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Electronic Health Records Under the HITECH Act

Navigating New Meaningful Use and Certification Standards to Qualify for Medicare and Medicaid Funding

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Today's faculty features:

Jeffrey T. Ganiban, Partner, **Drinker Biddle & Reath LLP**

Rene Y. Quashie, Attorney, **Drinker Biddle & Reath LLP**

Jeffrey W. Mittleman, Partner, **Holland & Knight**

Joseph E. Lynch, Partner, **King & Spalding LLP**

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Electronic Health Records Under the HITECH Act

Jeffrey T. Ganiban
René Y. Quashie
Drinker Biddle & Reath LLP
1500 K Street, N.W.
Washington, D.C. 20005
jeffrey.ganiban@dbr.com
202-230-5150
October 20, 2010

Drinker Biddle

Presentation Overview

- Focus on “meaningful use” final rule and incentive payments
  - “Meaningful Use” Final Rule Overview
  - “Meaningful Use” Criteria
  - Clinical Quality Measures
  - Medicare Incentive Payments
  - Medicaid Incentive Payments

“Meaningful Use” Final Rule: An Overview

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Final Rule Overview

- Final rule covers
  - Criteria for eligible professionals ("EPs"), eligible hospitals ("Hospitals"), and critical access hospitals to qualify for incentive payments
  - Calculation of incentive payment amounts
  - Payment adjustments for providers failing to be meaningful users of certified EHR technology
  - Inclusion of ED in in-patient hospital measures
  - Other program requirements

Final Rule Overview

- Major changes from proposed rule
  - Abandons all-or-nothing approach to satisfying "meaningful use"
  - Changes definition of "hospital-based physician" per recent legislative change
  - Many thresholds contained in the "meaningful use" measures have been reduced
  - Clinical quality measures reduced to 6 key measures for EPs
  - Affirms payments to be made on the basis of CMS Certification Number

“Meaningful Use” Criteria

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“Meaningful Use” Definition

- “Meaningful Use” is described in the Act as:
  - Use of “certified EHR technology in a meaningful manner" (which for physician incentives shall include the use of e-prescribing)
  - Electronic exchange of health information to improve the quality of care such as promoting coordination of care
  - Reporting on clinical quality measures

"Meaningful Use" Definition (con't)

- Certified EHR
  - A qualified electronic health record that is certified as meeting standards adopted by the Secretary
- Qualified EHR
  - An electronic record of health-related information on an individual that (A) includes patient demographic and clinical health information, and (B) has the capacity (i) to provide clinical decision support, (ii) to support physician order entry, (iii) to capture and query information relevant to health care quality, and (iv) to exchange electronic health information with, and integrate such information from, other sources

"Meaningful Use" Phased-In Approach (con't)

- Adopt a broad definition of "meaningful use" that EPs and Hospitals could realistically satisfy by fiscal year 2011
  - Current lack of HIT infrastructure which HHS expects to mature over the next few years
- Definition becomes more rigorous and exacting over time
  - Assumption that HIT adoption will become more widespread due to the development of new technology
- 3 stages created

Definitions

- "Eligible professional" ("EP") means the same as "physician" which is defined as the following five types of professionals:
  - Doctor of medicine or osteopathy;
  - Doctor of dental surgery or dental medicine;
  - Doctor of podiatric medicine;
  - Doctor of optometry; or
  - Chiropractor
- "Eligible hospital" ("Hospital") means a hospital located in one of the fifty states or the District of Columbia *other than* (among others)
  - A psychiatric hospital
  - A rehabilitation hospital
  - A hospital whose inpatients are predominantly individuals under 18 years of age
  - A hospital which has an average inpatient length of stay of more than 25 days

Definitions
Hospital-Based Physicians

- Incentives/reductions do not apply to hospital-based physicians
  - Professionals who furnish substantially all services in a hospital setting (inpatient or emergency room setting) using facilities and equipment of the hospital
  - Based on the setting in which a provider furnishes services rather than any billing or employment arrangement between a provider and hospital or other provider entity
    - Place of service codes 21 or 23
  - Reason payments to hospital-based physicians are prohibited is "because such professionals are generally expected to use the EHR system of that hospital"

Definitions
Hospital-Based Physicians – Recent Change

- Continuing Extension Act of 2010
  - Amendment in statute dealing with physician payments changes definition of hospital-based EPs
    - Signed into law by President Obama on April 16, 2010
    - Definition under the proposed rule included those physicians who practiced in provider-based outpatient settings
  - New definition still includes physicians who practice in emergency departments of hospitals as hospital-based EPs

“Meaningful Use” Phased-In Approach 3 Stages

- Stage 1
  - Electronically capture health information in a coded format
  - Use information to track key clinical conditions
  - Communicate information for care coordination purposes
  - Implement clinical decision support tools to facilitate disease and medication management
  - Report clinical quality measures and public health information

"Meaningful Use" Phased-In Approach 3 Stages (con't)

- Stage 2
  - Expand Stage 1 criteria
  - Encourage the use of HIT for continuous quality improvement at the point of care
  - Exchange of information in the most structured format possible
  - Stage 2 will likely be effective starting in fiscal year 2013
    - Criteria will be formally proposed by the end of 2011

"Meaningful Use" Phased-In Approach 3 Stages (con't)

- Stage 3
  - Promote improvements in quality, safety, and efficiency
  - Focus on decision support for national high priority conditions
  - Patient access to self management tools
  - Access to comprehensive patient data and improving population health
  - Stage 3 will likely be effective starting in fiscal year 2015
    - Stage 3 definition will be formally proposed by the end of 2013

“Meaningful Use” Criteria Deadlines

- First payment year: 2011
  - EPs and Hospitals must satisfy the requirements of the Stage 1 criteria of “meaningful use” in their first and second payment years (2011 and 2012)
  - Stage 2 criteria to be met for their third and fourth payment years (2013 and 2014)
- First payment year: 2012
  - EPs and Hospitals must satisfy the Stage 1 criteria of “meaningful use” in their first and second payment years (2012 and 2013)
  - Stage 2 criteria to be met for 2014, but not yet determined whether Stage 3 criteria will need to be met by 2015
- First payment year: 2013
  - EPs and Hospitals must satisfy the Stage 1 criteria of “meaningful use” in their first and second payment years (2013 and 2014)
  - To be determined whether EPs and Hospitals would need to meet Stage 2 or Stage 3 criteria in 2015

“Meaningful Use” Criteria Deadlines (con’t)

First Payment Year	Payment Year				
	2011	2012	2013	2014	2015
2011	Stage1	Stage 1	Stage 2	Stage 2	TBD
2012		Stage 1	Stage 1	Stage 2	TBD
2013			Stage 1	Stage 1	TBD
2014				Stage 1	TBD

“Meaningful Use” Criteria

- Criteria for “meaningful use” based on objectives and associated measures
  - Objectives: Broader in scope
  - Measures: Specific actions required of EPs and Hospitals to meet objectives
    - Each objective has an associated measure
  - Abandoned all-or-nothing approach to meeting “meaningful use” objectives/measures
  - More flexible methodology has been established
    - Core set
    - Menu set

Demonstrating “Meaningful Use”

- EPs may demonstrate that they satisfy each of the proposed “meaningful use” objectives/measures, and submit the required clinical quality measures, by attestation.
- One-time attestation after the completion of the EHR reporting period for a given payment year
  - Identify the certified EHR technology being used
  - Report on results of technology’s performance on all the measures associated with the objectives of “meaningful use”
- Plan for direct reporting after 2011

Meaningful Use Objectives and Associated Measures*

- Core Set
  - Providers must meet all of the following core objectives unless EP meets exclusion
    - Use CPOE for medication orders directly entered by any licensed healthcare professional
    - Implement drug-drug and drug-allergy interaction checks
    - Generate and transmit permissible prescriptions electronically
    - Record demographics such as preferred language, gender, race, ethnicity, and date of birth
    - Maintain an up-to-date problem list of current and active diagnoses
    - Maintain active medication list
    - Maintain active medication allergy list

*For core and menu set list that applies to Hospitals, see chart starting on Slide 24

Meaningful Use Objectives and Associated Measures (con't)

- Record and chart changes in vital signs: (a) height; (b) weight; (c) blood pressure; (d) calculate and display BMI; (e) plot and display growth charts for children 2-20 years, including BMI
- Record smoking status for patients 13 years old or older
- Implement one clinical decision support rule relevant to specialty or high clinical priority along with the ability to track compliance that rule
- Report clinical quality measures to CMS or the states
- Provide patients with an electronic copy of their health information (including diagnostic test results, problem list, medication lists, medication allergies), on request
- Provide clinical summaries for patients for each office visit

> Must show progress in each of the five healthcare outcome priorities

- Only one of these priorities is not reflected in the core set—population and public health

Meaningful Use Objectives and Associated Measures (con't)

- Menu Set
  - EPs must meet ***five*** of the following objectives/associated measures (one of which must be one of the last two*)
    - Implement drug formulary checks
    - Incorporate clinical lab test results into EHR as structured data
    - Generate lists of patients by specific conditions to use for quality improvement, reduction of disparities, research, or outreach
    - Send reminders to patients per patient preference for preventive/follow-up care
    - Provide patients with timely electronic access to their health information within 4 business days of the information being available to the EP
    - Use certified EHR technology to identify patient-specific education resources
    - The EP who receives a patient from another setting of care or provider of care or believes an encounter is relevant should perform medication reconciliation
    - The EP who transitions their patient to another setting of care or provider of care or refers their patient to another provider of care should provide summary care record for each transition of care or referral
    - *Capability to submit electronic data to immunization registries/systems**
    - *Capability to submit electronic syndromic surveillance data to health agencies**

Exclusion for Stage 1 Criteria

- EP/Hospital may exclude an objective if the EP/Hospital meets the following
  - Objective must include an option for the EP/Hospital to attest that the objective is not applicable
  - Meets the criteria in the applicable objective that would permit the attestation
  - Attests
- Exclusions reduce the number of objectives that would apply
  - For core set, EP/Hospital would not need to meet that objective but would need to satisfy the remaining objectives
  - For menu set, one less required objective would need to be satisfied

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set

CORE SET			
Health Outcomes Policy Priority	**Stage 1 Objectives**		**Stage 1 Measures**
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Improving quality safety, efficiency, and reducing health disparities	Use CPOE for medication orders directly entered by any licensed healthcare professional who can enter orders into the medical record per state, local and professional guidelines ***Exclusion: Any EP who writes fewer than 100 prescriptions during the EHR reporting period***	Use CPOE for medication orders directly entered by any licensed healthcare professional who can enter orders into the medical record per state, local and professional guidelines	More than 30% of unique patients with at least one medication in their medication list seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have at least one medication order entered using CPOE
	Implement drug-drug and drug-allergy interaction checks	Implement drug-drug and drug- allergy interaction checks	The EP/eligible hospital/ CAH has enabled this functionality for the entire EHR reporting period
	Generate and transmit permissible prescriptions electronically (eRx) ***Exclusion: Any EP who writes fewer than 100 prescriptions during the EHR reporting period***		More than 40% of all permissible prescriptions written by the EP are transmitted electronically using certified EHR technology

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

CORE SET (con't)			
Health Outcomes Policy Priority	**Stage 1 Objectives**		**Stage 1 Measures**
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Improving quality safety, efficiency, and reducing health disparities **(con't)**	Record demographics • preferred language • gender • race • ethnicity • date of birth	Record demographics • preferred language • gender • race • ethnicity • date of birth • date and preliminary cause of death in the event of mortality in the eligible hospital or CAH	More than 50% of all unique patients seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) hare demographics recorded as structured data
	Maintain an up-to-date problem list of current and active diagnoses	Maintain an up-to-date problem list of current and active diagnoses	More than 80% of all unique patients seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have at least one entry or an indication that no problems are known for the patient recorded as structured data
	Maintain active medication list	Maintain active medication list	More than 80% of all unique patients seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have at least one entry (or an indication that the patient is not currently prescribed any medication) recorded as structured data

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

CORE SET (con't)			
Health Outcomes Policy Priority	**Stage 1 Objectives**		**Stage 1 Measures**
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Improving quality safety, efficiency, and reducing health disparities **(con't)**	Maintain active medication allergy list	Maintain active medication allergy list	More than 80% of all unique patents seen by the EP or admitted to be eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have at least one entry (or an indication that the patient has no known medication allergies) recorded as structured data
	Record and chart changes in vital signs: • Height • Weight • Blood pressure • Calculate and display BMI • Plot and display growth chats for children 2-20 years, including BMI ***Exclusion: Any EP who either see no patients 2 years or older, or who believes that all three vital signs of height, weight, and blood pressure of their patients have no relevance to their scope of practice***	Record and chart changes in vital signs: • Height • Weight • Blood pressure • Calculate and display BMI • Plot and display growth chats for children 2-20 years, including BMI	For more than 50% of all unique patients age 2 and over scam by the EP or admitted to eligible hospital's or CAH's inpatient or emergency department (POS 21 or n), height, weight and blood pressure recorded as structured data

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

CORE SET (con't)			
Health Outcomes Policy Priority	**Stage 1 Objectives**		**Stage 1 Measures**
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Improving quality safety, efficiency, and reducing health disparities (con't)	Record smoking status for patients 13 years old or older ***Exclusion: Any EP who sees no patients 13 years or older***	Record smoking status for patients 13 years old or older ***Exclusion: Any Hospital or CAH that admits no patients 13 years or older to their inpatient or emergency department***	More than 50% of all unique patients 13 years old or older seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (P0S 21 or 23) have smoking status recorded as structured data
	Implement one clinical decision support rule relevant to specialty or high clinical priority along with the ability to track compliance that rule	Implement one clinical decision support rule related to a high priority hospital condition along with the ability to track compliance with that rule ***Exclusion: Any Hospital/CAH that has no requests from patients for an electronic copy of patient health information***	
	Report ambulatory clinical quality measures to CMS or the States	Report ambulatory clinical quality measures to CMS or the States	For 2011, provide aggregate numerator, denominator, and exclusions through attestation as discussed in section II(A)(3) of this final rule For 2012, electronically submit the clinical quality measures as discussed in section II(A)(3) of this final rule

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

CORE SET (con't)			
Health Outcomes Policy Priority	**Stage 1 Objectives**		**Stage 1 Measures**
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Engage patients and families m their health care	Provide patents with an electronic copy of their health information (including diagnostic test results, problem list, medication lists, medication allergies), upon request ***Exclusion: Any EP that has no requests from patients or their agents for an electronic copy of patient health information during the EHR reporting period***	Provide patents with an electronic copy of their health information (including diagnostic test results, problem list, medication lists, medication allergies), upon request	More than 50% of all patients of the EP or the inpatient or emergency departments of the eligible hospital or CAH (P05 21 or 23) who request an electronic copy of their health information are provided it within 3 business days
		Provide patients with an electronic copy of their discharge instructions at time of discharge, upon request ***Exclusion: Any Hospital/CAH that has no requests from patients for an electronic copy of their discharge instructions***	More than 50% of all patients who are discharged from an eligible hospital or CAH's inpatient department or emergency department (POS 2I or 23) and who request an electronic copy of thee discharge mentions are provided it
	Provide clinical summaries for patents for each office visit ***Exclusion: Any EP who has no office visits during the HER reporting period***		Clinical summaries provided to patients for more than 50% of all office visits within 3 business days

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

CORE SET (con't)			
Health Outcomes Policy Priority	**Stage 1 Objectives**		**Stage 1 Measures**
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Improve care coordination	Capability to exchange key clinical information (for example, problem list. medication list medication allergies, diagnostic test results), among providers of care and patient authorized entities electronically	Capability to exchange key clinical information (for example, discharge summary, procedures, problem list, medication list, medication allergies, diagnostic test results), among providers of care and patient authorized entities electronically	Performed at least one test of certified EHR technology's capacity to electronically exchange key clinical information
Ensure adequate privacy and security Protections for personal health information	Protect electronic health information created or maintained by the certified EHR technology through the implementation of appropriate technical capabilities	Provide patents with an electronic copy of their health information (including diagnostic test results, problem list, medication lists, medication allergies), upon request	Conduct or review a security risk analysis per 45 CFR 164.308(a)(I) and implement security updates as necessary and correct identified security deficiencies as part of its risk management process

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

MENU SET			
Health Outcomes Policy Priority	**Stage 1 Objectives**		**Stage 1 Measures**
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Improving quality safety, efficiency, and reducing health disparities	Implement drug-formulary checks	Implement drug-formulary checks	The EP/eligible hospital/CAH has enabled this functionality and has to at least one internal or external drug formulary for the entire EHR reporting period
		Record advance directives for patients 65 years old or older	More than 50% of all unique patients 65 years old or older admitted to the eligible hospital's or CAH's inpatient department (POS 21) have an indication of an advance directive status recorded
	Incorporate clinical lab-test results into certified EHR technology as structured data ***Exclusion: An EP who orders no lab tests whose results are either in a positive/negative or numeric format during the EHR reporting period.***	Incorporate clinical lab-test results into certified EHR technology as structured data	More than 40% of all clinical lab tests results ordered by the EP or by an authorized provider or the eligible hospital or CAH for patients admitted to its inpatient or emergency department (POS 21 or 23) during the EHR reporting period whose results are either in a positive/negative or numerical format are incorporated in certified EHR technology as structured data
	Generate lists of patents by specific conditions to use for moldy improvement, reduction of disparities research or outreach	Generate lists of patents by specific conditions to use for moldy improvement, reduction of disparities. research or outreach	Generate at least one report listing patients of the EP, eligible hospital or CAH with a specific condition

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

MENU SET (con't)			
Health Outcomes Policy Priority	Stage 1 Objectives		Stage 1 Measures
	Eligible Professionals	Eligible Hospitals and CAHS	
Improving quality safety, efficiency, and reducing health disparities (con't)	Send reminders to patients per patent preference for preventive/ follow up care ***Exclusion: An EP who has no patients 65 years old or older or 5 years old or younger with records maintained using certified EHR technology***.		More than 20% of all unique patients 65 years or older or 5 years old or younger were sent an appropriate reminder during the EHR reporting period
		Record advance directives for patients 65 years old or older ***Exclusion: Hospital/CAH that admits no patients 65 years old or older***	More than 50% of all unique patients 65 years old or older admitted to the eligible hospital's or CAH's inpatient department (POS 21) have an indication of an advance directive status recorded
Engage patients and families in their health care	Provide patients with timely electronic access to their health information (including lab results, problem list. Medication lists. medication allergies) within four business days of the information being available to the EP ***Exclusion: Any EP that neither orders nor creates this type of information***		More than 10% of all unique patients seen by the EP are provided timely (available to the patient within four business days of being updated in the certified EHR technology) electronic access to their health information subject to the EP's discretion to withhold certain information
	Use certified EHR technology to identify patient-specific education resources and provide those resources to the patient if appropriate	Use certified ERR technology to identify patient-specific education resources and provide those resources to the patient if appropriate	More than 10% of all unique paten seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (P0S 21 or 23) are presided patient-specific education resources

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

MENU SET (con't)			
Health Outcomes Policy Priority	**Stage 1 Objectives**		**Stage 1 Measures**
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Improve care coordination	The EP, eligible hospital or CAH who receives a patient from another setting of care or provider of care or believes an encounter is relevant should perform medication reconciliation ***Exclusion: An EP who was not the recipient of any transitions of care during the EHR reporting period***	The EP, eligible hospital or CAH who receives a patient from another setting of care or provider of care or believes an encounter is relevant should perform medication reconciliation	The EP, eligible hospital or CAH performs medication reconciliation for more than 50% of transitions of care at which the patent is transitioned into the care of the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23)
	The EP, eligible hospital or CAP who transitions their patient to another setting of care or provider of care or refers their patient to another provider should provide summary of care record for each transition of care or referral ***Exclusion: An EP who neither transfers a patient to another setting nor refers a patient to another provider***	The EP, eligible hospital or CAP who transitions their patient to another setting of care or provider of care or refers their patient to another provider should provide summary of care record for each transition of care or referral	The EP, eligible hospital or CAH who transitions or refers their patient to another setting of care or provider of care provides a summary of care record for more than 50% of transitions of care and referrals

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

MENU SET (con't)			
Health Outcomes Policy Priority	Stage 1 Objectives		Stage 1 Measures
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Improve population and public health[2]	Capability to submit electronic data to immunization registries or Immunization Information systems and actual submission in accordance with applicable law and practice	Capability to submit electronic data to immunization registries or Immunization Information systems and actual submission in accordance with applicable law and practice ***Exclusion: Hospital/CAH administers no immunization or where immunization registry can receive the information***	Performed at least one test of certified EHR technology's capacity to submit electronic data to immunization registries and follow up submission if the test is successful (unless none of the immunization registries to which the EP, eligible hospital or CAH submits such information have the capacity to receive the information electronically)

[2] Unless an EP, eligible hospital or CAH has an exception for all of these objectives and measures they must complete at least one as part of their demonstration of the menu set in order to be a meaningful EHR user.

Meaningful Use Objectives and Associated Measures Sorted by Core and Menu Set (con't)

MENU SET (con't)			
Health Outcomes Policy Priority	**Stage 1 Objectives**		**Stage 1 Measures**
	Eligible Professionals	**Eligible Hospitals and CAHS**	
Improve population and public health[2]	***Exclusion: An EP who administers no immunizations during the EHR reporting period or where no immunization registry has the capacity to receive the information electronically***	Capability to submit electronic data on reportable (as required by state or local law) lab results to public health agencies and actual submission in accordance With applicable law and practice ***Exclusion: No public health agency to which the Hospital/CAH submits such information has the capacity to receive the information electronically***	Performed at least one test of certified EHR technology's capacity to provide electronic submission of reportable lab results to public health agencies and follow-up submission if the test is successful (unless none of the public health agencies to which eligible hospital or CAH submits such information have the capacity to receive the information electronically)
	Capability to submit electronic syndromic surveillance data to public health agencies and actual submission in accordance with applicable law and practice ***Exclusion: An EP who does not collect any reportable syndromic information on their patients during the EHR reporting period or does not submit such information to any public health agency that has the capacity to receive the information electronically***	Capability to submit electronic syndromic surveillance data to public health agencies and actual submission in accordance with applicable law and practice ***Exclusion: No public health agency to which the Hospital/CAH submits information has the capacity to receive the information electronically***	Performed at least one test of certified EHR technology's capacity to provide electronic syndromic surveillance data to public health agencies and follow-up submission. If the test is successful (unless none of the public health agencies to which an EP, eligible hospital or CAH submits such information have the capacity lo receive the information electronically)

[2] Unless an EP, eligible hospital or CAH has an exception for all of these objectives and measures they must complete at least one as part of their demonstration of the menu set in order to be a meaningful EHR user.

Stage 1 Meaningful Use Objectives and Associated Measures Sorted by Method of Measure Calculation

Measures with a Denominator of Unique Patients Regardless of Whether the Patient's Records Are Maintained Using Certified EHR Technology	
Stage 1 Objectives	**Stage 1 Measures**
Maintain an up-to-date problem list of current and active diagnoses	More than 80% of all unique patients seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have at least one entry or an indication that no problems are known for the patient recorded as structured data
Maintain active medication list	More than 80% of all unique patients seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have at least one entry (or an indication that the patient is not currently prescribed any medication) recorded as structured data
Maintain active medication allergy list	More than 80% of all unique patients seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have at least one entry (or an indication that the patient has no known medication allergies) recorded as structured data
Record demographics ♦Preferred language ♦Gender ♦Race ♦Ethnicity ♦Date of Birth ♦Date and preliminary cause of death in the event of mortality (***for eligible hospital/CAH)***	More than 50% of all unique patients seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have demographics recorded as structured data

Stage 1 Meaningful Use Objectives and Associated Measures Sorted by Method of Measure Calculation (con't)

Measures with a Denominator of Unique Patients Regardless of Whether the Patient's Records Are Maintained Using Certified EHR Technology (con't)	
Stage 1 Objectives	**Stage 1 Measures**
Provide patients with timely electronic access to their health information (including lab results, problem list, medication lists, medication allergies) within four business days of the information being available to the EP ***(EPs only)***	More than 10% of all unique patients seen by the EP are provided timely (available to the patient within four business days of being updated in the certified EHR technology) electronic access to their health information subject to the EP's direction to withhold certain information
Use certified EHR technology to identify patient-specific education resources and provide those resources to the patient if appropriate	More than 10% of all unique patients seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) are provided patient-specific education resources

Stage 1 Meaningful Use Objectives and Associated Measures Sorted by Method of Measure Calculation (con't)

Measures with a Denominator of Based on Counting Actions for Patients Whose Records are Maintained Using Certified EHR Technology	
Stage 1 Objectives	**Stage 1 Measures**
Use CPOE for medication orders directly entered by any licensed healthcare professional who can enter orders into the medical record per state, local and professional guidelines	More than 30% of unique patients with at least one medication in their medication list seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have at least one medication order entered using CPOE
Generate and transmit permissible prescriptions electronically (eRx) ***(EPs only)***	More than 40% of all permissible prescriptions written by the EP are transmitted electronically using certified HER technology
Record and chart changes in vital signs: • Height • Weight • Blood pressure • Calculate and display BMI • Plot and display growth charges for children 2-20 years, including BMI	For more than 50% of all unique patients age 2 and over seen by the EP or admitted to eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23), height, weight and blood pressure are recorded as structured data
Record smoking status for patients 13 years old or older	More than 50% of all unique patients 13 years or older seen by the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23) have smoking status recorded as structured data
Record advance directives for patients 65 years old or older ***(eligible hospitals only)***	More than 50% of all unique patients 65 years old or older admitted to the eligible hospital have an indication of an advance directive status recorded

Stage 1 Meaningful Use Objectives and Associated Measures Sorted by Method of Measure Calculation (con't)

Measures with a Denominator of Based on Counting Actions for Patients Whose Records are Maintained Using Certified EHR Technology (con't)	
Stage 1 Objectives	**Stage 1 Measures**
Incorporate clinical lab-test results into certified EHR technology as structured data	More than 40% of all clinical lab tests results ordered by the EP or by an authorized provider of the eligible hospital or CAH for patients admitted to its inpatient or emergency department (POS 21 or 23) during the EHR reporting period whose results are either in a positive/negative or numerical format are incorporated in certified EHR technology as structured data
Provide patients with an electronic copy of their health information (including diagnostic test results, problem list, medical lists, medication allergies, (hospitals must also provide discharge summary procedures), upon request	More than 50% of all patients of the EP or the inpatient or emergency departments of the eligible hospital or CAH (POS 21 or 23) who request an electronic copy of their health information are provided it within 3 business days
Provide patients with an electronic copy of their discharge instructions at the time of discharge, upon request	More than 50% of all patients who are discharged from an eligible hospital or CAH's inpatient department or emergency department (POS 21 or 23) and who request an electronic copy of their discharge instructions are provided it
Provide clinical summaries for patients for each office visit ***(EPs only)***	Clinical summaries provided to patients for more than 50% of all office visits within 3 business days

Stage 1 Meaningful Use Objectives and Associated Measures Sorted by Method of Measure Calculation (con't)

Measures with a Denominator of Based on Counting Actions for Patients Whose Records are Maintained Using Certified EHR Technology (con't)	
Stage 1 Objectives	**Stage 1 Measures**
Send reminders to patients per patient preference for preventive/ follow up care ***(EPs only)***	More than 20% of all unique patients 65 years or older or 5 years old or younger were sent an appropriate reminder during the EHR reporting period
The EP, eligible hospital or CAH who receives a patient from another setting of care or provider of care or believes an encounter is relevant should perform medication reconciliation	The EP, eligible hospital or CAH performs medication reconciliation for more than 50% of transitions of care in which the patient is transitioned into the care of the EP or admitted to the eligible hospital's or CAH's inpatient or emergency department (POS 21 or 23)
The EP, eligible hospital or CAH who transitions their patient to another setting of care or provider of care or refers their patient to another provider of care should provide summary of care record for each transition of care or referral	The EP, eligible hospital or CAH who transitions or refers their patient to another setting of care or provider of care provides a summary of care record for more than 50% of transitions of care and referrals

Stage 1 Meaningful Use Objectives and Associated Measures Sorted by Method of Measure Calculation (con't)

Measures Repairing Only a Yes/No Attestation	
Stage 1 Objectives	**Stage 1 Measures**
Implement drug-drug and drug-allergy interaction checks	The EP/eligible hospital/CAH has enabled this functionality for the entire EHR reporting period
Implement drug-formulary checks	The EP/eligible hospital/CAH has enabled this functionality and has access to at least one internal or external drug formulary for the entire EHR report period
Generate lists of patients by specific conditions to use for quality improvement, reduction of disparities, research or outreach	Generate at least one report listing patients of the EP, eligible hospital or CAH with a specific condition
Implement one clinical decision support rule relevant to specialty or high clinical priority along with the ability to track compliance that rule	Implement one clinical decision support rule
Capability to exchange key clinical information (for example, problem list, medication list, medication allergies, diagnostic test results), among providers of care and patient authorized entities electronically	Performed at least one test of certified EHR technology's capacity to electronically exchange key clinical information

Stage 1 Meaningful Use Objectives and Associated Measures Sorted by Method of Measure Calculation (con't)

Measures Repairing Only a Yes/No Attestation (con't)	
Stage 1 Objectives	**Stage 1 Measures**
Capacity to submit electronic data to immunization registries or Immunization Information Systems and actual submission in accordance with application law and practice	Performed at least one test of certified EHR technology's capacity to submit EHR technology's capacity to submit electronic data to immunization registries and follow up submission if the test is successful (unless none of the immunization registries to which the EP, eligible hospital or CAH submits such information have the capacity to receive the information electronically)
Capability to submit electronic data on reportable lab results to public health agencies and actual submission in accordance with applicable law and practice ***(eligible hospitals only)***	Performed at least one test of certified EHR technology capacity's to provide electronic submission of reportable lab results to public health agencies and follow-up submission if the test is successful (unless none of the public health agencies to which eligible hospital or CAH submits such information have the capacity to receive the information electronically)

Stage 1 Meaningful Use Objectives and Associated Measures Sorted by Method of Measure Calculation (con't)

Measures Repairing Only a Yes/No Attestation (con't)	
Stage 1 Objectives	**Stage 1 Measures**
Capability to submit electronic syndromic surveillance data to public health agencies and actual submission in accordance with the applicable law and practice	Performed at least one test of certified EHR technology's capacity to provide electronic syndromic surveillance data to public health agencies and follow-up submission if the test is successful (unless none of the public health agencies and follow-up submission if the test is successful (unless none of the public health agencies to which an EP, eligible hospital or CAH submits such information have the capacity to receive the information electronically)
Protect electronic health information created or maintained by the certified EHR technology through the implementation of appropriate technical capabilities	Conduct or review a security risk analysis per 45 CFR 164.308(a)(1) and implement security updates as necessary and correct identified security deficiencies as part of its risk management process

Stage 2 “Meaningful Use”

- One Stage 2 objective/measure established
  - More than 60 percent of all unique patients with at least one medication in their medication list seen by the EP must have at least one medication order entered using CPOE
    - This requirement provides for an exclusion for any EP who writes fewer than 100 prescriptions during the EHR reporting period.

Clinical Quality Measures

Drinker Biddle

What are Clinical Quality Measures?

- HITECH Act
  - Made “reporting on measures using EHR” the third element of “meaningful use” of certified EHR technology
  - EPs and hospitals are required to report on clinical quality measures using EHRs
  - “Clinical quality measures” consist of measures of:
    - Processes, experience, and/or outcomes of patient care
    - Observations or treatment that relate to one or more quality aims for health care such as effective, safe, efficient, patient-centered, equitable, and timely care

Reporting of Clinical Quality Measures

- HHS requires reporting in phases
  - 2011, requirement to report clinical quality measures through attestation with a numerator, denominator, and exclusions
  - 2012, electronic reporting will begin in FY 2012 for hospitals and CY 2012 for EPs
  - If CMS is not able to receive the data in 2012, it will continue to require the attestation methodology

Payment Incentives

Drinker Biddle

Medicare
Eligible Professional Incentives

- Up to $44,000 in Medicare payments per eligible professional
  - Year 1 - $15,000 ($18,000, if the first payment year is 2011 or 2012)
  - Year 2 - $12,000
  - Year 3 - $8,000
  - Year 4 - $4,000
  - Year 5 - $2,000
- If first adopted in 2014, amount of incentive part for each year will be the same as if payments started in 2013
- No incentive payments if first adopting after 2014
- No incentive payments for any year after 2016
- The payment will be in the form of a single consolidated payment
  - Will be distributed on a rolling basis as providers demonstrate “meaningful use”

Medicare
Eligible Professional Incentives (con't)

	Adopt 2011	Adopt 2012	Adopt 2013	Adopt 2014
2011	$18K			
2012	$12K	$18K		
2013	$8K	$12K	$15K	
2014	$4K	$8K	$12K	$12K
2015	$2K	$4K	$8K	$8K
2016	$0K	$2K	$4K	$4K
2017	$0K	$0K	$0K	$0K
TOTAL	**$44K**	**$44K**	**$39K**	**$24K**

Medicare
Eligible Professional Incentives
(con't)

- Starting in 2015, fee schedule reductions will apply to EPs not using certified EHR technology
  - Fee schedule reductions
    - 1% in 2015
    - 2% in 2016
    - 3% in 2017 (and after)
  - The Secretary may exempt an EP from the fee reductions if requirement for being a meaningful EHR user would be a significant hardship (e.g., practicing in a rural area without sufficient Internet access)

Medicare Hospital Incentives

- Calculation is highly complex
- Incentives calculation
  - "Eligible hospitals" that are "meaningful EHR users" will receive a "base amount" ($2 million) plus a "discharge-related amount" (based on annual Medicare discharges), times the "Medicare Share" and a "transition factor" (1, 0.75, 0.5, 0.25) applied over 5 years

Medicare Hospital Incentives (con't)

- The Initial Amount
  - The sum of the base amount of $2 million for Hospital with fewer than 1,149 discharges
  - For each Hospital with at least 1,150 but no more than 23,000 discharges during the payment year, $2,000,000 + [$200 x (n-1,149)]
    - "n" is the number of discharges for the Hospital during the fiscal year prior to the payment year
  - For each Hospital with more than 23,000 discharges for the fiscal year prior to the payment year, $6,370,200

Medicare Hospital Incentives (con't)

- Medicare Share
  - Inpatient bed days (Part A) + inpatient bed days (Part C)

    Total number of inpatient bed days x total amount of hospital charges (not including charity)/total charges (including charity)
- Transition Factor
  - The transition factor is as follows:
    - First payment year = 1
    - Second payment year = 0.75
    - Third payment year = 0.50
    - Fourth payment year = 0.25
    - Succeeding payment years = 0

Medicaid

- The following Medicaid providers are eligible to participate in the Medicaid incentives program:
  - Medicaid EPs
  - Acute care hospitals (10% Medicaid patient volume)
  - Children's hospitals (exempt from patient volume req't)
- The Medicaid EP:
  - A physician
  - A dentist
  - A certified nurse-midwife
  - A nurse practitioner
  - A physician assistant practicing in FQHC or RHC

Medicaid EP Exception for Stage 1

- Medicaid EPs who adopt, implement or upgrade certified EHR technology in their first payment year do not have to meet Stage 1 objectives/measures for that payment year
  - Must meet Stage 1 objectives/measures in the second payment year

Medicaid Patient Volume

- The minimum participation threshold where the:
  - Numerator is the total number of Medicaid patients or needy individuals treated in any 90 day period in the most recent calendar year preceding the reporting;
  - Denominator is all patient encounters in the same 90 day period.

Medicaid
Eligible Professionals Eligibility

- Have a minimum 30 percent Medicaid patient volume
  - Pediatricians who have a Medicaid patient volume between 20 – 29 percent are eligible for reduced incentive payments
- Practice predominantly in a FQHC/RHC and have a minimum 30 percent patient volume of needy individuals
- Cannot be hospital-based
- Must elect either Medicare or Medicaid ***but not*** both
- May participate for 6 years
  - First payment year must be ***no later than*** 2016

Medicaid
Eligible Professional Incentives

- Maximum over 6 year period is $63,750
  - First year maximum is $21,250
  - Subsequent 5 years at maximum of $8,500 for each year
- For pediatrician, maximum over 6 year period is $42,500
  - First year maximum is $14,167
  - Subsequent 5 years at maximum of $5,667 for each year

Medicaid Incentive Payments by Physician

Cap on Net Average Allowable Costs, per the HITECH Act	85 Percent Allowed for Eligible Professionals	Maximum Cumulative Incentive Over 6 Year Period
$25,000 in Year 1 for most professionals	$21,250	$63,750
$10,000 in Years 2-6 for most professionals	$8,500	
$16,667 in Year 1 for pediatricians with a 20 percent patient volume, but less than 30 percent patient volume, Medicaid patients	$14,667	$42,500
$6,667 in Year 1 for pediatricians with a 20 percent patient volume, but less than 30 percent patient volume, Medicaid patients	$5,667	

Maximum Incentive Payments for Medicaid EPs Who are Meaningful Users in the First Year of Payment

Calendar Year	Medicaid EPs who begin meaningful use of certified EHR technology in --					
	2011	**2012**	**2013**	**2014**	**2015**	**2016**
2011	$21,250	--	--	--	--	--
2012	$8,500	$21,250	--	--	--	--
2013	$8,500	$8,500	$21,250	--	--	--
2014	$8,500	$8,500	$8,500	$21,250	--	--
2015	$8,500	$8,500	$8,500	$8,500	$21,250	--
2016	$8,500	$8,500	$8,500	$8,500	$8,500	$21,250
2017	--	$8,500	$8,500	$8,500	$8,500	$8,500
2018	--	--	$8,500	$8,500	$8,500	$8,500
2019	--	--	--	$8,500	$8,500	$8,500
2020	--	--	--	--	$8,500	$8,500
2021	--	--	--	--	--	$8,500
TOTAL	**$63,750**	**$63,750**	**$63,750**	**$63,750**	**$63,750**	**$63,750**

Medicaid Hospital Incentives

- The payment is provided over a minimum of a 3-year period and maximum of a 6-year period
- The total incentive payment received over all payment years of the program is not greater than the aggregate EHR incentive amount
- No single incentive payment for a payment year may exceed 50 percent of the aggregate EHR hospital incentive amount
- No incentive payments over a 2-year period may exceed 90 percent of the aggregate EHR hospital incentive amount calculated

Medicaid Hospital Incentives (con't)

- No hospital may begin receiving incentive payments for any year after FY 2016
  - After FY 2016, a hospital may not receive an incentive payment unless it received an incentive payment in the prior fiscal year
- Prior to FY 2016, payments can be made to an eligible hospital on a non-consecutive, annual basis for the fiscal year
- Calculation of the aggregate EHR hospital incentive amount
  - The aggregate EHR hospital incentive is the product of the (overall EHR amount) times (the Medicaid Share).

Notable Differences Between the Medicare & Medicaid EHR Programs: Meaningful Use

MEDICARE	MEDICAID
Must be a meaningful user in Year 1	Adopt, Implement, Upgrade Certified EHR Technology option for 1st participation year
MU definition will be common for Medicare	States can adopt a more rigorous definition (based on common definition)

QUESTIONS/ISSUES

- What is the EHR reporting period for the first year and subsequent years?
- Must payment years be consecutive for an EP/Hospital to receive all years of incentive payments?
- How late can an EP/Hospital become a "meaningful user" and still qualify for all five years of incentive payments?
- How will EPs/Hospitals be paid?

Holland & Knight

EHR TECHNOLOGY STANDARDS & CERTIFICATION

Jeffrey Mittleman | Holland & Knight
Partner
10 St. James Avenue| Boston MA 02116
Phone 617.854.1411 | Fax 617.878.1527
jeffrey.mittleman@hklaw.com | www.hklaw.com

Overview

- Key Definitions
- Standards and Implementation Specifications
  - Content
  - Vocabulary
  - HIT / EHI Protection
- Certification Specifications
  - General
  - Ambulatory
  - Inpatient

Key Definitions

- 45 CFR 170.102
- Certified EHR Technology:
  - (1) A Complete EHR that meets the requirements included in the definition of a Qualified EHR and has been tested and certified in accordance with the certification program established by the National Coordinator as having met all applicable certification criteria adopted by the Secretary; or
  - (2) A combination of EHR Modules in which each constituent EHR Module of the combination has been tested an certified in accordance with the certification program established by the National Coordinator as have met all applicable certification criteria adopted by the Secretary, and the resultant combination also meets the requirements included in the definition of Qualified EHR.
- Complete EHR:
  - EHR technology that has been developed to meet, at a minimum, all applicable certification criteria adopted by the Secretary

Standards and Implementation Specifications

- Content Standards/Implementation Specifications
  - For *exchanging* electronic health information
- Vocabulary Standards
  - For *representing* electronic health information
- Health Information Technology Standards
  - To *protect* the actual electronic health information created, maintained, and exchanged

Content Exchange Standards/Implementation Specifications

- **Standards**: Each category specifies relevant published standards
- **Implementation Specifications**: Certain categories specify relevant implementation specifications
- Categories of Standards and Specifications:
  - Patient summary record
  - Electronic prescribing
  - Electronic submission of lab results to public health agencies
  - Electronic submission to public health agencies for surveillance or reporting
  - Electronic submission to immunization registries
  - Quality reporting
- E.g. – Patient Summary Record
  - *Standard*: Health Level Seven Clinical Document Architecture Release 2, Continuity of Care Document (CCD)
  - *Implementation Specification*: Healthcare Information Technology Standards Panel (HITSP) Summary Documents Using HL7 CCD Component HITSP/C32

Vocabulary Standards

- Adopts specific codes sets, terminology, and nomenclature for the purpose of representing EHI
- Categories of Standards:
  - Problems
  - Procedures
  - Laboratory test results
  - Medications
  - Immunizations
  - Race and ethnicity

Standards for Protection of Electronic Health Information

- Encryption and decryption of EHI
- Record actions related to EHI
- Verification that EHI has not been altered in transit
- Record treatment, payment, and health care operations disclosures

Certification Criteria: General

- Drug-drug, drug-allergy interaction checks
- Drug-formulary checks
- Maintain up-to-date problem list
- Maintain active medication list
- Maintain active medication allergy list
- Record and chart vital signs
- Smoking status
- Incorporate laboratory test results
- Generate patient lists
- Medications reconciliation
- Submission to immunization registries
- Public health surveillance
- Patient-specific education resources
- Automated measure calculation
- Access control
- Emergency access
- Automatic log-off
- Audit log
- Integrity
- Authentication
- General encryption
- Encryption while exchanging EHI
- Optional accounting of disclosures

Certification Criteria: Ambulatory Setting

- Computerized provider order entry
- Electronic prescribing
- Record demographics
- Patient reminders
- Clinical decision support
- Electronic copy of health information
- Timely access
- Clinical summaries
- Exchange clinical information and patient summary record
- Calculate and submit clinical quality measures

Certification Criteria: Inpatient Setting

- Computerized provider order entry
- Record demographics
- Clinical decision support
- Electronic copy of health information
- Electronic copy of discharge instructions
- Exchange of clinical information and patient summary record
- Reportable lab results
- Advance directives
- Calculate and submit clinical quality measures

CMS Final Rule on EHR Incentives Program and ONC Final Rules on EHR Certification Standards and Temporary Certification Program

Joe Lynch
King & Spalding, LLP
202/626-8998; jlynch@kslaw.com

Key Areas of Concern in the Final Rules

- Multi-campus hospitals - multiple inpatient facilities operating under one CMS Certification Number ("CCN") will receive only one $2M base payment per year, and all facilities' discharges are counted toward the 23,000 annual cap on the discharge-related payment
  - Senate Finance Committee has had one hearing on this issue
  - Many organizations working for legislative change
- Reassignment of EHR incentives - An EP must execute a new reassignment agreement, unless the EP's existing agreement for reassignment of payments for services is broad enough to cover EHR incentives

Key Areas of Concern in the Final Rules (con't)

- EPs in group practices - No alternative means for a group practice to satisfy the MU criteria, and receive direct payment of EHR incentives for the group's EPs
- Medicaid patient volume – measured primarily by reference to encounters for which Medicaid actually makes payment. "Panel" option is unclear
- Use of "EHR Modules" to create a "Complete EHR" - The provider is responsible for determining if the EHR Modules, when combined together, permit the provider to satisfy the MU criteria

Key Areas of Concern in the Final Rules (con't)

- Examples of open technical questions regarding the Rules
  - What technology must be certified?
  - Will a provider's modifications to its certified EHR jeopardize the certification?
  - Following the closure of an EHR Reporting Period, can additional or corrected data be considered for MU Rule qualification for that Reporting Period?

Immediate Action Items Regarding Final MU Rule

- Providers with an existing EHR:
  - Internal gap analysis
  - Communications with EHR vendor
    - Vendor gap analysis
    - Vendor plan for EHR certification
    - Costs/timetable for any upgrades
    - Contract amendments
    - Health Information Exchange (“HIE”) capabilities
    - Vendor products offering hospital and physician EHR capabilities
- Providers without an existing EHR:
  - All of above
  - Acquisition timetable (being “engaged in efforts” in 2011)

Immediate Action Items Regarding Final MU Rule (con't)

- All Providers:
  - Communications with State officials concerning HIT Plan
  - Review of other local, regional and statewide HIT efforts
    - HIT Regional Extension Centers
    - Existing HIEs and Regional Health Information Organizations ("RHIOs")
    - Vendor activities
    - Major reference labs
    - Organizations offering a Personal Health Record ("PHR")
  - Reassignment of EP EHR incentives
  - Hospital/physician EHR coordination/support
  - Monitor guidance from CMS and ONC
    - State methodologies for estimating Medicaid patient volume
    - Boundary between certified and non-certified technology
    - Certification of home-grown EHRs and EHR Modules
  - Monitor legislative developments

Immediate Action Items Regarding Final MU Rule (con't)

PREPARE NOW FOR STAGE 2

- Establish a forum for local/regional organizing efforts
- Catalogue of existing EHR technology in the area
- Review of EHR acquisition/upgrade/implementation plans of local/regional providers
- Analysis of local/regional physicians' EHR needs
- Communications with State regarding HIE development/implementation plan
- Coordination with the area's HIT Regional Extension Center
- Discussions with vendors regarding available HIE technology
- Discussions regarding local/regional electronic health information exchange

Q&A

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Thanks.

Please join us for our next health law conference, "Physician Self-Referral Disclosure After PPACA - Navigating New Stark Law Complexities Following Healthcare Reform," scheduled on Wednesday, October 27, 2010, starting at 1pm EDT.

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