



## **Testimony of Charles Jarvis, Vice Chair of the HIMSS EHR Association**

House Ways and Means Committee, Health Subcommittee

“Incentives Promoting the Adoption of Health Information Technology”

July 20, 2010

### **Introduction**

Thank you very much, Chairman Stark, Ranking Member Herger, and distinguished members of the Committee and staff. My name is Charles Jarvis, and I am the Vice Chair of the Electronic Health Record (EHR) Association. I am also employed as Vice President Healthcare Services and Government Relations for NextGen Healthcare, Inc., based in Horsham, Pennsylvania. It is an honor to be here today representing the Electronic Health Records Association. We are proud to share your common goal of transforming the way we deliver healthcare in the United States through the effective use of health information technology (HIT). I look forward to presenting our views regarding the newly released Final Rule on Meaningful Use and how the HIT vendor community is supporting the role-out of the new EHR incentive program.

The EHR Association is comprised of 44 companies that employ industry experts in the field of HIT with a broad scope of expertise such as medical and clinical informaticists, physicians, nurses, pharmacists, and technology and policy experts. These individuals not only represent the EHR software industry, but also interact with and reflect the breadth of the entire healthcare community. The EHR Association offers unmatched experience and expertise, and provides a forum and structure for EHR leaders to work toward standards development, interoperability, EHR certification, performance and quality measures, HIT legislation and regulation, and other EHR and HIT issues. The Association is a partner in the Health Information Management System Society (HIMSS) and operates as an independent organizational unit within HIMSS for companies who are EHR software solution providers.

### **General Comments**

I will start my comments by saying that, as a representative of the HIT provider sector of the healthcare industry, we congratulate the Centers for Medicare and Medicaid Services (CMS) and the Office of the National Coordinator for Healthcare IT (ONC) on their outstanding work in

carrying out one of the regulatory requirements of the HITECH Act (Health Information Technology for Economic and Clinical Health Act) of ARRA (American Recovery and Reinvestment Act of 2009).

In addition, we want to sincerely thank your Committee and the Congress for the guidance provided in the legislative process, and for your confidence that our industry can help ensure the desired increased adoption and meaningful use of EHRs. We also want to emphasize that we understand our responsibility to ensure that the taxpayer funds allocated to the program are used prudently and effectively. We are committed to getting this right, working with our clients to identify opportunities to achieve the desired improvements in healthcare quality and efficiency.

We are also pleased that, from our interpretation of the regulation, CMS took very seriously the more than 2000 comments that were offered to strengthen the EHR incentive program and provide strong incentives for hospitals and individual healthcare professionals to adopt certified EHR technology, qualify as meaningful users, and participate in Stage 1 of the EHR incentive program. Overall, we feel, as do many of our clients that, although ambitious in some regards, the final rule represents achievable goals and will definitely advance the nation on our road to improved efficiencies and outcomes through healthcare automation.

In our comments on the CMS Notice of Proposed Rulemaking (NPRM) on meaningful use, our highest priority request was to make the guidelines achievable in the first year while still moving the industry rapidly forward to achieve the goals that Congress established. We focused on three main areas: the complexity and “all or nothing” nature of the proposal; the fact that many of the qualifying levels, we believed, were too high given the complex realities of HIT adoption and measurement; and the large number of proposed quality measures, many of which did not have specifications for use with EHRs. In the final rule, we were, therefore, pleased to see that CMS was substantially responsive on each of these issues. For example, many thresholds were reduced, CMS added substantial flexibility in selection of criteria to achieve meaningful use while maintaining a solid core of criteria, and the number of quality measures was streamlined with all final measures having EHR specifications.

Having said this, the objective to become meaningful users of certified EHR technology remains very challenging for some providers. Members of our Association have been and will continue to work with our existing and new clients in the coming months to support their efforts to become meaningful users. I will address what our community is doing as far as education, outreach, and training a little later on.

Regarding the indicators, while some measures (e.g., e-prescribing) have been brought down to manageable levels (40%), other categories such as medication management and problem lists still remain at high thresholds (80%). Although we remain concerned about such high levels, and recognize that elements of the new program will be challenging for many providers given the many criteria to be met and such specific aspects as quality measurements and reporting, we do concur with the comment made by Dr. David Blumenthal that, while the program is ambitious, it is achievable.

### **Response to Committee Questions**

To be responsive to your requests, I begin by responding to an initial question by the Committee, “Is the vendor community ready to meet the challenge of supporting clients in their quest to achieve meaningful use?” The EHR Association responds with an unqualified, but careful, “YES”. Ever since the Stimulus legislation was signed in February 2009, we have been educating ourselves and our clients on the HITECH program. We have participated in every available forum to learn, offer comments and suggestions, and react to the development of the regulations – as they were initially released by the HIT Policy Committee, by CMS in a formal proposed rule, and now to the final regulations.

We take our role in this process very seriously. We appreciate the taxpayer investment in this program and we commit our full effort to making sure this money is invested wisely in our healthcare system. Early adopters of EHR technology have invested their own financial and people resources to improve patient safety. They implemented EHR technology to reduce dangerous medication errors in hospitals and to support quality improvement programs in primary care, including automated reminders for childhood immunizations and cancer screening. With the stimulus funding, these important safety and quality improvements can be extended to the majority of our nation’s health care providers.

As leaders in the health IT sector, we realize that we have a very important responsibility to provide high quality, effective, and usable software for the healthcare providers. Furthermore, we must educate our clients not only on how to make the best use of their EHR system, but also how to navigate the path to meaningful use. Our clients rely on us for information on next steps as their “go-to” resource for answers regarding the requirements for their systems. To help our clients prepare, many vendors have been providing educational webcasts and user group presentations over the past eighteen (18) months since the legislation was passed. In addition, thousands of implementation planning sessions have been held with individual provider organizations to align the meaningful use requirements with their strategic objectives and to develop operational roadmaps that include new functionality. Many vendors have also

provided their clients with information through “help desks” as well as “ask the experts” panels on their web sites.

While we are confident that we have made the right investments in people to produce high quality products, and have developed effective communications with our clients, we know there is much more work to be done and we do not minimize the need for additional resources to address clients’ needs. We, therefore, strive to create partnerships among the provider community, the federal and state governments, and the health IT supplier community represented by our Association.

We appreciate CMS’ and ONC’s outreach to our community for feedback, and we look forward to additional partnership opportunities to ensure that a consistent explanation on all aspects of the regulations is communicated to all healthcare providers, communicating a common and authoritative message on what is expected of them.

You also asked us to comment on what portions of HITECH may not work for vendors or medical providers. The biggest factors are the short time between final regulations and when providers are expected to be able to start meaningful use, the lack of a definitive roadmap for future meaningful use criteria (Stages 2 and 3) and the associated certification criteria and standards for these stages, and the fact that the final rule does not – in our respectful opinion – fully leverage work that has already been done in the area of standards and interoperability.

You have also asked us about the perspective of our provider clients. Candidly, there is still skepticism in the market. Many of our clients continue to question whether the stimulus money is “real” and whether they can realistically achieve meaningful use. The release of the final regulations and the directness of the comments made at the HHS press conference last week will help to dispel some of this doubt, as will actual incentive payments early next year. However, we believe that only a concerted educational effort, and commitment of resources from all parties involved, will allay the remaining uncertainty as to the sustainability of this program as we move into implementation of the Patient Protection and Affordable Care Act.

## **Recommendations**

Please allow me to add several recommendations from lessons learned that we hope will be considered in the future by CMS and ONC; we welcome your support for these requests:

1. Provide HIT vendors and medical providers more time to react to the final Stage 2 regulations. The vendor community and our customers are all under tight schedules to meet Stage 1 deadlines for EHR adoption. Based on the initial schedule that we have seen

for the release of Stage 2 regulations, we will be in an even more challenging situation for Stage 2. Our position, and the position of our provider customers, based on careful balancing of multiple factors, is that the final rules for meaningful use and certification criteria should be available eighteen (18) months before the next stage of meaningful use commences to ensure optimal software development, testing, and safe implementation by providers.

2. Depending on the degree of change between stages, the certification rules and process require all hospitals and medical practices to take a significant system upgrade every two years, regardless of whether they are moving to a new stage of meaningful use. When coupled with new requirements for electronic transaction standards and ICD-10 codes, and the need to respond to healthcare reform provisions, plus the normal upgrade requirements, such a schedule will be a challenge. As CMS and ONC prepare for Stage 2, we ask that they consider adjusting certification policies to address these concerns.
3. We encourage the new “temporary” certification process to move along as quickly as possible. The sooner a variety of EHR products receive ARRA certification, the more time we will all have to help hospitals and eligible professionals achieve Stage 1 meaningful use. This tangible progress will further reassure the market of the government’s commitment to the EHR incentive program.
4. The work on interoperability standards originally set in motion by ONC and carried on by many stakeholders (including physician associations, standards organizations, non-profit standards development organizations, federal agencies, and EHR software developers) has over the last five years resulted in a very well defined set of standards and implementation guides. While we appreciate that some of these are included in the final Stage 1 rule, there are still many others that are not yet included. We continue to encourage regulators to consider this work and specify vetted, proven standards in Stage 2 and beyond.
5. We strongly encourage the committee to review the multi-campus hospital situation and clarify intentions with CMS to support all of our nation’s hospitals in this important transition. A concern that we are hearing from our clients is that, similar to each physician practice needing assistance in making the transition to automation, each hospital – whether a stand-alone facility or one site that is part of a multi-facility organization – will also require software licenses, implementation services, and activation and ongoing support.

## **Concluding Comments**

I will wrap up my comments by reiterating my earlier point that, yes, the vendor community is ready to support our clients – hospitals, physicians, and other healthcare professionals - in achieving meaningful use, building on solid progress in EHR adoption over the past few years. We look forward to continued collaboration with your Committee and stakeholders throughout the community to ensure the effective adoption of health IT to transform the way we deliver healthcare in America. I hope that my comments here today, on behalf of the Association, provide helpful feedback and will aid in the development of next steps for effective health IT adoption.