

August 27, 2019

The Honorable Richard Shelby, Chairman  
Senate Committee on Appropriations  
Room S-128, The Capitol  
Washington, DC 20510

The Honorable Patrick Leahy, Vice Chairman  
Senate Committee on Appropriations  
S-146A, The Capitol  
Washington, DC 20510

The Honorable Roy Blunt, Chairman  
Subcommittee on Labor, Health and Human  
Services, Education, and Related Agencies  
Senate Committee on Appropriations  
131 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Patty Murray, Ranking Member  
Subcommittee on Labor, Health and Human  
Services, Education, and Related Agencies  
Senate Committee on Appropriations  
156 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Shelby, Vice Chairman Leahy, Chairman Blunt and Ranking Member Murray:

On behalf of the undersigned organizations, we urge you to reject the inclusion of outdated rider language in the Senate Fiscal Year 2020 Labor, Health and Human Services, and Education and Related Agencies (Labor-HHS) Appropriations bill that prohibits the US Department of Health and Human Services (HHS) from spending any federal dollars to promulgate or adopt a national unique patient identifier (UPI).

For nearly two decades, innovation and industry progress has been stifled due to a narrow interpretation of this language included in Labor-HHS bills since FY1999. More than that, without the ability of clinicians to correctly connect a patient with their medical record, lives have been lost and medical errors have needlessly occurred. These are situations that could have been avoidable had patients been able to have been accurately identified and matched with their records. This problem is so dire that one of the nation's leading patient safety organizations, the ECRI Institute, named patient misidentification among the top ten threats to patient safety.<sup>1</sup>

The absence of a consistent approach to accurately identifying patients has also resulted in significant costs to hospitals, health systems, physician practices, long-term post-acute care (LTPAC) facilities, and other providers, as well as hindered efforts to facilitate health information exchange. According to a 2016 study of healthcare executives, misidentification costs the average healthcare facility \$17.4 million per year in denied claims and potential lost revenue.<sup>2</sup> More importantly, there are patient safety implications when data is matched to the wrong patient and when essential data is lacking from a patient's record due to identity issues. The *2016 National Patient Misidentification Report* cites that 86 percent of respondents said they have witnessed or know of a medical error that was the result of patient misidentification.<sup>3</sup>

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<sup>1</sup> Top 10 Patient Safety Concerns for Healthcare Organizations, Available at:  
[https://www.ecri.org/EmailResources/PSRQ/Top10/2017\\_PSTop10\\_ExecutiveBrief.pdf](https://www.ecri.org/EmailResources/PSRQ/Top10/2017_PSTop10_ExecutiveBrief.pdf)

<sup>2</sup> 2016 National Patient Misidentification Report, Available at:  
[https://pages.imprivata.com/rs/imprivata/images/Ponemon-Report\\_121416.pdf](https://pages.imprivata.com/rs/imprivata/images/Ponemon-Report_121416.pdf).

<sup>3</sup> 2016 National Patient Misidentification Report, Available at:  
[https://pages.imprivata.com/rs/imprivata/images/Ponemon-Report\\_121416.pdf](https://pages.imprivata.com/rs/imprivata/images/Ponemon-Report_121416.pdf)

While Congress passed the Health Insurance Portability and Accountability Act (HIPAA) in 1996, which called for the adoption of a standard unique health identifier for patients, the HIPAA Privacy Rule did not take effect until 2003—five years after inclusion of the ban in the FY1999 Labor-HHS Appropriations bill. Prior to enactment of HIPAA, no national standards existed for the protection of health information within the healthcare industry—a primary concern cited by the National Committee for Vital Health Statistics (NCVHS) related to the adoption of a unique patient identifier.<sup>4</sup> Today, the HIPAA Privacy and Security Rules not only protect the privacy of individually identifiable information, known as protected health information (PHI) but set forth a number of administrative, technical and physical safeguards for covered entities to ensure the confidentiality, integrity and availability of electronic PHI.

Removing the prohibition on the use of federal funds to promulgate or adopt a national UPI will provide HHS the ability to evaluate a range of patient identification solutions and enable it to work with the private sector to explore potential challenges and identify a solution that protects patient privacy and is cost-effective, scalable, and secure.

When inclusion of the ban was suggested more than two decades ago, electronic health records were rudimentary at best. Fast forward to 2019. Over the intervening years, Congress has repeatedly taken steps to promote the adoption of electronic health records and spur the exchange of electronic health information to better coordinate care and encourage value-based payment arrangements, among other benefits. Advancing interoperability of health information was a major goal of the bipartisan 21<sup>st</sup> Century Cures legislation. Removing the antiquated ban that is currently preventing appropriate health information flow would assist in transitioning the US to a healthcare delivery system that focuses on high value, cost-effective, and patient-centered care. It would also be a valuable tool in combatting the opioid epidemic as recommended in the 2018 *Roundtable on Data Sharing Policies, Data-Driven Solutions, and the Opioid Crisis* report, co-hosted by the HHS Office of the Chief Technology Officer (CTO) and the nonprofit, Center for Open Data Enterprise (CODE).<sup>5</sup>

On June 12, 2019, the US House of Representatives [voted](#) to remove the ban from HR 2740, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 2020. We encourage the Committee to follow suit and remove this archaic provision from the Senate FY2020 Labor-HHS Appropriations bill.

We appreciate your consideration and we look forward to working with you to pursue an appropriate solution to enable accurate patient identification and matching in our nation's healthcare systems.

Sincerely,

American College of Cardiology (ACC)  
American College of Obstetricians and Gynecologists  
American College of Physicians (ACP)  
American College of Surgeons  
American Health Information Management Association (AHIMA)  
America's Health Insurance Plans (AHIP)  
American Medical Informatics Association (AMIA)  
Bipartisan Policy Center

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<sup>4</sup> Available at: <https://ncvhs.hhs.gov/wp-content/uploads/2018/03/yr1-rpt-508.pdf>.

<sup>5</sup> Available at: <http://reports.opendataenterprise.org/HHS-Opioid-Roundtable-Report.pdf>.

Center for Intelligent Healthcare/University of Nebraska Medical Center  
Cerner  
Children's Hospital Association  
College of Healthcare Information Management Executives (CHIME)  
Columbus Community Hospital  
CoverMyMeds  
Duke Center for Health Informatics  
eHealth Initiative (eHI)  
Encompass Health  
Epic  
EP3 Foundation  
Experian Health  
Faith Regional Health Services  
Federation of American Hospitals (FAH)  
Genesis Health System  
Good Samaritan Hospital  
Hartford HealthCare  
Health Innovation Alliance  
Healthcare Information and Management Systems Society (HIMSS)  
Healthcare Leadership Council  
Healthcare Services Platform Consortium  
himage solutions inc.  
HIMSS Electronic Health Record Association  
Hospital for Special Surgery (HSS)  
Imprivata  
Intermountain Healthcare  
Just Associates  
LTPAC Health IT Collaborative  
Medical Group Management Association (MGMA)  
4medica  
Mount Nittany Health  
Mount Sinai Health System  
National Association for the Support of Long Term Care (NASL)  
Nemours Children's Health System  
NextGate  
NextGen Healthcare  
Pomona Valley Hospital Medical Center  
Premier healthcare alliance  
Regenstrief Institute  
SCL Health  
Strategic Health Information Exchange Collaborative (SHIEC)  
The Joint Commission  
The Sequoia Project  
Trinity Health  
University of Pittsburgh Medical Center (UPMC) Health System  
University of South Alabama Health System  
U Health - University of Utah  
WebShield

CC: The Honorable Charles E. Grassley, Chairman, Senate Committee on Finance  
The Honorable Ron Wyden, Ranking Member, Senate Committee on Finance  
The Honorable Lamar Alexander, Chairman, Senate Committee on Health, Education, Labor & Pensions  
The Honorable Patty Murray, Ranking Member, Senate Committee on Health, Education, Labor & Pensions