



TESTIMONY
BEFORE THE SUBCOMMITTEE ON HEALTH
OF THE
HOUSE ENERGY AND COMMERCE COMMITTEE
ON
PROMOTING HEALTH INFORMATION TECHNOLOGY

June 4, 2008
WASHINGTON, DC

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On behalf of AARP's nearly 40 million members, I want to thank you for holding this hearing on one of our highest priorities this year – advancing use of information technology (IT) to improve our health care system. Health IT has enormous potential to improve the safety, effectiveness, and efficiency of care. It is an essential building block for health reform.

AARP believes it is essential for Congress to enact Health IT legislation this year. We commend Chairman Dingell and Ranking Member Barton for crafting thoughtful, bipartisan draft legislation for discussion, which marks real progress in achieving this important goal.

Consumers want the vast benefits Health IT can provide. Health IT can:

- Reduce medical errors that, according to the Institute of Medicine, result in an estimated 98,000 people in hospitals each year;
- Provide access to comprehensive medical records anytime and anywhere, including emergencies when people cannot speak for themselves;
- Reduce the need for duplicate tests and procedures now commonly performed because records are not available;
- Eliminate redundant paperwork burdens and the need for patients to repeat medical history and demographic data over and over;
- Reduce health disparities in minority and low-income populations by giving people in underserved communities access via telemedicine to treatment they otherwise might not receive, given the lack of adequate numbers of health care professionals and facilities in rural and inner city areas;

- Engage consumers in managing their own care and facilitate a wide array of technologies that help people stay in their own homes and out of institutions;
- Allow caregivers and providers to better coordinate care and spend more time with patients and less time on paperwork;
- Let people who live far from aging parents take better care of them through real-time communication with providers and family members; and
- Facilitate analysis of aggregated, de-identified data, to more quickly reveal public health threats and the most effective, efficient ways of providing care.

In addition to these quality improvements, estimates are that HIT could save billions of dollars. The Congressional Budget Office has noted that potential savings are highly dependent on how widely and how well we implement and integrate Health IT into our health care system. Their recent report underscores the need for legislation to promote widespread adoption and ongoing efforts to advance appropriate utilization to maximize the potential quality improvements and cost savings.

Privacy

Health IT can enhance privacy protections in many ways, but it also raises new concerns that we must address as we move forward with Health IT. Today's paper-based records allow anyone who can gain access to the files to see, copy and share sensitive information with little chance of detection. Health IT can establish firewalls, requiring passwords and permission to gain access, and leave an audit trail of who accessed or altered the data.

Health IT also can allow people with heightened privacy concerns to easily identify subsets of their records that they do not want shared, such as those for mental health, HIV/AIDS, reproductive health, and other sensitive data.

However, electronic records have potential for breaches, data-mining, and misuse of sensitive data that could undermine consumer confidence in Health IT. If privacy protections are inadequate, consumers may withhold information and forego treatment to avoid embarrassment and discrimination.

For Health IT to thrive, we need privacy rules that consumers can trust. But we also need to be realistic and pragmatic. Simplistic approaches like requiring consent any time records need to be shared may sound reasonable at first, but may be unworkable in practice, have unintended consequences like promoting blanket consents that weaken protections, be considered a “nuisance” by some, and create a false sense of security. We need a package of privacy policies, such as limiting data collection and use, ensuring patients’ access to information, and providing rigorous user authentication and other appropriate mechanisms to address security.

Because of the complexity of establishing workable privacy protections, AARP believes the best approach is to have Health IT legislation charge an advisory board, established under Federal Advisory Committee Act rules, with developing the bulk of needed privacy policies. This ensures openness and accountability in the development of recommendations for privacy rules. Given Congress’ long history of being unable to come to consensus on health privacy rules, this is probably the most prudent approach to advancing both privacy and Health IT.

But clearly, given Health IT’s enormous potential to improve quality and efficiency, we should not be forced to choose between Health IT and privacy.

And, despite outstanding privacy concerns, there is broad support among a majority of the American public for advancing Health IT. A November 2007 Wall Street Journal poll found that three in four adults agreed that patients could receive better care if doctors and researchers were able to share information electronically. Two in three say sharing records could decrease medical errors, and nine in ten say patients should have access to their own electronic records maintained by their physician, which Health IT can facilitate.¹

Divided We Fail

Divided We Fail is a non-partisan effort to ensure that all Americans have access to affordable, quality health care and financial security. It is lead by AARP, The Business Roundtable, National Federal of Independent Business, and Service Employees International Union, and supported by more than 70 other organizations ranging from Consumers Union to Disabled American Veterans and the Republican Main Street Partnership.

Divided We Fail believes individuals, businesses and government all have a part to play in finding common-sense, non-partisan solutions for affordable, quality health care and lifetime financial security. One of our goals in 2008 is to ensure that our leaders make public commitments to make working toward real solutions to health and financial security issues a top priority. Health IT, with its enormous potential to improve the quality and affordability of health care, precisely fits our Divided We Fail agenda. In fact, Health IT is one of the first areas of consensus AARP found with our allies in our Divided We Fail effort.

¹ Benefits of Electronic Health Records Seen as Outweighing Privacy Risks, Wall Street Journal, Nov. 29, 2007, <http://online.wsj.com/public/article/SB119565244262500549.html>

The Promoting Health Information Technology Act

The four lead organizations in DWF have jointly endorsed the “Promoting Health Information Technology Act,” (H.R. 3800) introduced by Energy & Commerce Committee members Anna Eshoo (D-CA) and Mike Rogers (R-MI), and co-sponsored by Committee members Marsha Blackburn (R-TN), Eliot Engel (D-NY), Edolphus Towns (D-NY), Mike Ferguson (R-NJ), and Bart Stupak (D-MI). The Promoting Health Information Technology Act shares some of the following key policies with the Dingell-Barton discussion draft bill that we believe should be part of any Health IT legislation this Committee considers:

- Promotes faster development of necessary standards, such as for “interoperability” that will allow different Health IT systems to exchange information nationwide, by codifying and strengthening the Office of the National Coordinator and the American Health Information Community (AHIC) that makes policy recommendations for these standards, and giving AHIC a specific charge to address privacy polices that must be built into these standards.
- Requires notification to individuals when the privacy of their sensitive health information is breached.
- Provides grants and loans to small, rural, inner city, and non-profit providers who need financial assistance to adopt Health IT.
- Provides, with strict beneficiary privacy protections, much-needed access to physician-specific Medicare claims data. This is essential for maximizing the ability to identify high-quality and efficient practice patterns, and promoting cost control strategies that improve rather than compromise quality.

Dingell-Barton Discussion Draft

The draft bipartisan legislation that Committee Chair Dingell and Ranking Member Barton have provided for discussion is thoughtfully crafted and includes many similar important provisions listed below.

- Establishes in law the Office of National Coordinator, as well as a Health IT Policy Committee and HIT Standards Committee. These committees would both be governed by Federal Advisory Committee Act rules that ensure openness and accountability, and include consumers and other stakeholders to develop recommendations for interoperability and other needed standards.
- Assigns the Policy Committee a specific charge to address privacy, and instructs the Standards Committee to follow Policy Committee recommendations.
- Requires notification to individuals when their privacy is breached, and includes several additional provisions that clarify and strengthen privacy policies in existing regulations, for example by stating that providers must honor patient requests to not share health information with insurers for payment purposes if the patient pays for care out of pocket.
- Provides grants to hospitals, health clinics, and physician practices that are small, rural, non-profit or serving underserved communities who need financial assistance to adopt Health IT, as well as funds to states and tribes to develop additional loan programs, and additional funding for regional health information exchange initiatives. This funding is essential for ensuring that

- medically underserved communities reap the full benefit that Health IT promises in improving quality and reducing disparities.

The Dingell-Barton discussion draft does not, in its present form, provide needed access to physician-specific Medicare claims data that is essential for identifying the most effective and efficient practice patterns. Access to this data will help in crafting additional health reforms that bring runaway health care inflation under control without compromising quality. AARP is interested in working with the drafters to provide access to this vital information through the bill or address it in additional legislation as soon as possible.

Conclusion

If Health IT legislation is not enacted, our health care system will continue to be mired in paperwork. Thousands of lives and billions of dollars will be needlessly lost. Consumers will continue to be harmed by the failure to have their vital information in the hands of those who care for them, and inconvenienced by the need to fill out redundant forms. Doctors and nurses will still have to struggle to get complete information about their patients and waste time on paperwork that would be better spent on patient care. We deserve better.

AARP commends Chairman Dingell and Ranking Member Barton for their thoughtful, bipartisan discussion draft legislation, and we look forward to working with members of this Committee and all of Congress to ensure passage of strong Health IT legislation this year.