HL7 EHR WG – “EHR as Legal Record” Project

DRAFT Benefits and Savings – 22 April 2016

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| Benefit | Savings (to Whom) | Reference(s) |
| Regarding this Project... |
| Patient Safety – Preventing Data Integrity Failures [ECRI recommendations]• Use a computer-user interface that is visible, readable, understandable, and consistent.• Clearly display all patient information on all computer screens.• Limit the number of patient records displayed on a screen at one time.• Require a patient identification check at various points in the care process.• Provide evidence-based order sets for common tasks and conditions.• Minimize free-text entry of orders.• Minimize interruptions from alerts to high-risk, high-priority conditions.• Fully test a health IT system, including any upgrades and system improvements.• Provide comprehensive training to health IT system users.• Support event reporting and other methods to identify and address health IT problems. | * Savings from avoidance of unsafe conditions and practices
* Savings by promoting clarity and consistency in computer-user experience
* Savings from avoidance of identity errors
* Savings from fully tested systems and thus avoidance of errors, downtime and other adverse incidents
* Savings from knowledge transfer (training) and better practice resulting therefrom
* Savings from prevention, based on event reporting and corrective responses to identified errors, omissions or anomalies
* Accruing to: patients, providers, payers, vendors, employers
 | [ECRI Patient Safety Top 10](https://www.ecri.org/patientsafetytop10)[ECRI Study - Data Errors in Health IT](https://www.ecri.org/Resources/In_the_News/PSONavigator_Data_Errors_in_Health_IT_Systems.pdf) |
| Healthcare Fraud and Abuse Control Act (HCFAC)Absence of recommended data quality/anti-fraud safeguards in EHRs have impact. | Efficiency and effectiveness of WFA programs:Rolling three year average for most recent FY 2015, submitted 2/2016, was $6.10 per $1.00.   | HHS OIG Compendium of Unimplemented Recommendations and Enforcement Actions (p. 9 of 84) “Health Information Technology: ONC and CMS should collaborate to develop a comprehensive plan to address fraud vulnerabilities in electronic health records.”<http://oig.hhs.gov/reports-and-publications/compendium/files/compendium2016.pdf> |
| False Claims Act: Example-absence of documentation attribution requirements (who actually provided what services) means clinical services of lower value (less qualified, possibly unqualified personnel) get paid at rate of “apparent” provider.     | Calculation done for a upper Midwestern org based on assumption of 20% of encounters at $5500 to $11,000 per “event” quickly rose to hypothetical billions in fines. | (Example: Unpublished report submitted to HHS OIG 2008) |
| Data Quality management costs:  Recent presentation at a Northeastern HIMSS meeting by an HIE, CEO noted that, “data quality normalization is their biggest headache and highest cost” because they have no way of evaluating, much less controlling, the reliability of source systems’ abilities to support record authenticity and data quality.   Their exchange has had to expend much effort and expense to assure that a given data set from one organization is compatible with the expectations for data quality at the other HIE participants.  Without a uniform set of EHR functional requirements to reference, these efforts remain ad hoc. |  | [Following up with HIMSS speaker] |
| Normal business operations costs:  Contacts in healthcare organizations note (anecdotally) a 10X+ cost increase in establishing and producing Release of Information outputs for responding to normal and recurring requests for records for non-clinical purposes (not for patient care services supports) |  | At Kathy Kenyon’s request last year, a number of attorneys conveyed their direct experiences in summary to ONC. These, presumably, are available to ONC for review. (This initiative could be restarted and advanced if of interest.) |
| Reducing costs of eDiscovery and Litigation | Savings from potential reduction in rates providers pay for insurance | • [Doctors Company Claims Study](http://www.thedoctors.com/KnowledgeCenter/Publications/TheDoctorsAdvocate/Analysis-of-EHR-Contributing-Factors-in-Medical-Professional-Liability-Claims)• [PHSQ Malpractice Claims Analysis](http://psqh.com/january-february-2014/malpractice-claims-analysis-confirms-risks-in-ehrs) |
| Developing a formal reference establishing accountability, key tenets, uniform and common practices for managing and preserving electronic health data/records, similar to the Generally Accepted Accounting Principles (GAAP) standards | * Savings from consistent EHR records management practices
* Savings from interoperability improvements based on broad-based commonalties
* Accruing to: providers, claimants, defenders
 | [GAAP Accounting Standards](https://en.wikipedia.org/wiki/Generally_accepted_accounting_principles) |
| Ensuring common methods of capturing, retaining and rendering evidentiary metadata in EHR systems and records, across providers, across geographic locations  | * Savings from consistent EHR records evidentiary practices
* Accruing to: auditors, providers, claimants, defenders
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| Ensuring common definitions of key terms, e.g.: accountability, event, action, actor, agent, author, enterer, role, audit, audit trail, audit report, evidentiary record, record entry, record lifespan and lifecycle, persistence, indelibility, fidelity to source, access, authorization, authentication, authenticity, traceability and more | * Savings from common community of expression in terms, concepts and knowledge
* Accruing to: all parties
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| Facilitating Federal Rules of Civil Procedure 1 (FRCP) – Cooperation between parties. Objectives: just, speedy and inexpensive. Requires a set of standards. | * Savings from uniformity and common legal practice
* Savings from widespread adoption
 | [US Federal Rules of Civil Procedure 1](http://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure) |
| Facilitating American Bar Association (ABA) Model Rule 1 – Competence. Given the convergence of FRCP and State eDiscovery Rules with the ROI Process, Courts are Recognizing (and Citing) the Duty of "Competence" Counsel has: “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation”. |  | [ABA Model Rule 1](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents.html) |
| Regarding ISO/HL7 EHR System Functional Model Release 2... |
| Alignment of ONC (US) regulations, policies and inspection/testing programs with international standards allows US-based EHR System vendors (and their conforming systems) a competitive advantage in international markets | * Savings to EHR system developer: reduced cost of system design, development, testing, implementation and ongoing support across national boundaries
* Savings to provider: reduced risk if developed/proven elsewhere
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| Regarding Federal Policy... |
| Use of voluntary consensus standards, whenever practicable and appropriate, is intended to achieve the following goals:* Eliminate the cost to the government of developing its own standard
* Decrease the cost of goods procured and the burden of complying with agency regulation
* Provide incentives and opportunities to establish standards that serve national needs
* Encourage long-term growth for U.S. enterprises
* Promote efficiency and economic competition through harmonization of standards
* Further the policy of reliance upon the private sector to supply government needs for goods and services
 | * Savings as cited (🡨 in left column)
* Accruing to: US federal agencies, US taxpayers
 | [US Office of Management and Budget (OMG) Standards Policy](https://www.whitehouse.gov/omb/inforeg_infopoltech)[OMB Circular A-119, published 27 Jan 2016](https://www.whitehouse.gov/sites/default/files/omb/inforeg/revised_circular_a-119_as_of_1_22.pdf) |
| Generally... |
| Standards and related compliance programs help save money and improve performance, quality, safety, and reliability | * Savings from investment in standards and compliance programs as cited (in left column)
* Savings from cross-border interoperability
* Savings to R&D budget with less investment
* Savings by incorporation of standardized technologies and terminologies
* Accruing to: all parties
 | [Standards Boost Business](http://standardsboostbusiness.org) |
| Standardization and conformity assessment activities lead to lower costs by reducing redundancy, minimizing errors, and reducing time to market |  |  |
| Standards make cross-border interoperability possible, ensuring that products manufactured in one country can be sold and used in another |  |  |
| Businesses reduce the economic risk of their research and development activities by participating in standardization |  |  |
| Businesses lower their overall R&D costs by relying on previously standardized technologies and terminologies |  |  |