

# The Latest on Meaningful Use and EHR Certification: Implications for Privacy and Security

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**Chris Apgar, CISSP**  
**Apgar & Associates, LLC**

# Overview

- ◉ Meaningful Use Rule Overview
- ◉ Meaningful Use Requirements
- ◉ Privacy & security violation investigation impact
- ◉ Federal & state future requirements related to security

# ARRA Overview – Title IV

- ◉ Division B, Title IV outlined EHR/EMR implementation or upgrade incentives, meaningful use requirements and certification requirements
- ◉ Incentives under Title IV are available beginning federal fiscal year (FY) 2011 (10/1/2010) for hospitals and calendar year (CY) 2011 (1/1/2011) for other qualified health care professionals

# Meaningful Use Rule Overview

- The rule outlines the requirements related to the use of an EHR or EMR by hospitals and qualified health care professionals to qualify for Medicare and Medicaid incentive payments
- The requirements to demonstrate meaningful use will become more stringent over time
- Reporting is required initially after 90 days from the date the qualified entity or individual demonstrate EHR meaningful use

# Meaningful Use Security Requirements

- The Meaningful Use Rule included only one security requirement
- Eligible health care professionals (EP), hospitals or critical access hospitals (CAH) are required to conduct or review a risk analysis related to the EHR
- This represents a current HIPAA Security Rule requirement

# Meaningful Use Security Requirements

- The objective of the requirement is to protect electronic health information created or maintained by the certified EHR technology through the implementation of appropriate technical capabilities.
- The Stage I measurement or requirement that must be demonstrated is to conduct or review a security risk analysis, implement security updates as necessary and correct identified security deficiencies as part of EP, hospital and CAH's risk management process.

# Meaningful Use Security Requirements

- Several of the meaningful use requirements for eligible health care professionals that represent increased security risk include:
  - > ePrescribing
  - > Electronic transmission of data to another provider
  - > Electronic transmission of data for public health purposes (immunization, lab results, epidemiological purposes)

# Meaningful Use Security Requirements

- While not explicitly stated, the security of the exchange of prescription data should be examined during the mandated "meaningful use" /HIPAA Security Rule risk analysis



# Meaningful Use Privacy Requirements

- The Meaningful Use Rule included several HIPAA Privacy Rule related requirements:
  - > Provide an electronic copy of an individual's record
  - > Timely electronic access to health information

# Vendor Certification Requirements Overview

- Vendor certification requirements were defined by ONC through publication of an interim final rule
- Certification requirements did not mandate all functions be performed by a single application as long as the applications were “tied together” or bundled

# Vendor Certification Requirements Overview

- ◎ The interim final rule included certification requirements for:
  - > “Complete” EHRs
  - > Ambulatory EHRs
  - > Inpatient EHRs

# Vendor Certification Requirements - Security

- ⦿ Security requirements included:
  - > Access control
  - > Emergency access management
  - > Automatic logoff
  - > Audit log generation
  - > Integrity controls
  - > Encryption

# Vendor Certification Requirements – Privacy

- ◎ Privacy requirements included:
  - › Accounting of disclosures of all PHI disclosed from an EHR including PHI disclosed for treatment, payment and health care operations
  - › Electronic copy of health information
  - › Timely access to health information

# Resources

- ONC: <http://healthit.hhs.gov>
- CMS: <http://www.cms.hhs.gov>
- OCR: <http://www.ocr.hhs.gov>
- WEDI: <http://www.wedi.org>



# Apgar & Associates, LLC

**Chris Apgar, CISSP**  
**President**

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10730 Southwest 62nd Place | Portland, Oregon 97219  
503-977-9432 | 503-245-2626 Fax | [www.ApgarAndAssoc.com](http://www.ApgarAndAssoc.com)