

November 10, 2023

Mark Ghaly, MD, MPH  
Secretary  
California Health & Human Services Agency  
1215 O Street  
Sacramento, CA 95814

RE: Concerns Regarding the Implementation of AB 352

Dear Secretary Ghaly:

The HIMSS Electronic Health Record (EHR) Association would like to take this opportunity to provide feedback on Assembly Bill 352: Health Information.

As the national trade association of EHR developers, EHR Association member companies serve the vast majority of hospital, post-acute, specialty-specific, and ambulatory healthcare providers using EHRs and other health IT across the United States. Together, we work to improve the quality and efficiency of care through the adoption and use of innovative, interoperable, and secure health information technology.

AB 352 creates specific requirements for businesses that store or maintain medical information for health care providers, among others. This requirement would apply to the EHR developer member companies of the EHR Association, making them stakeholders in future regulations on this topic. As a result, we would like to share our concerns with the timeline outlined by AB 352.

The EHR Association respects the intent of AB 352 and its members will all seek to comply, however, the timeline noted (July 1, 2024) does not provide sufficient time for EHR developers, or other applicable businesses, to develop, test, and release the functionality necessary to enable the requirements of 56.101(c) of the California Civil Code.

Unfortunately, the new requirements outlined in AB 352 do not align with federal requirements for (and therefore are not in line with the current capabilities of) EHRs in use in California. California Health & Human Services Agency (CalHHS) may or may not be aware of the current capabilities of EHRs in use in California, which is why we want to raise this concern. The EHR Association has continuously requested at both Federal and State levels that 18-24 months should be allowed for the development of new EHR features from the date of any requirement issued in statute or regulation, and after standards for that development have reached sufficient maturity for adoption. The current timeline in AB 352 allows just

AdvancedMD	CureMD	Flatiron Health	MEDHOST	Office Practicum
Allscripts	eClinicalWorks	Foothold Technology	MEDITECH, Inc.	PointClickCare
Altera Digital Health	Elekta	Greenway Health	Modernizing Medicine	Sevocity
Athenahealth	EndoSoft	Harris Healthcare	Netsmart	STI Computer Services
BestNotes	Epic	MatrixCare	Nextech	Varian – A Siemens
CPSI	Experity		NextGen Healthcare	Healthineers Company

over nine months between the enrollment of AB 352 (September 27, 2023) and the required compliance date of July 1, 2024.

Additionally, data segmentation and consent standards such as might be used for California's goal of restricting the sharing of sensitive gender-affirming care, abortion care, and contraceptive health information have not reached sufficient maturity through the industry's standards adoption process at this time. The 18–24-month time period necessary for the development, testing, and implementation of these functionalities and standards cannot begin until that work is complete. We suggest the State should seek to work with standards development organizations and other industry stakeholders to help drive sufficient maturity for these standards to support these use cases.

Simply stated, the EHR Association requests that CalHHS provide additional time for impacted businesses to properly develop, test, and release the required functionality to our clients in the State of California. The EHR Association provided feedback to ONC earlier this year on the future direction of data segmentation and consent standards in our public comments on the HTI-1 Proposed Rule ([see link](#)).

We welcome an opportunity for the Association's membership to discuss how the health IT community can effectively work with CalHHS toward regulations that reflect the reality of health IT's technological capabilities. The Association's leadership can be reached by contacting Kasey Nicholoff at [knicholoff@ehra.org](mailto:knicholoff@ehra.org), who can help identify a time that will work for all stakeholders.

Thank you for your consideration and please let us know if we can expand on any of these concerns for you.

Sincerely,

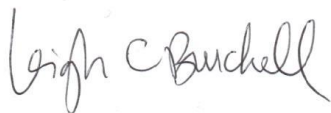


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CPSI

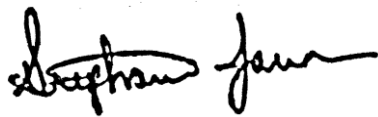
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Greenway Health



Ida Mantashi  
Modernizing Medicine

*Established in 2004, the Electronic Health Record (EHR) Association is comprised of companies that supply the vast majority of EHRs to physicians' practices and hospitals across the United States. The EHR Association operates on the premise that the rapid, widespread adoption of EHRs will help improve the quality of patient care as well as the productivity and sustainability of the healthcare system as a key enabler of healthcare transformation. The EHR Association and its members are committed to supporting safe healthcare delivery, fostering continued innovation, and operating with high integrity in the market for our users and their patients and families. The EHR Association is a partner of HIMSS. For more information, visit [www.ehra.org](http://www.ehra.org).*