humphrey Bldg.
200 Independence Ave. SW.
Washington, DC 20201

Dear Administrator Tavenner,

The Texas Medical Association (“TMA”) is a private, voluntary, nonprofit association of more than 47,000 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.

TMA respectfully requests that CMS immediately suspend meaningful use core measures 7 and 17.

Core 7: Measure 1: More than 50 percent of all unique patients seen by the EP during the EHR reporting period are provided timely online access to their health information.

Measure 2: More than 5 percent of all unique patients seen by the EP during the EHR reporting period view, download, or transmit to a third party their health information.

Core 17: A secure message was sent using the electronic messaging function of CEHRT by more than 5 percent of unique patients seen by the EP during the EHR reporting period.

Due to widespread opposition from patients, the inability to comply with these measures is preventing physicians from attesting to stage 2 meaningful use. In 2012 **more than 11,000** Texas eligible professionals (EPs) attested to stage 1; so far in 2014, **only 120** EPs have attested to stage 2.

Even though physicians agree that patients should be more engaged in their own health and care, numerous physicians are reporting to TMA that they are simply unable to convince 50 percent of their patients to sign up for the patient portal. Many patients, especially elderly patients, do not use e-mail or computers and neither do not have nor are comfortable giving the email address of a patient representative. Many patients who do use computers refuse to enroll in the patient portal, despite attempts by the staff and doctors encouraging them to do so. One physician indicated that she felt like she was having to coerce her patients to do something they simply either did not want to, or could not do. Physicians with high indigent populations are

experiencing the same issue. Patients have complained that they do not like pressure from the practice staff to access their health information and communicate with the staff online.

Achieving this objective requires doctors to make patients do something unrelated to clinical care or outcomes. There is no objective evidence to show that improved outcomes will result from physicians' actions to change patients' behavior in the proposed manner. Without such evidence, it is not reasonable for CMS to base financial incentives or penalties on a physician's ability to engineer patients' online communication behavior. Many physicians treat elderly patient populations and it is not reasonable to expect these patients to have access to a computer and the internet to download or transmit information, much less the desire to do so. If CMS desires patients to behave a certain way, the incentives should be for those patients. It should not be required of physicians.

Unintended consequences of this measure are that physicians will turn away patients who are not computer literate or who do not have a computer and internet access. Ironically, these are the very populations most served by Medicare and Medicaid.

Please suspend these measures immediately. At the very least, create another exclusion for eligible professionals addressing this issue.

TMA further requests that CMS work with Congress to suspend all meaningful use physician penalties set to begin Jan. 1, 2015. Physicians should not be penalized for not meeting virtually unattainable meaningful use measures. The unintended consequence will be reduction in Medicare patients' much needed access to care.

Sincerely,

A handwritten signature in black ink that reads "Austin King MD". The signature is written in a cursive, flowing style.

Austin I. King, MD
President

cc: Karen DeSalvo, MD, MPH
National Coordinator

Secretary Sylvia Mathews Burwell
U.S. Department of Health & Human Services

The Honorable Members of the Texas Delegation to the U. S. Senate and U.S. House of Representatives