

Task Force to Study Electronic Health Records

Review of the 2007 Final Report Recommendations

June 2009

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Introduction

The Maryland Health Care Commission (MHCC) reconvened the Task Force to Study Electronic Health Records (Task Force) on April 13, 2009. The purpose of this meeting was to reevaluate the 13 recommendations¹ presented in the Task Force's Final Report (final report) submitted to the Governor and Maryland General Assembly on December 31, 2007. Included in the reevaluation was a discussion of the Task Force recommendations as they relate to the Federal *American Recovery and Reinvestment Act of 2009* (ARRA)² and Maryland House Bill 706: *Electronic Health Records – Regulation and Reimbursement*.³

The Task Force was created under Senate Bill 251⁴ of the 2005 Maryland General Assembly, and composed of 26 representatives (20 appointed by the Governor) representing a broad range of interests in health care and health information technology (HIT). The final report detailed the landscape surrounding the adoption of electronic health records (EHRs). This report also represented recommendations that pertained to EHRs and the potential expansion of EHR utilization in the state, including: electronic transfer; electronic prescribing (e-prescribing); computerized physician order entry (CPOE); the cost of implementing these items in the state; the impact of the current and potential expansion on school health records; and the impact of the current and potential expansion on patient safety and privacy. The Task Force report is located at: http://mhcc.maryland.gov/electronichealth/presentations/ehr_finalrpt0308.pdf.

During the reevaluation, the Task Force proposed modifications to three of the 13 recommendations. The recommendations for revision are: balance the relationship of HIT costs and benefits in each sector through a system of payments and subsidies; identify incentives for e-prescribing; and develop a statewide outreach and education program. The Task Force modified these recommendations in a manner consistent with state and federal legislation.

Recent HIT Legislation

Federal

The ARRA was signed into law by President Barack Obama on February 17, 2009. The ARRA includes a combination of grants and incentives specifically for the adoption of HIT. The two sections of the ARRA related to HIT are: Title XIII, *Health Information Technology for Economic and Clinical Health Act* (HITECH Act), and Title IV, *Medicare and Medicaid Health Information Technology; Miscellaneous Medicare Provisions*.

¹ See Appendix A for *Task Force to Study Electronic Health Records: Recommendations* for a complete list of the original recommendations.

² One Hundred Eleventh Congress of the United States of America. (2009). H.R.1: *American Recovery and Reinvestment Act of 2009*. Available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf.

³ Maryland General Assembly. (2009). *House Bill 706: Electronic Health Records – Regulation and Reimbursement*. Available at: <http://mlis.state.md.us/2009rs/bills/hb/hb0706t.pdf>

⁴ Maryland General Assembly. (2005). Senate Bill 251: *Task Force to Study Electronic Health records*. Available at: <http://mlis.state.md.us/2005rs/bills/sb/sb0251t.pdf>

State

The Maryland General Assembly passed House Bill 706: *Electronic Health Records – Regulation and Reimbursement* (HB 706) during the 2009 legislative session. The bill was signed into law by Governor Martin O'Malley on May 19, 2009, and is aimed at expanding the adoption of EHRs through incentives from state-regulated payers to providers to use certified EHRs that are capable of connecting to a health information exchange (HIE). The two state agencies named in the bill are the MHCC and the Health Services Cost Review Commission (HSCRC). The MHCC is expected to work with health care stakeholders late this summer to draft regulations.

An Update on Statewide HIT Initiatives

The MHCC's strategy to advance HIT includes activities that promote the adoption of EHRs and the development of a statewide exchange that delivers health information privately and securely. Adoption of HIT allows for comprehensive management of health information to providers and to consumers. HIT can provide access to patient information at the point of care, provide best practice guidelines, increase administrative efficiencies, and reduce health care costs.

Electronic Health Records

The MHCC has developed a number of initiatives for promoting the adoption of EHRs within the state that include: creating an EHR Product Portfolio that provides a core set of product information that assists physicians in purchasing an EHR; participating in a five-year demonstration project with the Center for Medicare and Medicaid Services that provides incentives to 127 physician practices to implement an EHR; and promoting education and outreach programs for physicians and allied health care professionals.

Health Information Exchange (HIE)

The MHCC has worked to establish a sound foundation for HIE over the last several years. These efforts include: a report on the impact of privacy and security policies and business practices on HIE; a solutions and implementation guide; two diverse planning group reports that address governance, sustainability, privacy and security, and an approach to implementation; and a request for application that included the best ideas from both of the planning group's reports for the establishment of a comprehensive multi-stakeholder group that will implement the HIE.

Modifications to the Recommendations

Task Force members discussed the 13 recommendations contained in the final report and identified three recommendations that required modification. Proposed changes to the recommendations were based upon recent state and federal legislation. The three recommendations and the modifications developed by the Task Force are as follows:

Balance the relationship of HIT costs and benefits in each sector through a system of payments and subsidies

Background

The health care system compensates physicians and other providers for procedures and episodes of care. For the most part, providers do not receive compensation for care coordination, management of chronic

diseases, better outcomes, or for non-visit based care (e.g., via email). Inadequate compensation for preventive care and other services designed to keep people healthy is an issue identified by the Task Force.

Modification

Current legislation at the state and federal level includes incentives and disincentives for EHR adoption. ARRA provides financial incentives to encourage physicians to adopt and use qualifying EHRs in a meaningful way. Beginning in 2011, physicians who adopt EHRs will be eligible for incentive payments under the federal stimulus program. The regulations that establish criteria for incentives under HB 706 will be developed later this year. *The Task Force recommends that the state allow physicians to participate in EHR adoption incentive programs on a voluntary basis.*

Identify incentives for e-prescribing

Background

The Task Force believed that the adoption of e-prescribing is slow. They attributed slow adoption to poor incentive programs, and felt that some level of financial incentive was needed to promote the optimal use of e-prescribing. An EHR system that includes e-prescribing and clinical decision support capabilities can help providers choose the appropriate drug and dosage for patients.

Modification

Incentives for e-prescribing exist at the federal level and are aimed at increasing the use of this technology. The Medicare Improvements for Patients and Providers Act (MIPAA, July 2008) enables physicians who e-prescribe to receive Medicare bonus payments. The federal incentive program provides incentive payments annually to eligible physicians and includes disincentives that begin in 2012. *The Task Force recommends that the state consider defining meaningful use of EHR in the regulations for HB 706 to include e-prescribing.*

Develop a statewide outreach and education program

Background

The Task Force recommended that the state develop programs aimed at educating consumers on the various aspects of electronic health information and the many ways HIT could improve health care. The implementation and success of the HIE, both economically and politically, is dependent upon addressing the information needs of consumers. The Task Force viewed education as critical to shaping consumer acceptance of electronic health information exchange and building consumer trust.

Modification

The Task Force broadened the concept of outreach and education on HIT to include providers. The HITECH Act includes language for a national Health Information Technology Research Center and Health Information Technology Regional Extension Centers. *The Task Force recommends that Maryland apply to become one of the Health IT Regional Extension Centers.*

In Review

The Task Force reconvened to review the recommendations from the December 2007 final report as a result of recent state and federal legislation. Three recommendations were modified based upon deliberation by the Task Force. The modifications take into account recent legislation that promotes HIT

adoption. These modifications address the perceived financial issues faced by physicians in adopting EHRs and e-prescribing. They also include physicians, in addition to consumers, in education and outreach activities.

The Task Force agreed to leave open the possibility of convening future meetings. The Task Force agreed that the need for additional meetings should be determined based on published guidelines of the ARRA and proposed regulations for HB 706. This document is intended to foster awareness of the Task Force's final report, modify the appropriate recommendation, and to encourage discussion of HIT among stakeholders.

Acknowledgements

The Task Force leadership greatly appreciates member participation in the April meeting. The discussion among the members demonstrates the continued interest by the Task Force in advancing EHR adoption and establishing a HIE in Maryland.

Appendix A

Task Force to Study Electronic Health Records

Recommendations

The Task Force recommends that the State of Maryland address the following:

Financial

- Balance the relationship of HIT costs and benefits in each sector through a system of payments and subsidies;
- Include HIT adoption in private payer *Pay-for-Performance* programs;
- Identify incentives for e-prescribing; and
- Identify funding sources for adoption of EHR-S.

Technology

- Encourage Physician implementation of EHR-S;
- Encourage Hospital implementation of EHR-S and CPOE;
- Develop statewide privacy and security policies for HIE;
- Implement a statewide HIE;
- Allow market forces to drive consumer adoption of personal health records.

Legal / Regulatory

- Modify existing statutes to resolve conflicts between statutes, and develop new legislation where necessary.

HIT / HIE Consumer Education

- Develop a statewide outreach and education program.

School Health Records

- Resolve differences between State privacy and security laws, Health Insurance Portability and Accountability Act, and Family Educational Rights and Privacy Act; and
- Encourage adoption of EHR-S in school-based health centers.

Appendix B

Meeting Participants – Task Force Members

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