

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 222
(I-16)

Introduced by: New Mexico

Subject: Prohibition of Clinical Data Blocking

Referred to: Reference Committee B
(Ann R. Stroink, MD, Chair)

1 Whereas, In the past several years there have been a number of reports across the country of
2 hospital systems and integrated networks blocking the flow of clinical data from their electronic
3 health records (EHRs), a practice that some characterize as a tool used by some integrated
4 systems to coerce independent physicians to join them¹; and
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6 Whereas, Some large EHR vendors such as Epic promote the concept of private in-network
7 information exchanges, facilitated by federal safe harbor rules that permit hospital networks to
8 subsidize up to 85 percent of the cost of EHR installation in an affiliated practice¹, while actively
9 discouraging data sharing out of network; and
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11 Whereas, There was a published report of staff at an EHR vendor sales event suggesting that
12 the subsidy provided by that vendor was a good lure to get independent physicians to sell out,
13 because the alternative was meager information¹; and
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15 Whereas, There are documented instances of physicians finding it impossible to gain access to
16 complete medical record information for their patients unless they became affiliated with the
17 hospital systems that controlled those patients' electronic health records; and
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19 Whereas, Blocking the flow of clinical data is now considered to be one of the factors in
20 accelerating the trend towards consolidation of health care networks, with 285 hospital mergers
21 between 2011 and 2013, leading to less choice for physicians and patients, stifling competition,
22 and greatly increasing costs of care due to much higher fees paid to hospital owned clinics; and
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24 Whereas, Attempts to implement successful statewide health information exchanges (HIEs) in a
25 number of states have been made more difficult, and those systems made less effective, by
26 clinical data blocking on the part of hospital based systems that only provide very limited data
27 sets, or no data at all, to the state HIE; and
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29 Whereas, In 2015 and 2016 two states, Connecticut and Minnesota², have adopted legislation
30 that makes it illegal to use electronic health records to block the flow of clinical information; and
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32 Whereas, Some EHR vendors, in particular eClinicalWorks, have gained notoriety by effectively
33 blocking data sharing by the imposition of exorbitant initial and recurrent charges to physician
34 groups for the implementation and ongoing use of electronic interfaces between their EHRs and
35 systems such as HIEs that make the data available to other physicians participating in the care
36 of shared patients; and

Whereas, It is extremely expensive for physician groups to change EHR vendors in a situation where the vendor decides to impose exorbitant charges that make data sharing unaffordable; and

Whereas, Interoperable sharing of clinical data is a central tenet of meaningful use and more importantly, to the provision of timely, appropriate care; therefore be it

RESOLVED, That our American Medical Association advocate for the adoption of federal and state legislation and regulations to prohibit health care organizations and networks from blocking the electronic availability of clinical data to non-affiliated physicians who participate in the care of shared patients, thereby interfering with the provision of optimal, safe and timely care (New HOD Policy); and be it further

RESOLVED, That our AMA advocate for the adoption of federal and state legislation and regulations to place strict limits on the fees imposed by electronic health record vendors for the implementation and ongoing use of data sharing interfaces. (New HOD Policy)

References:

¹ Connecticut law bans EHR-linked information blocking; Politico, October 30, 2015;

<http://www.politico.com/story/2015/10/connecticut-law-bans-ehr-linked-information-blocking-215400>

² Information Blocking Prohibited, Minnesota State Legislature, effective July 1, 2016;

https://www.revisor.mn.gov/bills/text.php?number=HF3580&version=latest&session=89&session_number=0&session_year=2015

Fiscal Note: Not yet determined

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RELEVANT AMA POLICY

EHR Interoperability D-478.972

Our AMA: (1) will enhance efforts to accelerate development and adoption of universal, enforceable electronic health record (EHR) interoperability standards for all vendors before the implementation of penalties associated with the Medicare Incentive Based Payment System; (2) supports and encourages Congress to introduce legislation to eliminate unjustified information blocking and excessive costs which prevent data exchange; (3) will develop model state legislation to eliminate pricing barriers to EHR interfaces and connections to Health Information Exchanges; (4) will continue efforts to promote interoperability of EHRs and clinical registries; (5) will seek ways to facilitate physician choice in selecting or migrating between EHR systems that are independent from hospital or health system mandates; and (6) will seek exemptions from Meaningful Use penalties due to the lack of interoperability or decertified EHRs and seek suspension of all Meaningful Use penalties by insurers, both public and private.

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Principles for Hospital Sponsored Electronic Health Records D-478.973

1. Our AMA will promote electronic health record (EHR) interoperability, data portability, and health IT data exchange testing as a priority of the Office of the National Coordinator for Health Information Technology (ONC).

2. Our AMA will work with EHR vendors to promote transparency of actual costs of EHR implementation, maintenance and interface production.

3. Our AMA will work with the Centers for Medicare and Medicaid Services (CMS) and ONC to identify barriers and potential solutions to data blocking to allow hospitals and physicians greater choice when purchasing, donating, subsidizing, or migrating to new EHRs.

4. Our AMA will advocate that sponsoring institutions providing EHRs to physician practices provide data access and portability to affected physicians if they withdraw support of EHR sponsorship.

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