



Fact Sheet on Health IT Accessibility

December 2010

Background

The [Access Board](#) was created in 1973 as an independent federal agency devoted to accessibility for people with disabilities. The Board establishes guidelines and requirements for information and communication technology (ICT) and is a leading source of information on accessible design.

“Section 508” compliance requires that electronic and information technology *developed, procured, maintained or used* by the federal government must be accessible to people with disabilities. Section 508 was originally established in 1986 as a part of the U.S. Rehabilitation Act of 1973, and it was later amended in 1998. Under [Section 508](#) (29 U.S.C. 794 d), federal agencies must give disabled employees and members of the public access to information that is comparable to access available to others. This accessibility is required as Information Technology (IT) is upgraded. There are also [state laws](#) regarding procurement of accessible IT for HIMSS constituents.

In November of 2010, the US Department of Health and Human Services (HHS) released [Guidance for Exchange and Medicaid Information Technology \(IT\) Systems](#) whose purpose is “to assist states as they design, develop, implement, and operate technology and systems projects in support of the Affordable Care Act relating to the establishment and operation of Health Insurance Exchanges (“Exchanges”) as well as coverage expansions and improvements under Medicaid and the Children’s Health Insurance Program (CHIP).” Section 5.1.3 provides Standards for Accessibility.

Proposed Rule

The Department of Justice (DOJ) has issued an Advance Notice of Proposed Rule Making (ANPRM) in order to solicit public comment on various issues relating to the potential application of website accessibility requirements including a professional office of a healthcare provider, hospital, or other public accommodation under Title III of the Americans with Disabilities Act (ADA). Due to the enormous growth of the Internet since the signing of the ADA, the DOJ is seeking comments on broadening the current type of establishments covered by the legislation through this [ANPRM](#). Accessibility of ICT is often referred to as “electronic ramps” in recognition that we live in a technological age with commerce and services provided virtually.

Time Line for Compliance

The current effective date after the publication of the final rule is: 6 months for newly created websites and newly created pages and 2 years for existing websites and pages.

Industry and Member Impact

People with disabilities now account for at least 20% of the U.S. population. Healthcare and insurance providers are increasingly offering patients the ability to access their healthcare records electronically via websites. Numerous new health IT products and services are being used by major healthcare providers

and employers – all with little or no attention paid to the accessibility requirements of people with disabilities.

One approach to accessibility is to establish a federal requirement applying ICT accessibility standards to the State Health Insurance Exchange public-facing websites, including HealthCare.gov. Without affirmative and aggressive attention to this issue, members of the disability community, who may well stand to benefit the most from many health IT innovations, may find themselves unable to utilize State Health Insurance Exchanges.

Private industry is also engaged in accessibility. Renowned facilities, such as the Cleveland Clinic, are currently undergoing review and redesign for ICT accessibility. The Access Board recently participated at the NIST Usability Conference and will be participating in the Usability Symposia at HIMSS11 Annual Conference & Exhibition. There is even the potential for accessibility requirements to become one of multiple certification criteria for public/patient facing technology as part of future stages of Meaningful Use.

Costs of implementation Section 508 compliance can be extremely variable. Implementation, for many organizations, may require hiring an accessibility consultant. Members may want to ask how the DOJ rule may impact health records, where health records are accessed via websites. The scope may be deeper than the home page. In addition, if the industry anticipates a degree of burden, they should supply evidence.

Remediation should not be confused with making IT accessible from the onset. Some degree of burden is expected, but advocates do not believe it would be an undue burden. If individuals with disabilities are not able to use Federal products or services, a complaint or a Section 508 lawsuit can be filed and remedial actions may be undertaken. Punitive and compensatory damages will not be awarded, however injunctive relief and attorney's fees can be sought.

Conclusion

While the current legislative and regulatory priorities surrounding healthcare reform, and other federal and state mandates, may be overwhelming for HIMSS members, we believe that focus must also be placed on this accessibility issue, as part of our commitment to provide an assurance of technological non-discrimination. The timing and scope of new initiatives will be critical. Beyond this Fact Sheet, HIMSS will be facilitating opportunities to educate our members and other stakeholders. For more information, please contact HIMSS at policy@HIMSS.org at 703-562-8800.

In addition, HIMSS is encouraging members to submit comments on this issue. You may submit comments on the DOJ ANPRM, identified by RIN 1190-AA61 (or Docket ID No. 110), by any one of the following methods:

- Federal eRulemaking website: www.regulations.gov. Follow the website's instructions for submitting comments.
- Regular U.S. mail: Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 2885, Fairfax, VA 22031-0885.
- Overnight, courier, or hand delivery: Disability Rights Section, Civil Rights Division, U.S. Department of Justice, 1425 New York Avenue, N.W., Suite 4039, Washington, D.C. 20005.

508 Compliance Resources:

[Access Board presentation to HIMSS members](#)

[508 Universe courses on the section508 \(GSA\) website](#)

[Introductory Guides on the Access Board website](#)

[Accessibility and PHRs](#)

[Testing Software Applications and Operating Systems for 508 Compliance](#)

(§1194.21 requirements for software applications, including those that are embedded in or deployed on the web, and operating systems)

[Testing HTML for 508 Compliance course](#)

(§1194.22 requirements for web pages, web-based documents, and web-based applications)

[Creating Accessible Flash course](#)

(How to apply the principles of accessibility to creating Section 508-compliant Flash presentations)

Authors:

Edna Boone, MA, CPHIMS Senior Director HIS eboone@himss.org

Matthew Grubbs, HIMSS Intern

MaryAnne Sterling, CEA, Sterling Health IT Consulting, LLC

Contributing Editor:

David Baquis, US Access Board