

September 29, 2020

Dr. Donald Rucker, National Coordinator
The U.S. Department of Health and Human Services
Office of the National Coordinator for Health
Information Technology
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Dr. Rucker:

The undersigned organizations represent the nation's clinicians, hospitals, health systems and foremost experts in health informatics and health information management. We write to express our steadfast commitment to furthering patient access to their medical records via apps, leveraging application programming interfaces (APIs), enhancing clinician and providers' access to data within their workflow, and securely sharing medical information electronically so patients and clinicians make informed treatment decisions. Taken together, the health IT provisions contained in the 21st Century Cures Act hold considerable promise in furthering our long-shared goal of achieving widespread interoperability. **However, the COVID-19 pandemic continues to monopolize our members' time and attention, and has strained resources, drastically limiting our members' ability to prepare for the November 2nd information blocking deadline.**

Our members have graduated from a period focused on adoption of electronic health records (EHRs) to a new one fueled by innovation and technology. With a strong foundation in place, the U.S. is now positioned to continue to thrive in the new era of consumerism where patient-centered care hinges on data access, exchange and sharing. With patients more involved in their care than they have ever been before; this forward momentum must continue. This year alone we have seen how the use of EHRs and the data sharing practices put in place following the Health Information Technology for Economic and Clinical Health Act (HITECH) made the daunting task of battling COVID-19 just a little easier.

However, we must remain cognizant of the burden this public health emergency continues to place on our healthcare system. Clinicians and healthcare professionals have worked tirelessly to care for those stricken with the disease, mitigate the spread to others, console the families who have lost loved ones, and tackle numerous technical challenges associated with case identification, monitoring and reporting. Many of our small and rural members are struggling to keep their hospitals, clinics and medical practices afloat.

The final information blocking rules were released just as the U.S. began to experience the pandemic in earnest—mere days before many of us began working from home and as health care settings around the country were mobilizing to battle COVID-19. The time that had been set aside to focus on preparing for the pending information blocking and interoperability mandates has been overtaken by the all-encompassing effort required to fight this disease. Unfortunately, the financial strains placed on our sector has left some of our members fighting for financial survival. Many have been forced to table plans to begin preparing for these new mandates regardless of how supportive they are of them, shelving or postponing planned software upgrades and other changes in order to focus on the most pressing issue surrounding COVID-19 – caring for patients. On top of this, large swaths of the west coast are experiencing additional challenges due to massive and extraordinary fires forcing mass evacuations placing added burden on these clinicians and providers.

With the U.S. heading into the fall and winter months, the work is far from over. Healthcare professionals and clinicians are preparing for the double burden of combatting the flu season simultaneously alongside the pandemic. As anticipation builds, the sector must also prepare for the enormous effort that will be involved with vaccine administration and monitoring once this life-guarding medicine is available. These combined responsibilities have impeded the ability of many of our members to prepare for the November 2nd information blocking deadline and they will need more time to adequately prepare for compliance. We appreciate that ONC plans to issue an interim final rule addressing an extension of compliance deadlines associated with information blocking and certification. **We respectfully urge ONC to:**

- 1. Allow healthcare provider “actors,” one of three types of Actors under the Cures Act who must meet these policies, at least one year of extended enforcement discretion to help ensure they have adequate time to prepare and not divide their attention from the continued COVID-19 fight; and**
- 2. Work with the Centers for Medicare & Medicaid Services (CMS) and the U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG) to ensure that any such extension is harmonized with hospital and clinicians’ information blocking attestation responsibilities under the Hospital Promoting Interoperability program and for clinicians under the Merit-based Incentive Payment System (MIPS).**

While COVID-19 has had a devastating impact on our country and the world at large, our members have risen to meet this incredible challenge and continue to fight this invisible threat that continues to ravage the country. Meeting the policy goals laid out in the Cures Act remains in our direct line of sight, as we know increasing a patient’s access to their data will only continue to push the sector forward. However, we want to ensure we are able to meet these goals thoughtfully with full focus to ensure their long-term success. A delayed victory is better than a rushed failure and we all want to ensure that the open data future is here to stay.

Thank you again and we appreciate the opportunity to give you this important feedback.

Sincerely,

American College of Physicians (ACP)

American Hospital Association (AHA)

American Medical Association (AMA)

American Medical Informatics Association (AMIA)

College of Healthcare Information Management Executives (CHIME)

Federation of American Hospitals (FAH)

Medical Group Management Association (MGMA)

Premier Inc.