AMERICAN PSYCHIATRIC ASSOCIATION

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October 4, 2024

Office of the National Coordinator for Health Information Technology
Attention: Health Data, Technology, and Interoperability: Patient Engagement, Information Sharing, and Public Health Interoperability Proposed Rule
Mary E. Switzer Building
Mail Stop: 7033A,
330 C Street, SW
Washington, DC 20201

Re: Health Data, Technology, and Interoperability: Patient Engagement, Information Sharing, and Public Health Interoperability (HTI-2) Proposed Rule

Dear Assistant Secretary Tripathi,

The American Psychiatric Association (APA), the national medical specialty society representing over 38,000 psychiatric physicians and their patients, appreciates the opportunity to comment on the HTI-2 NPRM, in light of the importance of high-quality shared data to improve mental health outcomes. We appreciate the effort that Assistant Secretary for Technology Policy/Office of the National Coordinator for Health IT (ASTP/ONC) invests in understanding the current landscape of clinical care and information technology (IT) solutions as well as envisioning the future of interoperability. **APA applauds many of ASTP/ONC's proposals including the new certification criteria for a public health data exchange that includes bi-directional exchange with a prescription drug monitoring program (PDMP), criteria for multi-factor authentication by health IT products, and adoption of USCDI v4, which could help capture more patient characteristics that reflect patient diversity and addresses disparities in health outcomes as well as health assessment data.**

Protecting Care Access

Protecting Care Access Exception

APA commends ASTP/ONC for strengthening protections for individuals' health information with the additional information blocking exceptions outlined in the proposed rule. There is a need, however, for clarification for when physicians can withhold electronic health information (EHI) to safeguard patients' privacy without being labeled as information blocking. Providers are confused and hesitant to use the exceptions, fearing accusations or penalties for information blocking. It is widely believed that uncertainty has led to the inconsistent sharing of patients' sensitive medical information, and underutilization of health IT for documenting medical data.

APA supports the proposal to change "good faith belief" to "belief" to reduce misunderstandings and encourage appropriate use of this exception.

APA also supports the revised segmentation condition sub-section, which states that physicians and other actors will not be considered information blockers if they are unable to segment specific EHI from medical records that an individual has requested not to share. Mandating providers to segment sensitive data or data that patients do not want disclosed is a capability not supported by many health IT EHRs and requires close coordination between IT vendors, legal and administrative departments of the health system as well as providers. Thus, making it burdensome and difficult to implement.

Privacy Sub-exception — Individual's Request Not to Share EHI

Following the *Dobbs v. Jackson Women's Health Organization* decision, providers need clear guidance that using exceptions to prevent the disclosure of specific EHI will not be considered information blocking. The APA shares ASTP/ONC's concerns that providers might refuse or stop an individual's request to limit sharing their EHI because of uncertainties about laws that could override these requests. Physicians are especially concerned when facing court-enforced disclosure demands. Additionally, with changing state and federal laws, physicians are unsure about their obligations when these laws conflict, as well as the extent of information blocking requirements and penalties for noncompliance.

The proposed revision to the sub-exception removes limitations based on applicable laws, giving physicians and other actors the confidence to delay EHI disclosure when a court order is being contested. This would allow physicians to see if the order will be overturned or if it will compel them to release EHI, contrary to the individual's request for restrictions. Currently, confusion and fear about withholding EHI due to a contested court order are leading physicians and other actors to disclose reproductive health EHI out of fear of information blocking accusations or penalties. **Clarifying the applicability of various state laws as they relate to information blocking will protect patients and physicians, encourage the use of health IT, and support care coordination.**

Requestor Preference Exception

APA applauds ASTP/ONC's clarification that providers, under the conditions specified in this exception, would not be considered "information blocking" when honoring a requestor's preferences to limit or delay the release of EHI data. Currently, however, many EHRs lack this ability and these patient preferences cannot be accommodated. **APA urges ASTP/ONC to establish certification criteria that would require health IT developers to provide technical capability to delay the automatic delivery of certain medical information, allowing patients to control alerts for new results or reports.**

New Health IT Standards and Resource Constraints

Currently, providers already bear the brunt of technology costs and with the new vendor API standards that will have to be developed, these fees will once again be passed on to them if no action is taken. Smaller practices face greater financial and administrative burdens of implementing new standards and certification criteria. Training clinical staff on new EHR features and maintaining the EHR system will incur additional fees[1]. There are also technical and security challenges associated with integrating new API

standards and ensuring interoperability with existing systems. **APA recommends that ASTP/ONC provide technical and financial assistance to smaller, uncertified, behavioral health-specific health IT firms in achieving interoperability objectives. In addition, ASTP/ONC could require vendors to report fees as part of the Insights Condition requirements. ASTP/ONC should also utilize all available disincentives, including the suspension, decertification, and banning certification of health IT products, for excessive fees.**

Prior Authorization

The APA applauds ASTP/ONC's proposal to update certification criteria and require vendors to support standardized electronic capabilities and functionalities for prior authorization (PA). Currently, PA is a manual and time-consuming process. Due to the significant market of non-certified, specialty-practice EHRs, however, the cost of obtaining and maintaining this capability for small or independent practices is a barrier. For electronic PA to reduce existing PA burdens, there needs to be immediate alerting from with the EHR that a PA is needed, a seamless presentation of any questions that need to be answered, with automatic transmission of this information and identifying information on the patient and provider. When the PA decision is reached, this should also be returned directly to the EHR and an automated message generated for the patient via the patient portal on the authorization status. If any additional actions need to be taken by the provider, the communication about the PA should include specific details on what is required. Therefore, we **recommend that ONC provide technical assistance to smaller, uncertified, behavioral health-specific health IT firms in achieving PA capabilities as well as to become certified while meeting the needs of the specialty**.

PDMP and Data Protection

APA supports requirements that enable a user to query a PDMP within an EHR, including bi-directional interstate exchange, and to receive PDMP data in an interoperable and seamless manner. To date, there is no way to query all states and territories that have implemented a PDMP when checking for controlled substances prior to prescribing. APA also has concerns with law enforcement accessing sensitive PDMP data without a warrant and oppose health plan access. **We urge ASTP/ONC to monitor these trends and take necessary measures to protect PDMP data.**

Real-World Testing

APA encourages ASTP/ONC to consider assessing and facilitating the accessibility of the real-world testing results to customers when shopping for a health IT vendor. APA frequently hears from members about how vendors do not live up to their promises of user-friendliness and interoperability. **We recommend that ASTP/ONC enact strategies for helping customers shop for the highest-quality health IT products and enforce mitigation of issues in existing technology**.

Standards For Structured Measurement-Based Care (MBC) Modalities

Patients in treatments that integrate MBC report experiencing a higher level of engagement in their treatment and a higher level of respect from treatment providers because it communicates that their perspective is highly valued.[2] MBC also enhances clinical responsiveness to the individual patients.[3] **ASTP/ONC should consider requiring certified vendors to:**

- **develop standard reporting templates that can be updated with measurement tools that enable tracking of scores for patient-oriented outcome measures**, such as PHQ-9 depression scale and other scales relevant to patient care regardless of the condition, rather than leaving those capabilities up to individual vendors and customers;

- **show through a collaboration and integration with other health IT products a single sign-on workflow that would allow for additional measurement tools to be administered and documented within the EHR system; and**

- **implement existing standard coding systems for MBC tools, including any available in SNOMED, LOINC or USCDI.**

Most of the process and outcome data from implementation of MBC is documented in text notes that make it virtually impossible to collect for improvement and analysis. USCDI should also be encouraged to ensure a standardized framework for collecting assessment data is in place.

Thank you for your review and consideration of these comments. If you have any questions or would like to discuss any of these comments further, please contact Zuhal Haidari (zhaidari@psych.org), Deputy Director, Digital Health.

Sincerely,

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CEO and Medical Director
American Psychiatric Association