



Partnership for Electronic Delivery
of Information in Healthcare

HIPAA Summit

WEDI Preconference Symposium

Legislation Report

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eHealth Initiative and Foundation

Mission and Focus

- ◆ Mission: Improve the quality, safety, and efficiency of healthcare through information and information technology
- ◆ Areas of Focus:
 - **Finding common ground** among the multiple constituencies in healthcare on policies and practices for transforming healthcare with **HIT—at the national level**
 - **Building a bridge** between rapidly emerging national policies and best practices and efforts at the state, regional and community levels
 - Placing a special focus on **mobilization of information** (or health information exchange)—to support improvements in **quality**
 - **Directly supporting state, regional and community stakeholders** utilizing our multi-stakeholder-developed common principles, policies and practices

eHI's Diverse Membership

- ◆ Consumer and patient groups
- ◆ Employers, healthcare purchasers, and payers
- ◆ Health care information technology suppliers
- ◆ Hospitals and other providers
- ◆ Pharmaceutical and medical device manufacturers
- ◆ Pharmacies, laboratories and other ancillary providers
- ◆ Practicing clinicians and clinician groups
- ◆ Public health agencies
- ◆ Quality improvement organizations
- ◆ Research and academic institutions
- ◆ State, regional and community-based health information organizations

Overview of Presentation

- ◆ Congressional Landscape
- ◆ HIT Legislative Conference
- ◆ HR 4157/S 1418 – Resolving Differences
- ◆ eHI Legislative Priorities
- ◆ Outlook for Passage
- ◆ Other HIT Legislation
- ◆ Executive Order
- ◆ Summary

Congressional Overview: Fall Landscape

- ◆ Congress expected to recess for November elections last week of September
- ◆ November lame-duck session will be key for any final HIT bill passage prospects
- ◆ HIT issue benefits from election-year activity frenzy
- ◆ House party control has real chance of switch to Democrats – only 15-seat net gain needed
- ◆ 110th Congress (2007-2008) will feature some of the smallest Congressional majorities in history



Congressional Activities

HIT Legislative Conference

- ◆ **Key Congressional members and staff creating unified legislation from House and Senate HIT bills**
 - ◆ Senate Bill - *Wired for Health Care Quality Act* (S. 1418), approved 11/18/05
 - ◆ House Bill - *Health Information Technology Promotion Act* (H.R. 4157), approved 7/27/06

HIT Legislative Conference

Timing

- ◆ HIT bill conference discussions and approval by both Houses must occur by the end of the 109th Congress for enactment
- ◆ The 109th Congress is expected to conclude by the end of December 2006.
- ◆ No conferees yet named
- ◆ Expected mid-late September when staffers work out major differences between bills and signal a unified bill can be achieved
- ◆ Senate staff eager to begin deliberations with House and enact legislation into law this year
- ◆ Senate held open forum on HIT legislation (9/1/06) – Safe Harbor and ICD 10 were points most discussed

HIT Legislative Conference

Major Differences to be Resolved (S. 1418, H.R. 4157)

◆ *Funding and Incentives To Overcome Barriers to HIT Adoption*

- ◆ S. 1418 contains competitive grants: (1) facilitate adoption of interoperable HIT; (2) implementation of regional or local HIT plans; and (3) states for development of state loan programs to facilitate adoption of HIT.
- ◆ H.R. 4157 contains grants to integrated health systems to promote HIT and monies for small physician practice demonstration grants.

HIT Legislative Conference

Major Differences to be Resolved (S. 1418, H.R. 4157) *Funding and Incentives To Overcome Barriers to HIT Adoption*

- ◆ H.R. 4157 grants authorized at total of **\$40 million** in years 2007-2008.
- ◆ S. 1418 grants authorized at total \$116 million in FY- '06, **\$141 million** for FY- '07 and such sums as necessary for FY'-08 through FY'10.

HIT Legislative Conference

Major Differences to be Resolved (S. 1418, H.R. 4157)

- ◆ ***Health Information Exchange*** - H.R. 4157 features provision enabling a study and report on State, regional and community health information exchange to be conducted, while S. 1418 contains no such provision.
- ◆ ***Safe Harbors for HIT*** - House-approved HR 4157 would create safe harbors to amend Stark and anti-kickback statutes which currently pose barriers to adoption of HIT, while S. 1418 contains no such provision.

HIT Legislative Conference

Major Differences to be Resolved (S. 1418, H.R. 4157)

- ◆ **Quality Measures: Development, Use and Updates** - S 1418 contains quality measure provisions which instruct the HHS Secretary to develop quality measures that assess the effectiveness, timeliness, patient self-management and centeredness, efficiency, and safety, for the purpose of measuring patients' quality of care. H.R. 4157 contains no such provisions.
- ◆ **ICD-10 and Standards Upgrades** – H.R. 4157 requires upgrading ASC X12, NCPDP standards, ICD codes, and replacing ICD-9 with ICD-10 to occur to in services delivered on or after October 1, 2010. S. 1418 does not.

HIT Legislative Conference

Major Differences to be Resolved (S. 1418, H.R. 4157)- *Privacy*

- ◆ **HR 4157** - Study and report to determine impact of variation and commonality in state health information laws and regulations 18 months after enactment followed by legislation on commonality of state and federal confidentiality laws/standards needed to better **protect or strengthen security and confidentiality** of health information
- ◆ **S 1418** - Nothing in bill would affect HIPPA

HIT Legislative Conference

HR 4157 – Health Information Technology Promotion Act (House Approved Version)

6 Approved Amendments

- ◆ National Coordinator duties performed in relation to development of a nationwide interoperable HIT infrastructure and improving information and resource availability for those with low or limited literacy or language skills
- ◆ Study on development and implementation of HIT in medically underserved communities
- ◆ Report on AHIC work regarding recommendations on the inclusion of emergency contact or next-of-kin information in interoperable eHRs

HIT Legislative Conference

HR 4157 – Health Information Technology Promotion Act (House Approved Version)

6 Approved Amendments

- ◆ Provisions stating grant priorities given to an integrated health care system that emphasize improvement of access to medical care and medical care for medically underserved populations which are geographically isolated or located in underserved urban areas
- ◆ Study on appropriateness of classification methodologies and codes for additional purposes
- ◆ Two year project to demonstrate the impact of HIT on disease management and promoting HIT as a tool for chronic disease management

HIT Legislative Conference

eHI Key Priorities for a Unified Bill

- ◆ Initial and sustained funding for HIT
- ◆ HIE study language
- ◆ Safe harbors consistent with eHI's principles, that support interoperability
- ◆ Articulate role of government
- ◆ Specific standards and interoperability provisions on maintaining health information in electronic form and federal government reports/surveys on interoperability and the capability of entities to exchange electronic health information by significant use case

HIT Legislative Conference

eHI Key Priorities for a Unified Bill

- ◆ Quality provisions - requirements that HHS Secretary develop (through a public-private sector collaboration) quality measures that include structural measures on the acquisition and use of HIT to measure, report, and support quality improvement by physicians, hospitals and other health care providers and that such measures should be vetted by a multi-stakeholder process

Examples include use of patient registry systems to monitor and track patients by disease classifications, evidence-based clinical decision support at the point of care, and electronic medical records systems that incorporate key functional elements to facilitate quality measurement and reporting

Support for HIT Legislation/Outlook

- ◆ Senate Bill - *Wired for Health Care Quality Act* (S. 1418), passed 11/18/05
 - Bipartisan unanimous approval
- ◆ House Bill - *Health Information Technology Promotion Act* (H.R. 4157), passed 7/27/06
 - Approved by a vote of 270-148, 15 abstaining
 - 214 Republicans, 56 Democrats voted for bill
- ◆ Contentious elections may affect willingness to agree on passage
- ◆ Change of leadership in '07 likely to intensify focus on privacy issues

Congressional Overview

Other Legislation

- ◆ Personal Health Records
 - ◆ HR 4859 (Porter R-NV) introduced 3/06
 - ◆ “Federal Employees Electronic Personal Health Records Act of 2006” (Voinovich R-OH/Carper D-DE) – introduced Senate 9/06
 - ◆ Hearings, mark-up, but no further action

Administration Initiative- Executive Order

8/22/06 - Directs Federal Agencies that Administer or Sponsor Federal Health Insurance Programs to

- ◆ **Increase Transparency In Pricing.** The Executive Order directs Federal agencies to share with beneficiaries information about prices paid to health care providers for procedures.
- ◆ **Increase Transparency In Quality.** The Executive Order directs Federal agencies to share with beneficiaries information on the quality of services provided by doctors, hospitals, and other health care providers.
- ◆ **Encourage Adoption Of Health Information Technology (IT) Standards.** The Executive Order directs Federal agencies to use improved health IT systems to facilitate the rapid exchange of health information.
- ◆ **Provide Options That Promote Quality And Efficiency In Health Care.** The Executive Order directs Federal agencies to develop and identify approaches that facilitate high quality and efficient care.



Administration Initiative- Executive Order

Stated Purpose

- ◆ Ensure that health care programs administered or sponsored by the Federal Government promote
 - Quality and efficient delivery of health care through the use of health information technology,
 - Transparency regarding health care quality and price, and
 - Better incentives for program beneficiaries, enrollees, and providers.
- ◆ Make relevant information available to these beneficiaries, enrollees, and providers in a readily useable manner and in collaboration with similar initiatives in the private sector and non-Federal public sector.

Implementation Date

- ◆ “Agencies shall comply with the requirements of this order by **January 1, 2007**”

Funding

- ◆ This order does not assume or rely upon additional Federal resources or spending to promote quality and efficient health care. Further, the actions directed by this order shall be carried out subject to the availability of appropriations and to the maximum extent permitted by law

Executive Order – Key Provisions

Covered Agencies

- ◆ “Agency” defined as an agency of the Federal Government that administers or sponsors a Federal health care program
- ◆ Includes FEHBP, Medicare and programs operated directly by IHS, TRICARE DoD, and the VA
- ◆ Excludes state-operated or funded federally subsidized programs such as Medicaid, SCHIP, or services provided to VA beneficiaries under 38 USC 1703

Executive Order – Key Provisions

Definition of Interoperability

- ◆ “means the ability to communicate and exchange data accurately, effectively, securely, and consistently with different information technology systems, software applications, and networks in various settings, and exchange data such that clinical or operational purpose and meaning of the data are preserved and unaltered.”

Recognized Interoperability Standards

- ◆ Interoperability standards recognized by the Secretary of HHS, in accordance with guidance developed by the Secretary, as existing on the date of the implementation, acquisition or upgrade of IT systems

Executive Order: Key HIT Provisions

- ◆ **As each Agency implements, acquires or upgrades HIT systems for direct exchange of health information between agencies and non-Federal entities**, it shall utilize where available, HIT systems and products that meet recognized interoperability standards
- ◆ **Each Agency shall require in contracts or agreements with health care providers, health plans, or health insurance issuers** that as each provider, plan or issuer implements, acquires, or upgrades HIT systems, it shall utilize, where available, HIT systems and products that meet recognized interoperability standards

Executive Order: Key Transparency of Quality Measurements Provisions

- ◆ In general, each **agency shall implement programs measuring the quality of services** supplied by health care providers to the beneficiaries or enrollees of a Federal health care program.
- ◆ Such programs shall be based upon **standards established by multi-stakeholder entities** identified by the Secretary or by another agency subject to this order.
- ◆ Each **agency shall develop its quality measurements** in collaboration with similar initiatives in the private and non-Federal public sectors.

Executive Order: Key Transparency of Quality Measurements Provisions

- ◆ An agency satisfies the requirements of this subsection if it participates in the aggregation of claims and other appropriate data for the purposes of quality measurement.
- ◆ Such aggregation shall be based upon standards established by multi-stakeholder entities identified by the Secretary or by another agency subject to this order.

Executive Order: Key Transparency of Quality Measurements Provisions

◆ Transparency of Pricing Information

- Each agency shall make available (or provide for the availability) to the **beneficiaries or enrollees** of a Federal health care program (and, at the option of the agency, to the public) the **prices** that it, its health insurance issuers, or its health insurance plans **pay for procedures to providers in the health care program** with which the agency, issuer, or plan contracts.
- Each **agency** shall also, in collaboration with multi-stakeholder groups such as those described in subsection (b)(1), **participate in the development of information regarding the overall costs of services** for common episodes of care and the treatment of common chronic diseases.

Executive Order: Key Transparency of Quality Measurements Provisions

- ◆ **Promoting Quality and Efficiency of Care**
 - ◆ Each agency shall develop and identify, for beneficiaries, enrollees, and providers, approaches that encourage and facilitate the provision and receipt of high-quality and efficient health care
 - ◆ Such approaches may include pay-for-performance models of reimbursement consistent with current law.
 - ◆ An agency will satisfy the requirements of this subsection if it makes available to beneficiaries or enrollees consumer-directed health care insurance products.

Executive Order: Next Steps

Next Steps

- ◆ President Bush cited Executive Order as first step in a larger plan to provide open health quality and price information for healthcare consumers
- ◆ Bush and HHS Sec. Mike Leavitt working with healthcare purchasers, employers, unions and state and local governments to gauge interest in commitments similar to those outlined in Executive Order
- ◆ Movement underway, through work with AQA/HQA

Rules and Regs?

- ◆ Some speculate that proposed rules further fleshing out provisions of the Executive Order could be filed by the Agencies impacted in the Executive Order
- ◆ Such an effort would likely be coordinated out of the HHS Secretary's Office or the Office of Management and Budget
- ◆ If scenario proved true, proposed rules would be expected in the next three to six months



HHS Secretary Actions Related to Executive Order

- ◆ Meeting with stakeholders in a number of markets
- ◆ Encouraging large employers and states to make similar commitments
- ◆ Developed Healthcare Transparency Booklet
- ◆ AQA piloting collection and reporting of measures in six cities: Boston, Indianapolis, Madison, Minneapolis, Phoenix and San Francisco

Summary

- ◆ HIT Legislation very much in play
- ◆ Fall elections major factor
- ◆ Strong Federal initiative continues on standards, privacy, certification and infrastructure
- ◆ Executive Order would leverage Federal agency clout on quality and price transparency
- ◆ Momentum for HIT adoption continues to accelerate



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