# EHR Improvements Act Summary Rep. Diane Black

# **Background:**

The Health Information Technology for Economic and Clinical Health (*HITECH*) *Act* was created to stimulate the adoption of electronic health records in clinical and hospital settings. Under this law, eligible health professionals will be offered financial incentives for demonstrating "meaningful use" of electronic health records (EHR). Incentives will be offered until 2015, after which time penalties will be levied for failing to adhere to the program's requirements.

#### **Purpose:**

The "EHR Improvements Act" removes these barriers to participation by focusing on the key issues that eligible physicians have said make it difficult to comply and hinder their ability provide high quality care for their patients. This bill specifically addresses the problems that physicians have addressed with CMS but have thus far- gone unanswered. EHR technology should be encouraged, but not without implementing these much needed reforms.

# **Problem:**

The new demands to meet meaningful use as part of the EHR Incentive Program require significant time to determine the appropriate EHR vendor, capital to make the investment, and significant staff resources to implement in practices and notify patients of the possible changes. A recent *Health Affairs* article estimated that the total first-year costs of for a five-physician practice to be \$233,297, with average per-physician costs of \$46,659. This is particularly difficult with smaller practices, and is an unattractive option for physicians in or near retirement that are not as inclined to make a long term investment in the practice.

#### **Solution:**

The "EHR Improvements Act" creates a "hardship exemption" for small practices and physicians in and near retirement to avoid workforce shortage.

# **Problem:**

- Centers for Medicare and Medicaid Services (CMS) states that for CY 2015 and subsequent years that the EHR reporting period for the penalty would continue to be the CY two years prior to the penalty. This two year look-back period unfairly accelerates the date by which physicians must meet meaningful use requirements to avoid penalties. Considering the vast amount of resources needed to make this investment, the two year look-back period forces physicians to rush this important decision- possibly with a system that doesn't meet their needs or not make the investment and accept a damaging penalty.
- ➤ The two year look back period starting in 2015 may also result in a physician participating in the Medicaid program to be penalized under the Medicare side of the program if not a meaningful user.

## **Solution:**

- ➤ This legislation shortens the gap between the performance period and the application of the penalty to no more than one year. This allows eligible providers to make an informed decision based on the specific needs of their practices and the patients they serve.
- This bill also fixes the problem of simultaneously receiving a bonus and a penalty by prohibiting the application the application of the Medicare penalty to EPs who successfully participate in the first year of the Medicaid Incentive Program.

# **Problem:**

The Program's requirements and deadlines are incredibly confusing and inconsistent. The health care system is facing major transformation and physicians are faced with a tidal wave of payment changes including Medicare sequestration, possible SGR cuts, administrative changes from the health care law, and the payment changes that will come as a result of the Independent Payment Advisory Board (IPAB). All of these changes make it difficult for physicians to plan ahead and make a significant investment in their practice.

## **Solution:**

- ➤ H.R. XXXX streamlines system requirements for providers.
- ➤ This legislation also simplifies certain exemptions and extensions by creating a uniform 3 year grace period to provide clarity to all participants.
- ➤ CMS is also required to align programs and streamline their deadlines to meet meaningful use programs. They must report progress on streamlining deadlines, simplifying that data input, and the advancement of interoperability measures.

#### **Problem:**

Another problem frequently discussed are meeting requirements that bureaucrats force physicians to report so-called "quality" that has nothing to do with certain specialties, or measure quality of care. The cost of updating the information systems will prove to be incredibly costly for practices. Also, many of the EHR systems don't provide *real time* information. The maze of mandates and requirements within each reporting system is a huge disincentive for participation.

#### **Solution:**

This bill expands the options for participation and improves quality measures by using specialty-led registries. The registries are <u>designed by and for physicians</u> and are tailored to the needs of them and their patients. The registries offer real time data log. Specialty-led registries offer these physicians the much needed autonomy to design their own quality measures, and would be compared to the care delivered by their peers and not an egregious standard made by bureaucrats in Washington.

#### **Problem:**

Many rural health care providers are finding it extremely difficult to adopt electronic health records in their practices. Their patients will often go to a doctor or hospital closer to an urban setting with an EHR, but that information cannot be transmitted in their

primary care setting closer to their home. This causes data lag and a growing participation gap among providers who care for patients living in rural areas.

# **Solution:**

➤ H.R. XXXX includes rural health clinics as "eligible professionals (EPs)" under the Incentive Program. This will surely increase participation among rural health care providers, and expand access to quality care for patients living in rural areas.

## **Problem:**

Physicians are faced with the threat of a penalty for not meeting meaningful use standards, but current law does not provide a sufficient appeals process. Physicians do not have a safe-guard if CMS inappropriately applies a penalty, or there is a glitch in the technology that would cause disruption in their reports to CMS.

#### **Solution:**

➤ This bill instructs CMS to establish a formal appeals process before the application of the penalties.