

STRATEGIC USE OF HEALTH CARE TECHNOLOGY

A community electronic health record ("EHR") is a powerful tool for creating alignment among health care providers as well as coordinating care, improving the quality of care and reducing the cost of care. The Department of Health and Human Services ("HHS") has long promoted the adoption of EHR technology and has provided an Antikickback safe harbor and Stark Law exception that permits health systems and other health care providers to donate EHR technology to other health care providers ("EHR Donation Regulations"). These transactions generally take the form of a health system donating EHR technology to community hospitals and/or non-employed medical staff and may be in association with a clinically integrated network ("CIN") or accountable care organization ("ACO").

Extending an EHR to providers outside of the host health care organization is complicated and presents several privacy, security, compliance and operational challenges. Privacy and security policies, processes and procedures must be extended beyond the host workforce and must contemplate segregating access to PHI for unaffiliated covered entities. Consideration should be given to how IT staff supports, modifies and manages the EHR system to ensure alignment with contractual commitments made to recipients and customers. HIM requests for information processes of both donor and recipient must consider the implications of a shared larger record. Finally, compliance with the EHR Donation Regulations requires that the donor of EHR technology maintain a reasonable methodology for calculating the cost of the donated items and services, disclose the cost of the donated EHR technology to the recipient and that the recipient pays no less than fifteen percent of the cost of the donated EHR technology.

THE HALL RENDER AND HALL RENDER ADVISORY SERVICES ADVANTAGE

Hall Render Attorneys in conjunction with Hall Render Advisory Services advisors bring together the combination of legal, operational and technical experience to assist health systems in developing EHR donation programs that align with strategic objectives, support the transition to value based care, leverage the efficiency of scaled IT infrastructure, provide improved security posture and navigate the various compliance considerations. Our multidisciplinary team of advisors and attorneys has designed and implemented the IT organizational change necessary to support external service delivery, addressing operational, security, financial and legal considerations. Our experience and perspective allow us to provide tested guidance and identify issues often overlooked.

How our combined services help:

- (1) Define the "North Star" – identify the strategic why.
 - a. Why is the health system using a donation strategy?
 - b. Who are the likely recipients?
 - c. What are the budgetary, staffing, financial and other anticipated limitations.
- (2) Assess the current program and/or donor capabilities.
 - a. Evaluate scope and cost model of proposed arrangement for alignment with strategic objectives and compliance purposes.
 - b. Review or development of agreement that incorporates a Software as a Service(SaaS) structure to address the dynamic nature of the offering, and pushing much of the technical

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- definition of the services to on-line documentation.
 - c. Evaluation of current operational support, processes, procedures and policies
 - d. Assess alignment with AKS, Stark and NFP law to evaluate use of EHR Donation Regs, Cyber Security Donation Regs., ACO waivers and value based enterprise exception
- (3) Prepare Deliverables
- a. Assist client in articulating strategies from an offering scope and cost model that align with the North Star.
 - b. Provide services agreement, framework for associated operational documentation support provision of a dynamic SaaS
 - c. Memorialize compliance with Stark, AKS, HIPAA, Information Blocking, Tax Exempt, not-for-profit entity and other applicable bodies of law
 - d. Provide Client with work plan for prospective management of compliance program related to provision of IT services externally.

OUR EXPERIENCE

We help clients structure their IT teams and systems to deliver effective, secure EHR services to align health care providers.

LET'S GET STARTED

Contact Hall Render to discuss how your organization can benefit from a partnership with our health care attorneys and advisors. Visit [hallrender.com](https://www.hallrender.com) today.



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