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The collaborative of associations representing health information technology (HIT) issues for long term and post acute care (LTPAC) providers, professionals, and support services in skilled nursing facilities, nursing facilities, assisted living, home health agencies, etc., is pleased to submit comments on the proposed rule to implement the provisions of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111-5). This rule proposes to define the “meaningful use” of Certified Electronic Health Records (EHR) technologies and to establish evaluation criteria that facilitate the flow of incentive payments to eligible professionals (EPs) and eligible hospitals participating in Medicare and Medicaid programs.

LTPAC Recommendations on “Meaningful Use”:

- Recognize that the common definition of “meaningful use” that serves as the standard for providers participating in the Medicare Fee-for-Service and Medicare Advantage EHR incentive program and for EPs and eligible hospitals participating in the Medicaid EHR incentive program affects the process of establishing standards of meaningful use of EHRs for non-eligible health care providers (such as LTPAC providers) and that future redefinitions of meaningful use should consider applying criteria for meaningful use for LTPAC providers.
- Recognize that the means by which EPs and eligible hospitals demonstrate meaningful use should work for all provider types.
- Consider that the Certified EHRs technologies approved for use by EPs and eligible hospitals must be measured by their ability to successfully send and receive standards-based patient summary records and clinical information and share them with all health care providers types (including skilled nursing facilities, nursing facilities, home health, etc.) as defined by the HITECH Act.¹

¹ The Public Health Service Act (42 U.S.C ex rel.) as amended by H.R. 1-114, Section 3000(3).

- Encourage EPs (physicians) and hospitals in future rulemaking to partner with other providers, as defined by Section 3000(3) of the HITECH Act, by directly linking the formation of partnerships with LTPAC providers with the demonstration of meaningful use or by some other incentivizing means.
- Recognize that the standards of meaningful use of Certified EHRs for 2013 must, at a minimum, include a defined standard for the transfer of care documentation between all providers as defined by Section 3000(3) of the HITECH Act. The recommendation of the LTPAC is for this to be addressed in 2011 rulemaking so that the industry has sufficient time to implement these standards and support meaningful use Stage 2.
- Recognize that improved care coordination and the exchange of meaningful clinical information among the professional health care team should involve all health care provider types and that demonstration projects should be devised to demonstrate the exchange of meaningful clinical information between EPs, eligible hospitals and LTPAC providers.
- Consider expanding clinical quality measures in future rulemaking to include both long term care and post acute care.

Background and Justification:

Long-term and post-acute care (LTPAC) made up of skilled nursing facilities, nursing facilities (collectively, nursing facilities), assisted living, home health agencies and others, is the most publicly funded health care sector now caring for the fastest growing and most costly segment of the U.S. population. LTPAC patients and residents have multiple chronic conditions and co-morbidities that require the coordination of numerous providers, who prescribe multiple medications and diagnostic tests. This population is also known to transition frequently between different care settings, sometimes moving back and forth between different levels of care and care settings such as nursing homes and hospitals.

To meet nationally stated goals of a) improving quality, safety, efficiency, and reduce health disparities; b) improving care coordination; and c) engaging patients and families, the health care team caring for a patient/resident must be able to electronically exchange meaningful clinical information between the professional health care team over the entire spectrum of care. This spectrum is not limited to physician practices and hospitals. Rather, it is inclusive of all provider settings, including LTPAC.

The LTPAC Collaborative offers these supporting facts to emphasize the importance of interoperability and the exchange of meaningful clinical information across the full spectrum of health care settings.

- Forty percent of Medicare discharges from short-term acute-care hospitals require post-acute care (LTACH, IRF, NF, SNF, home health) services².
 - Forty percent of hospital patients discharged to NF experience an unplanned re-admission to the hospital for the same reason/ condition they were initially admitted for (i.e. considered inappropriate re-admissions) due to inadequate discharge planning.
 - Medicare and Medicaid hospital costs have increased due to unnecessary hospital re-admissions of long-term care patients due to the failure of hospitals to exchange timely and necessary health information³.
- Almost 100% of nursing homes and home health agencies have electronic billing and electronic reporting of federally-required health and functional status assessments (i.e., the MDS and

²Gage, Morley, Green, 2007. "A New Era: Post Acute Use Under PPS, "CMS Contract No. 500-00-0030, T.O. #2.

³Jencks SF, Williams MV, Coleman EA, Rehospitalizations Among Patients in the Medicare Fee-for-Service Program, NEJM, 2009; 360:1414-28. Available on-line at: <http://content.nejm.org/cgi/content/abstract/360/14/1418>.

OASIS). These assessment requirements have enabled 20% (or more) of nursing facilities and more than 65% of home health agencies to implement electronic information systems functionalities equivalent to an Electronic Health Record (including physician orders, medication orders/drug dispensing, laboratory/procedures information)^{4,4}.

Effective electronic health information exchange with LTPAC providers reduces hospital readmissions and medical errors, improves quality, supports the continuity of care, and reduces costs with the resultant higher quality of care and quality of life. Our country's health care system will only reach the primary goal of improved quality and care coordination, and hence meaningful use, when all providers across the spectrum of care are included in HIT initiatives.

Implementation of the Recommendations:

To attain meaningful use across all health care settings as defined in ARRA, part of the core functional and interoperability criteria should include the requirements that certified products be able to:

- a) Produce and exchange HITSP-compliant transfer/discharge documents based on the Continuity of Care Document (CCD);
- b) Generate and track reports regarding the number/percentage of times such reports were produced, electronically sent, and to whom/which settings the reports were sent;
- c) Receive HITSP compliant CCD-based transfer/discharge documents; and d) generate and track reports regarding the number/percentage of times such reports were electronically received, and from whom/which settings the reports were received.

LTPAC agrees with the opinion of the Office of the National Coordinator for Health Information Technology that one clinical document architecture standard should be adopted to support meaningful use and encourages the Centers for Medicare & Medicaid to address this in future rulemaking.

Even though LTPAC is not currently funded for financial incentives; it can be included in the demonstration of meaningful use by linking incentive payments to EPs and hospitals who partner with other providers including LTPAC. Without the engagement of LTPAC, the goals of HITECH won't be achieved since physicians and hospitals cannot become meaningful users in isolation.

Readiness of the LTPAC Community:

One example of the interest of the LTPAC industry to advance the interoperable health information exchange can be found in recent CCHIT activities. CCHIT has embarked on specifying EHR certification criteria for LTPAC providers and has provided guidance to the LTPAC Workgroup that in identifying the EHR certification criteria to be adopted in 2010, particular attention should be given to using the CCD as the interoperability standard for transmitting and receiving transfer and discharge documents. This NPRM is especially timely as the LTPAC Workgroup considers the care goals and objectives while defining certification criteria.

In the attached Table 1, the LTPAC CCHIT workgroup has annotated the NPRM's meaningful use objectives and quality measures with existing (2011) criteria. The LTPAC community is pleased to note that most of the objectives and measures are already required by certified LTPAC EHRs. We have noted

⁴ Resnick HE, Manard BB, Stone RI, Alwan M. Use of Electronic Information Systems in Nursing Homes: United States, 2004. In *Journal of the American Medical Informatics Association (JAMIA)*. Available online at: <http://www.jamia.org/cgi/reprint/16/2/179.pdf>

⁴ "Nursing Home and Home Health HIT Use Appears to be At Least Comparable to that of Physician Offices and Hospitals," available at <http://aspe.hhs.gov/daltcp/reports/2009/HITlitrev.htm>

the areas that are not in the criteria as well as a few recommendations for new objectives and measures that would result in meaningful use for LTPAC providers.

The LTPAC community is also working in collaboration with the National Quality Forum to identify electronic quality measurements that are collected by LTPAC providers that match the defined quality measurements for EPs and hospitals and will be seeking ways to participate in HIEs and state Medicaid EHR demonstration projects so that our providers can begin to share clinical information and participate in the broad goals to create a national health information exchange.

In summary, this regulatory effort to transform the healthcare delivery system and emphasize that this goal can only be realized if the healthcare system recognizes the vital role LTPAC plays in the full spectrum of care and thus the need to include LTPAC in the electronic exchange of health information to make the use of HIT truly meaningful. As our recommendations propose, LTPAC's inclusion in this initial meaningful use effort can be expanded without additional cost by refining the criteria in a way that will incentivize EPs and hospitals to partner with all provider groups as defined by the HITECH Act. Implementing these recommendations would ensure attaining a meaningful use of HIT across the total spectrum of care, as required by ARRA, achieving a meaningful return on ARRA funds invested, and meeting the ARRA goal that each person in the U.S. has an EHR by 2014.

Thank you for this opportunity to provide these comments.

Sincerely,

LTPAC Association Collaborative

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Health Outcomes Policy Priority: Improving quality, safety, efficiency, and reducing health disparities

Care Goals:

- Provide access to comprehensive patient health data for patient's health care team
- Use evidence-based order sets and CPOE
- Apply clinical decision support at the point of care
- Generate lists of patients who need care and use them to reach out to patients
- Report information for quality improvement and public reporting

Stage 1 Objectives: Eligible Professionals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Objectives: Hospitals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Measures	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria
Use CPOE	X			Use of CPOE for orders (any type) directly entered by authorizing provider (for example, MD, DO, RN, PA, NP)	X			For EPs, CPOE is used for at least 80% of all orders For eligible hospitals, CPOE is used for 10% of all orders	X		
Implement: <ul style="list-style-type: none"> • drug-drug checks, • drug-allergy checks, • drug-formulary checks 	X X	X		Implement: <ul style="list-style-type: none"> • drug-drug checks, • drug-allergy checks, • drug-formulary checks 	X X	X		The EP/eligible hospital has enabled this functionality	X		
Maintain an up-to-date problem list of current and active diagnoses based on ICD-9-CM or SNOMED CT ®	X			Maintain an up-to-date problem list of current and active diagnoses based on ICD-9-CM or SNOMED CT ®	X			At least 80% of all unique patients seen by the EP or admitted to the eligible hospital have at least one entry or an indication of none recorded as structured data	X		
Generate and transmit permissible prescriptions electronically (eRx)	X							At least 75% of all permissible prescriptions written by the EP are transmitted electronically using certified EHR technology	X		

Stage 1 Objectives: Eligible Professionals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Objectives: Hospitals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Measures	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria
Maintain active medication list	X			Maintain active medication list	X			At least 80% of all unique patients seen, by the EP or admitted to the eligible hospital have at least one entry or (an indication of "none" if the patient has no medication allergies) recorded as structured data	X		
Maintain active medication allergy list	X			Maintain active medication allergy list	X			At least 80% of all unique patients seen, by the EP or admitted to the eligible hospital have at least one entry or (an indication of "none" if the patient has no medication allergies) recorded as structured data	X		
Record demographics o preferred language o insurance type o gender o race o ethnicity o date of birth	X X X X X X			Record demographics o preferred language o insurance type o gender o race o ethnicity o date of birth o date and cause of death in the event of mortality	X X X X X X			At least 80% of all unique patients seen by the EP or admitted to the eligible hospital have demographics recorded as structured data	X		

Stage 1 Objectives: Eligible Professionals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Objectives: Hospitals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Measures	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria
Record and chart changes in vital signs: o height o weight o blood pressure o Calculate and display: BMI o Plot and display growth charts for children 2-20 years, including BMI.	X X X	X	X	Record and chart changes in vital signs: o height o weight o blood pressure o Calculate and display: BMI o Plot and display growth charts for children 2-20 years, including BMI.	X X X	X	X	For at least 80% of all unique patients age 2 and over seen by the EP or admitted to eligible hospital, record: o blood pressure and BMI; o additionally plot growth chart for children age 2-20	X	X	X
Record smoking status for patients 13 years old or older			X	Record smoking status for patients 13 years old or older			X	At least 80% of all unique patients 13 years old or older seen by the EP or admitted to the eligible hospital have "smoking status" recorded			X
Incorporate clinical lab-test results into EHR as structured data		X		Incorporate clinical lab-test results into EHR as structured data		X		At least 50% of all clinical lab tests ordered whose results are in a positive/negative or numerical format are incorporated in certified EHR technology as structured data		X	
Generate lists of patients by specific conditions to use for quality improvement, reduction of disparities, and outreach	X			Generate lists of patients by specific conditions to use for quality improvement, reduction of disparities, and outreach	X			Generate at least one report listing patients of the EP or eligible hospital with a specific condition.	X		

Stage 1 Objectives: Eligible Professionals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Objectives: Hospitals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Measures	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria
Report ambulatory quality measures to CMS or the States	X			Report hospital quality measures to CMS or the States Note: The LTPAC equivalents of QM/QIs will vary from these	X			For 2011, provide aggregate numerator and denominator through attestation as discussed in section II(A)(3) of this proposed rule For 2012, electronically submit the measures as discussed in section II(A)(3) of this proposed rule	X		
Send reminders to patients per patient preference for preventive/ follow up care			X					Reminder sent to at least 50% of all unique patients seen by the EP that are age 50 or over			X
Implement 5 clinical decision support rules relevant to specialty or high clinical priority, including diagnostic test ordering, along with the ability to track compliance with those rules	X			Implement 5 clinical decision support rules related to a high priority hospital condition, including diagnostic test ordering, along with the ability to track compliance with those rules	X			Implement 5 clinical decision support rules relevant to the clinical quality metrics the EP/Eligible Hospital is responsible for as described further in section II(A)(3). Note: The LTPAC equivalents of clinical decision support rules may vary from these	X		

Stage 1 Objectives: Eligible Professionals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Objectives: Hospitals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Measures	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria
Check insurance eligibility electronically from public and private payers		X		Check insurance eligibility electronically from public and private payers		X		Insurance eligibility checked electronically for at least 80% of all unique patients seen by the EP or admitted to the eligible hospital		X	
Submit claims electronically to public and private payers.			X	Submit claims electronically to public and private payers.			X	At least 80% of all claims filed electronically by the EP or the eligible hospital Note: (Not in certification criteria, but most LTPAC systems do this)			X
Proposed new MU criteria for LTPAC: Document clinical progress notes electronically								Proposed new MU criteria for LTPAC: At least 50% of all progress notes are captured and available electronically			
Proposed new MU criteria for LTPAC: Maintain patient-specific care plans listing problems, goals and treatment interventions								Proposed new MU criteria for LTPAC: At least 80% of all patients have an electronic care plan			
Proposed new MU criteria for LTPAC: Submit federally mandated assessment Instruments, such as MDS, OASIS, IRFPAI								Proposed new MU criteria for LTPAC: All necessary assessment instruments submitted electronically to the governing body			

Health Outcomes Policy Priority: Engage patients and families in their health care

Care Goals: Provide patients and families with timely access to data, knowledge, and tools to make informed decisions and to manage their health

Stage 1 Objectives: Eligible Professionals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Objectives: Hospitals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Measures	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria
Provide patients with an electronic copy of their health information (including diagnostic test results, problem list, medication lists, allergies), upon request	X			Provide patients with an electronic copy of their health information (including diagnostic test results, problem list, medication lists, allergies, discharge summary, procedures), upon request	X			At least 80% of all patients who request an electronic copy of their health information are provided it within 48 hours Note: LTPAC systems will be required to create a CCD	X		
				Provide patients with an electronic copy of their discharge instructions and procedures at time of discharge, upon request			X	At least 80% of all patients who are discharged from an eligible hospital and who request an electronic copy of their discharge instructions and procedures are provided it			X
Provide patients with timely electronic access to their health information (including lab results, problem list, medication lists, allergies) within 96 hours of the information being available to the EP			X					At least 10% of all unique patients seen by the EP are provided timely electronic access to their health information			X
Provide clinical summaries for patients for each office visit			X					Clinical summaries are provided for at least 80% of all office visits			X

Health Outcomes Policy Priority: Improve care coordination

Care Goals: Exchange meaningful clinical information among professional health care team

Stage 1 Objectives: Eligible Professionals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Objectives: Hospitals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Measures	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria
Capability to exchange key clinical information (for example, problem list, medication list, allergies, diagnostic test results), among providers of care and patient authorized entities electronically	X			Capability to exchange key clinical information (for example, discharge summary, procedures, problem list, medication list, allergies, diagnostic test results), among providers of care and patient authorized entities electronically	X			Performed at least one test of certified EHR technology's capacity to electronically exchange key clinical information Note: CCD is assumed	X		
Perform medication reconciliation at relevant encounters and each transition of care	X			Perform medication reconciliation at relevant encounters and each transition of care	X			Perform medication reconciliation for at least 80% of relevant encounters and transitions of care	X		
Provide summary care record for each transition of care and referral	X			Provide summary care record for each transition of care and referral	X			Provide summary of care record for at least 80% of transitions of care and referrals Note: CCD is assumed	X		

**Health Outcomes Policy Priority: Improve population and public health
Care Goals: Communicate with public health agencies**

Stage 1 Objectives: Eligible Professionals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Objectives: Hospitals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Measures	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria
Capability to submit electronic data to immunization registries and actual submission where required and accepted			X	Capability to submit electronic data to immunization registries and actual submission where required and accepted			X	Performed at least one test of certified EHR technology's capacity to submit electronic data to immunization registries			X
				Capability to provide electronic submission of reportable lab results (as required by state or local law) to public health agencies and actual submission where it can be received			X	Performed at least one test of the EHR system's capacity to provide electronic submission of reportable lab results to public health agencies (unless none of the public health agencies to which eligible hospital submits such information have the capacity to receive the information electronically)			X
Capability to provide electronic syndromic surveillance data to public health agencies and actual transmission according to applicable law and practice			X	Capability to provide electronic syndromic surveillance data to public health agencies and actual transmission according to applicable law and practice			X	Performed at least one test of certified EHR technology's capacity to provide electronic syndromic surveillance data to public health agencies (unless none of the public health agencies to which an EP or eligible hospital submits such information have the capacity to receive the information electronically)			X

Health Outcomes Policy Priority: Ensure adequate privacy and security protections for personal health information
Care Goals: Ensure privacy and security protections for confidential information through operating policies, procedures, and technologies and compliance with applicable law. Provide transparency of data sharing to patient.

Stage 1 Objectives: Eligible Professionals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Objectives: Hospitals	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria	Stage 1 Measures	LTPAC Criteria - 2011	LTPAC Criteria - Roadmap	Not In LTPAC Criteria
Protect electronic health information created or maintained by the certified EHR technology through the implementation of appropriate technical capabilities	X			Protect electronic health information created or maintained by the certified EHR technology through the implementation of appropriate technical capabilities	X			Conduct or review a security risk analysis per 45 CFR 164.308 (a)(1) and implement security updates as necessary	X		