Electronic Health Records: A Physician's View

Driving to my medical office one spring morning on the Dallas North Tollway, I was taken aback by a massive billboard extolling the virtues of electronic health records (EHRs) at a local health conglomerate, to coordinate the transmission of patients' medical information between the many hospitals and physicians within its system. The sign declared that "all who need your medical record will be able to obtain it," as if this were some sort of incontrovertible benefit.

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Then I recalled reading about Donald Berwick, a physician who served as administrator of the Centers for Medicare and Medicaid Services (CMS), who thinks highly of EHRs, in *Medical Economics* magazine, no less. So highly, in fact, that he believes that *without* EHRs, "we're going to continue practicing with our hands behind our backs."[1] The man must have practiced medicine on a different planet. We already have the best medical system on *this* planet and EHRs will only serve to erode it, in my opinion. In fact, he doesn't really practice medicine at all any more; he just apologizes for the latest form of governmental health intrusion known as "Obamacare."

Are Physicians Using EHRs "Meaningfully"? Health care providers, patients, policymakers and payers all share the same vision of an efficient medical system powered by information technology. However, according to a 2014 survey of the Texas Medical Association (TMA), more than 30 percent of Texas physicians do not utilize EHRs in any form whatsoever.[2] However, the percentage of non-EHR users could be much higher. The TMA emailed the survey to 30,250 physicians and medical residents for whom it had email addresses, and received 1,552 responses. Surely, the 95 percent who did not respond include a higher percentage of physicians who don't use EHRs.

And it is not clear that the patients of physicians who use EHRs benefit at all. Nationwide, only 19 percent of physicians have met the Centers for Medicare and Medicaid Services' Stage 2 regulations for "meaningful use" of EHRs, though Stage 3 regulations (and penalties) are already scheduled to take effect.[3]

These abysmal statistics reflect the reality that almost two-thirds of technology projects fail as they run into unplanned cost overruns, poor quality and excessive delays, compounded by the introduction of several new risks inherent in any new technology. Physicians will, of course, be expected to manage all these major snafus without reimbursement or immunity from liability.

The federal Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009 authorized up to $27 billion

of public funding to promote the benefits of EHR use by providers — with penalties, of course, for noncompliance. As a family physician with over 40 years of medical experience in dealing with *actual* patients and *actual* medical records, I am intimately familiar with those hypothetical benefits. They include: the ability to streamline operations; the potential to improve physician performance and communication; the reduction of medical negligence and medication errors; and the provision of higher quality care at lower cost. And all of this will occur, we are assured, with strict adherence to patient privacy.

But, despite all the many ballyhooed merits of EHRs, their use is fraught with danger as well. What then, could possibly be wrong with EHRs as currently utilized, the latest technological marvel on the medical front? Let me count the ways.

Don't EHRs Allow for More Streamlined Medical Care? What if a patient must be seen in an Emergency Room after hours, or at night when the primary doctor's office is closed, or emergently, while out of town? Or, what if the doctor refers a patient to a specialist for consultation? Surely EHRs would be instantly available to the treating medical personnel in those situations to help improve their performance? Not exactly. There are now too many different EHR operating systems in Texas hospitals alone, sold by competing companies, all formatted differently, making it difficult for the various systems to communicate very well.[4]

For instance, a cardiovascular surgeon associate of mine admitted a patient to a local hospital late one night and urgently needed the patient's medical record from a nearby hospital where he had been admitted only one month before. The doctor was unable to obtain the information electronically because the two EHRs systems were incompatible. The surgeon in that instance did the best he could under the circumstances, and he did a fine job, too. But the next day he requested that the pertinent records be emailed to the second hospital; it took three days to do even that and eventually had to be done the old-fashioned way, by fax. This unnecessary delay made his job considerably *more* difficult.

How *did* we ever survive prior to EHRs? Indeed. Faxing is still significantly quicker and more efficient. And somehow, we still manage to enjoy the highest quality medical care anywhere, the envy of the entire world. So, unless a doctor's system is the same as that of the subsequent treating hospital or physician, sorry, no can do. Patients are out of luck; EHRs are like audio cassettes versus 8 track recordings…not compatible. Where is the promised streamlining and improved performance of EHRs?

Don't EHRs Reduce Medical Liability Claims? Utilizing EHRs is supposed to reduce the number of medical negligence claims…theoretically. While EHRs have frequently been touted for their ability to *reduce* liability, as an attorney with 20 years of legal experience in the field of medical malpractice I can vouch for the fact that the system more likely will create *vast new legal risk*. Actually, increased medical errors and adverse events may result in many ways: from individual mistakes in using EHRs (for example, incorrectly entering information into the electronic record) or from systemwide failures (for example, crashes which prevent access to crucial information, leaving physicians to practice "blind" until function is restored).

In addition, failing to enter e-mail communications into the patient's medical record, repudiation issues (in which the patient denies sending or receiving an e-mail), legal e-discovery issues and failure to follow reams of new state and Health Insurance Portability and Accountability Act (HIPAA) regulations regarding security and privacy issues, all pose *additional* risks. And, once incorrect medical information has been entered into a patient's record, it is almost impossible to expunge.

With time and the *gradual* introduction of EHRs, these problems could be ironed out and the benefits claimed for EHRs might accrue. But in the meanwhile, the haste to introduce them to a dubious medical profession and its patients is laden with hazard.

Don't EHRs Improve Doctor-Patient Relationships? Besides communication and malpractice issues there are *intangible difficulties* as well. What about that cherished doctor/patient relationship which everyone seems to value so highly? A Texas Medical Liability Trust (TMLT) poll found that most of the patients interviewed said they wanted a physician who made them comfortable, to whom they could talk, one who actually listened to them.[5] And they valued those attributes in their physician even more highly than his clinical acumen.

Have you ever been "examined" by a doctor who uses EHRs? If so, you would have noticed him or her madly

typing away on a computer keyboard, or checking off boxes on a template of every possible historical and physical finding imaginable, and ignoring the patient almost entirely. This is done partly to prevent medical malpractice lawsuits, because if something has inadvertently been omitted from the record, the doctor may be open to a negligence claim. But also, more documentation allows for higher coding of the visit and therefore greater reimbursement.

More is better, right? Not if the extra documentation is nothing but regurgitated gibberish brought forward from previous visits. In the old days, my office notes for most patient encounters were four or five lines in length, chock full of valuable, illuminating information. Nowadays, my notes for each visit are a full page long, at least, bursting with extraneous nonsense to cover myself and to justify my charges. And EHRs only exacerbate the problem. Rather than improving doctor/doctor communication concerning a patient, it is now more confusing than ever, as we wade through mountains of irrelevant junk in the electronic record.

And I'm convinced that much of this burdensome medical documentation isn't even actually performed. For instance, I reviewed the consultation letter of a cardiologist in the presence of our mutual patient. In the doctor's computer-driven, beautifully typed four-page letter, he claimed to have completed a full physical examination, including neurological and integumentary systems. But the patient insisted that the cardiologist did nothing more than listen to his heart; she never even touched my patient otherwise. I receive at least one such baffling letter every week. So much for the vaunted doctor/patient relationship.

Don't EHRs Protect Patient Privacy? The issue of patient privacy may turn out to be the biggest boondoggle of them all. The physician's Hippocratic Oath clearly states that "…whatever, in connection with my professional service…I see or hear in the life of men, which ought not to be spoken of abroad, I will not divulge, reckoning that all such should be kept secret." Why then must doctors be compelled to break this most basic tenet of their revered Oath by adopting EHRs?

First and foremost, one must realize that an EHR is nothing less than the entire history of a patient's most intimate medical, social and psychological profile; and it will be easily available on the Internet for all to peruse — a computer hacker's delight. Just ponder *Time* magazine's 2010 choice for "Man of the Year,"

Mark Zuckerberg, the founder of Facebook. He got his start hacking into a sorority's supposedly secure private registry. And what about Julian Assange, the founder of the notorious WikiLeaks website. He received the damaging information he published on this site from a man who hacked into the *Pentagon's* servers, no less.

And how many bank, business and financial records have already been compromised? Unfortunately, EHRs lack the complicated protective mechanisms of those financial enterprises; they have only very rudimentary safeguards, and they'd be a cinch to crack. In fact, in an interview with *Rolling Stone* magazine, a reformed computer hacker baldly stated that EHRs were so simple to invade that it was hardly even worth the challenge.[6] As if to prove this point, just a few months ago, 80 million electronic patient records in Anthem Health Systems servers were hacked.

The real problem is that many who *shouldn't* have access to your medical records will be able to obtain them. Do you think the patient may not be entirely forthright with his physician if he knows the information he imparts is subject to such disclosure? Wouldn't that knowledge cast a pall over the doctor/patient relationship? I think so too.

What About the Price? Ah, the $64,000 question (which is just about what a system costs to install in a medical office). As usual, follow the money trail. The organizations promoting EHRs so ardently are the very ones most likely to gain from their adoption. Software manufacturers stand to make a fortune. And $64,000, even multiplied by all the doctors in America, is still chump change compared to the multimillions required of hospitals and insurance companies to implement EHRs. And who will pay this cost? The doctors, hospitals and insurance companies will, of course. Ultimately that cost will be passed along to… the patient, in the form of higher health insurance premiums.

Who else do EHRs profit? Government and health insurance companies will likely utilize the information to categorize each and every medical encounter with a view to "saving money." And that means continually declining reimbursements; the need for the doctor to cram in more patients each day in order to meet payroll, resulting in less time for each patient; a more contentious referral process; and ultimately a rationing of medical services. I don't believe it is an altruistic desire to streamline the medical system or improve your

health. They want nothing less than full *control*.

Everything revolves around money. Why else would these entities be pushing so zealously for the adoption of EHRs, against the wishes of at least 75 percent of the medical profession (in the Texas survey) and most patients? Doctors, in the best position to witness the apparent benefits versus the problems generally don't want it and patients, except in rare instances, don't need it. In fact, EHRs may well ultimately destroy the cherished physician/patient relationship.

Unfortunately, none of this has in the least inhibited the federal government from using the carrot and stick approach to "encourage" adoption. (Doctors are supposed to receive a bonus — which no one I know has ever yet been paid — for transitioning now, and penalties in the future, in the form of a reduction in already paltry Medicare reimbursements if not compliant with EHR "meaningful use" regulations.) At the same time, there is not one iota of proof of any reduction in medical error or of any efficiencies due to EHRs, except in the lofty minds of some Harvard professors' ambitious theoretical models. There is only widespread conjecture.

In fact, the Institute of Medicine urged the federal government to form an independent panel to investigate patient deaths and other adverse events related to health information technology.[7] Leaders in the health IT industry objected to the IOM panel's conclusions, of course; they say that major safety issues aren't the fault of electronic health records, but are instead due to user error. Unfortunately medical error will always be with us as long as other human beings serve our medical needs; it is the nature of human beings and inherent in the profession. As I have demonstrated, EHRs won't improve that a bit; they will only exacerbate the problem.

Conclusion: EHRs Aren't Ready for Prime Time. God knows, the present system isn't perfect, but we shouldn't throw it all away in favor of unproven EHRs until the use of the electronic record is pronounced tried and true, and at least offers more reward than risk. It is not worth jeopardizing our present advantages for an as yet illusory benefit. And if a personal, computerized medical record is considered so essential, why not simply scan anything pertinent onto a thumb drive for the patient, so he alone has control of it and can decide who will have access. I already do this in my office for patients who join my concierge medical service (which provides unimpeded access to medical providers); no need

to splash EHRs across the internet. But, I believe, the government and large corporate interests would push back against that patient friendly idea because they get cut out of the process. They promote EHRs in order to advance their own agenda, not to assist patients and doctors.

EHRs should be launched in a measured way in order to maximize their potential while at the same time minimizing the downside. Doctors aren't simply reluctant to adopt EHRs out of complacency or obstinacy. Here on the frontline, we physicians are already witnessing the many untoward problems inherent in the pell-mell haste with which we are being prodded and coerced into compliance. And before you blame doctors for this mess, consider that most doctors didn't ask for EHRs; we are being forced to adopt them, come what may. At the moment, most of us think the system works better without EHRs than with them; they haven't been properly vetted. Place the blame where it ought rightfully to fall: on the large insurers and the government which require EHRs.

Ultimately, however, I believe it will be nontechnological factors which determine the efficacy and safety of the use of EHRs in the 21st Century, despite any perceived efficiencies. Continuous transmission of patients' intimate physiological details over wireless networks and the Internet demands rigorous security and personal privacy protections which do not yet exist. Furthermore, EHRs must prove themselves to be cost effective in an era of dwindling economic resources and competing societal priorities. If Congress is truly serious about narrowing the federal government's huge budget deficit, it might consider cutting the $27 billion authorized by HITECH as a start.

EHRs are not yet ready for widespread utilization. They should only be adopted in the normal course of business on their own merits, not under duress. Their full potential will only be realized when they prove useful to the doctor/patient interaction, not otherwise. They should not be foisted upon an unwilling medical profession and its patients for ulterior motives, before proper testing and proof of safety and reliability. At the moment, they are simply another government power grab; a solution in search of a problem.

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