The Office of the National Coordinator for Health Information Technology Guides for Implementing 21st Century Cures Act related to electronic health information

As we shared with the Federation earlier this year, the Office of the National Coordinator for Health Information Technology (ONC) has released regulations implementing provisions of the 21st Century Cures Act (Cures) requiring physicians to comply with new regulations on the access, exchange, and use of patients' electronic health information (EHI). Information blocking is a large focus of the new regulations and is defined as practices that prevent or materially discourage the access, exchange, or use of EHI. Physicians, hospitals, electronic health record (EHR) vendors, and health information exchanges (HIE) and health information networks (HIN) are all subject to ONC's rule and are collectively referred to as "Actors." Actors whose actions are likely to interfere with the access, exchange, or use of EHI could be considered information blockers and subject to penalties or disincentives. EHR vendors and HIE/HINs can receive up to $1 million in civil monetary penalties per violation. Penalties and other "disincentives" for physicians and all other health care providers have yet to be determined by the Department of Health and Human Services (HHS). However, physicians participating in the Promoting Interoperability (PI) Program could see an impact to their Centers for Medicare and Medicaid Services (CMS) Merit-based Incentive Payment System (MIPS) incentives if they are found to be information blockers. The AMA is urging HHS to refrain from creating any new physician penalties.

Currently, Actors are required to comply with ONC's information blocking regulations by **November 2, 2020.** While the AMA expects forthcoming regulations to delay enforcement of ONC's information blocking rule, the AMA has created a two-part educational resource to help physicians and their medical practices understand the requirements and develop an information blocking compliance program. Part 1 of our resource outlines what information blocking is, key terms to know, examples of information blocking practices, and a summary of exceptions for when physicians may restrict access, exchange, and use of EHI. Part 2 will help physicians start down the path of compliance, including questions to consider, considerations for maintaining a compliance program, and next steps. The AMA will continue to update these resources as the federal government releases new guidance. The AMA is also engaged with the Trump Administration to address concerns that HHS' rule forces physicians to release office notes and lab test results prior to physician reviewing the information with the patient. The AMA is also working to reduce the complexity and cost required for physicians to comply with these new regulations.

Part 1: What is Information Blocking
Part 2: How do I comply with Information Blocking and where do I start?

As a reminder, several policies in the final rules, including those related to information blocking and application program interfaces (APIs), will impact EHR interoperability and the way data is exchanged between patients, physicians, payers, technology developers, and other health care stakeholders. The attached summary provides an overview of the final rules and include perspectives, interpretations, and thoughts derived from AMA's comment letters. The summaries are not exhaustive but are meant to touch on the main policies from ONC.