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June 3, 2019

VIA ELECTRONIC SUBMISSION

Don Rucker, MD

National Coordinator for Health Information Technology
Office of the National Coordinator for Health Information Technology
U.S. Department of Health and Human Services
Washington, DC 20201

Dear Dr. Rucker:

On behalf of the American College of Osteopathic Family Physicians (ACOFP), we appreciate the opportunity to respond to the *21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program* proposed rule.

ACOFP is the professional organization representing more than 20,000 practicing osteopathic family physicians, residents, and students throughout the United States who are deeply committed to advancing our nation's health care system by improving health care delivery and outcomes, and ensuring that patients receive high-quality care. Generally, we support efforts to reduce administrative and regulatory burdens for physicians and promote flexibility and innovation, including interoperability.

Osteopathic family physicians practice in variety of settings, including in solo, small, group, rural, Native American Indian healthcare, and alternative payment models. We urge ONC to consider family physicians and the variety of settings in which they practice when weighing the potential burdens and benefits of new requirements and whether the proposed exceptions are practicable.

Our full comments are detailed on the following pages. Thank you for the opportunity to share these with you. Should you need any additional information or if you have any questions, please feel free to contact ACOFP at advocacy@acofp.org or (847) 952-5100.

Sincerely,



ACOFP President

ACOFP supports promoting interoperability and advancing the electronic exchange of information in a safe, effective manner. We acknowledge that the Office of the National Coordinator for Health Information Technology (ONC) has a difficult task in developing standards, implementing those standards, defining key terms, outlining specification and certification criteria, and ensuring that the benefit of accessing electronic health records (EHRs) is not outweighed by the potential burden. While we support these efforts, we have concerns with several of the proposals.

Overall, we are concerned that solo, small, and practices in underserved areas are being left behind. There is minimal support for the community-based family physicians in terms of financial, administrative, and technical support. Many of our members practice in areas without a reliable internet connection or with limited infrastructure. While interoperability is a goal we all support, it is unfeasible in certain parts of our country – the most technologically advanced system will be meaningless if we cannot afford it, do not have the technical training, and do not have sufficient infrastructure to support these efforts.

We also have concerns with potential downstream impacts the proposed requirements may have on family physicians, especially those in solo, small, and rural practices. Overall, there are many proposals that would pose **significant** burdens to private practice physicians as they are not situated to perform what would be required. Notably, many of the proposed changes could require a significant overhaul in how private practices approach EHR and health information technology (IT). These practices have invested significant sums in meeting the various already existing health IT requirements. Requirements to change, update, or find a new system are additional costs for physicians who operate on thin margins and who do not have the reserve funding, training, or opportunity to meet the requirements.

At a time when there is a significant primary care shortage and with increasing requirements related to the use of Certified EHR Technology (CEHRT), additional requirements on practices in underserved areas will further erode access to primary care physicians. In addition, EHR requirements directly and adversely impact physician wellness. A recent study in the Journal of the American Medical Informatics Association indicates that EHR burden is associated with “physician burnout,” especially for primary care physicians.¹ Burnout can lead to poorer quality, lower levels of satisfaction (for both patients and physicians), and drive physicians out of practice.

ACOFP also notes that there may be an opportunity for “gaming” by health IT vendors/providers that will be at the detriment of physicians. Specifically, ACOFP is concerned that EHR vendors will use larger contract vehicles and initial “up-front” deals to entice physicians or their partner entities to invest in a modernized system. However, without strict limitations on usage-based fees or protections for physicians who may have no choice but to use certain vendors, the vendors will have free rein to pass on costs to physicians.

We are extremely concerned with any proposals that would require a form of price transparency to be included in electronic health information. Smaller practices do not have the staffing or resources to continually review, assess, and ultimately provide an out-of-pocket expense estimate. As you know, these estimates are purely estimates and physicians are not best equipped to determine or calculate the potential out-of-pocket costs – this responsibility should fall squarely (and only) on each

¹ Rebekah L Gardner, Emily Cooper, Jacqueline Haskell, Daniel A Harris, Sara Poplau, Philip J Kroth, Mark Linzer; Physician stress and burnout: the impact of health information technology, Journal of the American Medical Informatics Association, Volume 26, Issue 2, 1 February 2019, Pages 106–114 (published 5 December 2018), <https://doi.org/10.1093/jamia/ocy145>

patient's insurer. In addition, while we understand the value of "shopping" for health care services and the importance of competition in the health care industry, we are concerned that this type of transparency may serve as a deterrent for patients when deciding whether to access needed medical care. An estimate may not reflect a patient's status in a high-deductible health plan or the patient's Health Savings Account balance. These are critical components that impact a patient's potential out-of-pocket expenses and are issues a physician will have no knowledge of when attempting to formulate a cost estimate.

Finally, ACOFP appreciates the effort ONC has taken to develop exceptions to the proposed requirements. Overall, we reiterate our concerns as they relate to family physicians and urge ONC to ensure specific protections, especially for solo and small practices as well as practices in underserved areas. We also urge ONC to provide more specificity and concrete details to bolster the described exceptions. An opportunity for physicians to interact with ONC on these exceptions as well as a comprehensive list of hypothetical situations under each would be appreciated.

ACOFP shares ONC's goals of leveraging technology to improve care delivery, and we hope that ONC will focus on how to specifically support family physicians in rural and underserved areas and not proceed with proposals that may make it more difficult for patients to access primary care services. We urge continued collaboration with physicians and other key stakeholders so that the concerns we are raising are addressed in future policy. Collaborative efforts will benefit all patients and Physicians.