



# Health Information Technology, Privacy, and Psychiatric Physicians

## August 2009

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**ISSUE:** Protecting and strengthening the confidentiality of the physician-patient relationship is critical to providing the highest quality medical care. This is particularly true with respect to patients treated for mental illness including substance use disorders.

**BACKGROUND:** Carefully structured, a national HIT infrastructure has great potential to raise the overall quality of care provided to patients, increase patient safety, keep health professionals informed about the latest standards of care, and improve efficiency in communicating important health care information. The privacy and security of individually identifiable health information – particularly with regard to mental health and substance use disorder and other sensitive patient information – is a critical component of any nationally uniform HIT system.

The American Recovery and Reinvestment Act of 2009 (ARRA), passed in early February, included up to \$19 billion to accelerate the adoption of health information technology by hospitals and practicing physicians. The bill included several critical privacy protections lobbied for by the APA, including: notification of data breaches for patients, greater power for physicians to limit data disclosures, and new meaningful enforcement mechanisms for privacy violations.

**PHYSICIAN INCENTIVES FOR ADOPTION:** Beginning in 2011 and for the first five years, meaningful users of EHR will be compensated for an amount equal to 75 percent of their allowable Medicare charges. The total amount each year will be capped starting at \$18,000 for 2011 or 2012 (early adoption years) and decreasing onwards. The maximum incentive will be \$44,000 total. No incentive will be made available after 2016 and physicians for whom the first payment year is after 2014 will receive no incentive. Beginning in 2015, cuts to Medicare reimbursement for nonparticipating physicians will begin. Physicians may opt for a more front loaded Medicaid incentive if their volume in practice is made up of at least 30 percent Medicaid patients. Physicians who practice in a designated health professional shortage area will receive an additional 10 percent incentive. While many of the qualifications for funding are spelled out in the law, much is left to forthcoming regulations to define who will be eligible for financing. The biggest question remains what exactly is a "meaningful user of EHR", which was not defined in statute.

**APA POSITION:** APA supports the strongest possible privacy protections for medical records and a secure and efficient transition towards a universal American HIT network. The HIT privacy provisions enacted by the recovery bill are a major improvement over the currently inadequate federal standards. In the coming months APA will urge the Obama Administration to properly implement this law as they develop regulation for technical standards, integration of privacy into software, and the qualifications for physician incentives and grants.

### RESOURCES FOR YOU AND YOUR PRACTICE:

APA HIT Portal with Software Reviews

<http://psych.org/MainMenu/PsychiatricPractice/QualityImprovement/ElectronicHealthRecords.aspx>

AMA HIT Physician Resources

<http://www.ama-assn.org/ama/no-index/physician-resources/16195.shtml>