

Health Information Compliance Alert

Policy: Feds Focus Policymaking on Patient Safety, Equity Issues

See 3 initiatives that may impact health data for years to come.

The COVID-19 pandemic continues to reshape healthcare, revealing longstanding issues in the industry surrounding health equity, patient safety, and consumer rights. Three recent updates by the feds highlight these problems and offer a look at solutions, many of which may affect your health IT and compliance.

ONC Reveals Information Blocking Policies May Get a Boost in 2023

Since the 21st Cures Act was enacted more than five years ago, the Department of Health and Human Services (HHS) has worked hard to codify and implement provisions outlined in the legislation. Now, the **Biden-Harris** Administration wants to bolster its information blocking regulations with some extra funding, a May 24 HHS Office of the National Coordinator for Health Information Technology (ONC) blog post suggests.



Reminder: In May 2020, ONC released its Cures Act final rule, promoting innovation and securing patients' rights to their health data (see Health Information Compliance Alert, Vol. 20, No. 6). The policies and requirements, which ONC began rolling out in 2021, offer data sharing guidelines for healthcare providers as well as IT developers and software companies.

One of the line items on the fiscal year (FY) 2023 budget includes a "request for new authority - to be able to issue binding advisory opinions for the information blocking regulations (45 CFR Part 171)," says **Steven Posnack**, ONC Deputy National Coordinator, in the blog post.

"The requested new authority would give HHS the ability to issue a binding advisory opinion to advise whether, in HHS' view, a specific practice would constitute information blocking, including whether an exception would or would not be met given the facts and circumstances. The advisory opinion would be binding on HHS," Posnack explains. "A requesting party that received a favorable advisory opinion would be protected from HHS penalties and disincentives for information blocking practices, so long as the specific practice(s) at issue were conducted in accordance with the facts submitted to HHS."

It's critical that both "actors and non-actors" have real-world facts and best practices to follow, especially since "health IT developers of certified health IT and health information networks/health information exchanges, are subject up to \$1 million civil monetary penalties for each violation of information blocking, while health care providers will be subject to appropriate disincentives that may be significant to them as well," reminds Posnack.

Resources: Read the blog post at www.healthit.gov/buzz-blog/information-blocking/information-blocking-and-the-presidents-fy23-budget-for-onc. Find ONC's extensive fact sheets, infographics, and tools on the Cures Act final rule at www.healthit.gov/curesrule/.

HHS, DOJ Announce New Policies to Thwart Hate Crimes

Hate crimes and other "bias-related incidents" increased exponentially during the pandemic, and HHS is partnering with the Department of Justice (DOJ) on a new initiative to raise awareness of the rising trend and boost civil rights. The collaboration includes new guidance on hate crimes, grants and educational programs, and new language resources.

"We have seen a spike in hate crimes against many communities during the COVID-19 pandemic. In many cases, individuals are still scared to leave their homes - not only because of worry that they may contract the virus, but out of fear for their physical safety. This is unacceptable," notes HHS Secretary **Xavier Becerra** in a release "The Biden-Harris Administration is committed to combating hate crimes against all Americans. Today's announcements help deliver on the President's pledge to ensure the safety of our communities."

Becerra is co-chair of the White House Initiative and President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders.

Resource: Review the outline of this new program and how this may impact healthcare, community prevention, and public health at www.hhs.gov/about/news/2022/05/20/justice-department-announces-new-initiatives-address-prevent-hate-crimes-hate-incidents.html.



CMS Offers a Glimpse into Long-Range Equity Goals

The Centers for Medicare & Medicaid Services (CMS) recently released a plan to improve health equity in its various programs titled the "CMS Framework for Health Equity 2022-2032." From bolstering infrastructure to procuring data to enhance long-term goals, the agency aims to "drive structural change" and "eliminate barriers to CMS-supported benefits, services, and coverage for individuals and communities who are underserved or disadvantaged and those who support them," the framework indicates.

CMS lays out five priorities in the initiative. Priority 1- Expand the Collection, Reporting, and Analysis of Standardized Data - will harness the use of health IT to improve healthcare and make the industry more equitable for all.

"CMS strives to improve our collection use of comprehensive, interoperable, standardized individual-level demographic and SDOH data, including race, ethnicity, language, gender identity, sex, sexual orientation, disability status, and SDOH," the Priority 1 description says. "By increasing our understanding of the needs of those we serve, including social risk factors and changes in communities' needs over time, CMS can leverage quality improvement and other tools to ensure all individuals have access to equitable care and coverage."

Resource: See other priorities and a breakdown of CMS' health equity goals at www.cms.gov/About-CMS/Agency-Information/OMH/equity-initiatives/framework-for-health-equity.