Oral and maxillofacial surgeons:
The experts in face, mouth and
jaw surgery®

American Association of Oral and Maxillofacial Surgeons

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May 28, 2019

Don Rucker, MD
Office of the National Coordinator for Health Information Technology
Department of Health and Human Services
Attn: 21st Century Cures Act: Interoperability, Information Blocking;
and the ONC Health IT Certification Program Proposed Rule
Mary E. Switzer Building
Mail Stop: 7033A
330 C Street SW
Washington, DC 20201

RIN 0955-AA01

Dear Dr. Rucker:

On behalf of the American Association of Oral and Maxillofacial Surgeons (AAOMS), the professional
organization that represents 9,500 oral and maxillofacial surgeons (OMSs) in the United States, we are
pleased to offer comments in response to the agency's proposed rule released in the *Federal Register*
(84 FR 7424) on March 4, 2019.

Removal of the 2014 Edition from the CFR

While we appreciate the ONC's goal to alleviate administrative burden, we are concerned about the
ramifications of the elimination of the 2014 Edition from the Code of Federal Regulations (CFR). Oral and
maxillofacial surgeons (OMSs) are surgically and medically trained dental specialists who treat
conditions, defects, injuries, and esthetic aspects of the mouth, teeth, jaws, neck, and face. The OMS
scope of practice straddles the line between medicine and dentistry, treating conditions that could be
dental or medical in nature and billing both medical and dental insurance. In addition, OMS is one of the
few dental specialties that provide Medicare services.

Because of our unique place in the healthcare system, OMSs in private practice require specialized EHRs
that incorporate features found in both medical and dental systems. Of the three major software
companies currently utilized by OMSs, only one offers a certified product, which is certified under the
2014 criteria. We are unaware of any products offered by the other two major vendors utilized by OMSs
that are certified under the 2014 or 2015 standards.

As we experienced firsthand during the early stages of meaningful use, for dental and OMS vendors to
seek certification they must see a need from their clients. As a specialty, we did our due diligence and
spoke with the vendors regarding the certification process but were frankly told that the systems our
members use are a low priority for certification due to the relatively small number of OMSs in the

Medicare program. If the ONC chooses to eliminate the 2014 Edition we anticipate vendors will be reluctant to update their systems to the 2015 Edition or achieve certification at all. We urge the ONC to recognize this ramification on our members and consider either exempting OMSs from the requirements of this rule or delaying implementation for at least three years to allow vendors to be urged to comply with the rule and meet the requirements of certification.

Information blocking

We view the free flow of healthcare information as critical to the overall health and safety of our patients and fully support the direction the ONC is taking with its information blocking proposal. In March 2019, AAOMS launched the OMS Quality Outcomes Registry (OMSQOR®), a registry utilized to capture statistically relevant, evidence-based data to aid in decisions regarding the most optimal patient care. As we worked with vendors to establish necessary data bridges to connect provider EHRs with OMSQOR®, we were met with apprehension and were frequently told the data was proprietary. While many of the initial issues we had with vendors in this process have since been resolved, the prohibition of information blocking will help ensure our future efforts to collect additional data to advance patient care will not be met with similar resistance.

We are concerned, however, with the application and enforcement of this rule and its potential unfair impact on our membership. As currently provided, vendor-based data blocking will be enforced through the EHR certification and maintenance of certification processes. As previously mentioned, none of the OMS systems are currently certified under the 2015 criteria and would thus not engage in the recertification process. Because of this lack of federal oversight there is no incentive for OMS vendors to adhere to this information blocking rule. On the other hand, providers are subject to the rule even if they currently utilize uncertified EHRs. This could create a situation wherein an OMS utilizes an OMS-specific EHR that engages in data blocking – something outside the provider's control – and be penalized under this rule. The vendor, however, would not be penalized. This creates an unfair shift in liability to the provider. We urge the ONC to consider exempting providers from the penalties in this provision if such data blocking occurs outside the control of the provider.

Removal of 2015 criteria

We appreciate the intent of the ONC to eliminate criteria found in the 2015 standard that is outdated or considered "standard" for EHR systems. We caution the ONC from eliminating the following criteria from the 2015 standard:

- Problem list
- Medication list
- Medication allergy list
- Smoking status
- Secure messaging

While many systems have already integrated such functionality in their systems, the elimination of any federal requirement may disincentivize any maintenance of such criteria in the future.

Integration of the USCDI standard

We support the adoption of the USCDI as a standard to foster the exchange of information. We urge the ONC to also recognize Current Dental Terminology (CDT®). As previously mentioned, OMSs treat

conditions that could be dental or medical in nature and bill both medical and dental insurance. It does not appear that CDT® is currently incorporated into the USCDI datasets. To ensure systems allow the transfer of information from OMSs we encourage integration of this dataset.

Again, AAOMS appreciates the opportunity to comment on these proposed regulations. Please contact Jeanne Tuerk, manager of the AAOMS Department of Governmental Affairs, at 800-822-6637 or jtuerk@aaoms.org for additional information.

Sincerely,
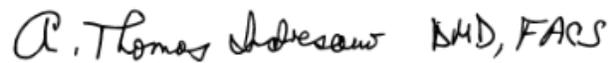
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