**Medicare Red Tape Relief Project**

Submissions accepted by the Committee on Ways and Means, Subcommittee on Health

Date: August 25, 2017

Name of Submitting Organization: Physicians Advocacy Institute

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Statutory

Regulatory ✓

**Please describe the submitting organization’s interaction with the Medicare program**: PAI is a not-for-profit advocacy organization focused on securing fair and transparent payment for physicians. PAI’s Board is comprised of CEOs/former CEOs of state medical associations from California, Connecticut, Georgia, Nebraska, New York, North Carolina, South Carolina, Tennessee and Texas and a Kentucky physician. A significant portion of the members of these and other states’ medical societies treat Medicare patients and submit claims to Medicare.

**Short Description**: The regulatory requirements governing Electronic Health Records (EHR) are based on the faulty assumption that EHRs provide the same benefit to all providers and in all settings of care. The EHR regulations should better reflect the different administrative and financial costs that EHR requirements create for physicians, and should create new penalties and standards that apply directly to EHR software vendors.

**Summary:** The current rules governing physician EHR compliance are proscriptive and create a “one size fits all” approach to EHR use. In practice, EHR systems provide significantly different benefits to providers based on their specialty, practice size, and other variables such as administrative support. While some physicians have found EHR systems that enhance the efficiency of their medical practice, others have found that federally compliant EHR systems do not fit their specialty or office needs. The burden created for many physicians is especially troubling given the administrative and financial costs required for compliance with the federal EHR rules. For example, a 2016 *Annals of Internal Medicine* study found that some physicians must devote close to 50% of their practice time complying with federal EHR requirements, diverting significant time from patient care.

Because there is no single, interoperable EHR system in place, providers are currently forced to use EHR systems that satisfy arbitrary requirements - such as functional-use measure checkboxes - and yet still face data-sharing and communication issues with other providers. Given the different value that EHRs present for physicians and the fact that interoperability remains a major issue in the health care system, PAI believes that *physicians* should be allowed to decide whether EHR use and what EHR system is the best fit for their practice.

Furthermore, PAI believes it is appropriate for EHR compliance standards to focus more on software vendors who administer the EHR systems. The EHR regulations should be revised to impose standards and penalties directly on software vendors based on the *outcomes* of their EHR systems, rather than penalize or reward physicians for their use of such EHR products.

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**Related Statute/Regulation**: CMS EHR Incentive Program Rule

**Proposed Solutions**:

* Allow physicians to decide whether EHR use is the best fit for their practice
* CMS should issue new regulations that give physicians the flexibility to use specific EHR systems that enhance the efficiency of their practices, rather than systems that satisfy arbitrary technical requirements.
* EHR compliance should be assessed and regulated by imposing requirements on software vendors, rather than making changes to physician payments through the Meaningful Use Program