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August 31, 2006

Dear Health Information Technology Conferees:

On behalf of our more than 20,000 individual members and over 300 corporate members that collectively represent organizations employing millions of people, the Healthcare Information and Management Systems Society (HIMSS) is writing to strongly urge you to complete action on one comprehensive piece of health information technology legislation prior to your adjournment. Last November, the U.S. Senate unanimously passed S. 1418, *The Wired for Health Care Quality Act of 2005*, and on July 27, the U.S. House of Representatives overwhelmingly passed H.R. 4157, *The Health Information Technology Promotion Act of 2006*. Our hope is that you can now reach consensus on key items in both pieces of legislation prior to your adjournment and in order to send President Bush one HIT bill that he can sign into law.

Both pieces of legislation contain similar provisions that HIMSS supports, such as:

- Codifying the Office of the National Coordinator of Health Information Technology;
- Promoting studies of variations in state health information, laws and regulations;
- Establishment of the American Health Information Collaborative (AHIC);
- Promoting a strategic plan for the coordinating implementation of HIT;
- Establishing grant demonstration programs; and
- Requiring agencies to permit electronic reporting of healthcare data.

In addition, HIMSS supports the following items contained in S. 1418:

- \$650 million in grant funding over five years;
- Requiring implementation and certification of health information standards;
- Establishing quality measures; and
- Ensuring privacy and security to ensure the privacy and security of patient health information in regional and national health information networks through compliance with the Health Insurance Portability and Accountability Act (HIPAA) statute and regulations.

H.R. 4157 also contains a number of provisions that HIMSS supports, including:

- Promoting updating ICD codes and coding documentation of non-medical information for services furnished on or after October 1, 2010;
- Providing exceptions to limitations on certain physician referrals (under Stark) for the provision of interoperable HIT and training services to healthcare professionals and promoting safe harbors to anti-kickback civil penalties and criminal penalties for provision of interoperable HIT and training services; and
- Establishing procedures to ensure timely updating of standards that enable electronic exchanges.

In addition, HIMSS recommends restoring language in Section 202 as originally reported in an earlier version of H.R. 4157. The problem with this language is that it is not prescriptive enough and does not require the Department of Health and Human Services (DHHS) to issue a Final Rule by April 2007; rather the language simply requires a notice in the Federal Register stating that the standards shall be



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replaced by April 1, 2009. HIMSS supports the compliance date being April 1, 2009, but this language leaves open the process by which the DHHS can cause this implementation to occur. Namely, it leaves open the possibility of issuing both a NPRM and a Final Rule. By separate letter, we will provide a red-lined version and hope it will receive your fullest consideration.

HIMSS also believes that Section 4 of S. 1418 and Section 2 of H.R. 4157 are not consistent in their intent and need to be reconciled. Section 4 of S. 1418 is a starting point which achieves the purposes of Section 2 of H.R. 4157 and protects HIPAA privacy, security, penalty provisions and the administrative transactions of HIPAA. However, Section 4 of S. 1418, as it currently reads would preclude Title II of H.R. 4157 from becoming effective. Suggested language might be:

SEC. 4. ENSURING PRIVACY AND SECURITY.

With the exception of sections xxx, nothing in this Act (or the amendments made by this Act) shall be construed to affect the scope, substance, or applicability of—

- (1) section 264 of the Health Insurance Portability and Accountability Act of 1996;
- (2) sections 1171 through 1179 of the Social Security Act; and
- (3) any regulation issued pursuant to any such section.

Finally, HIMSS believes that all the above recommended provisions are consistent with our Board-approved 2006 Legislative Principles and we strongly encourage you to include these provisions in any final conference bill. We look forward to working with you to reconcile a final bill that will help in the transformation of healthcare for all Americans. Thank you for your leadership and dedication on this critical issue.

Sincerely,

H. Stephen Lieber, CAE
President/CEO

The Healthcare Information and Management Systems Society (HIMSS) is the healthcare industry's membership organization exclusively focused on providing leadership for the optimal use of healthcare information technology (IT) and management systems for the betterment of human health. Founded in 1961 with offices in Chicago, Washington D.C., and other locations across the country, HIMSS represents more than 20,000 individual members and over 300 corporate members that collectively represent organizations employing millions of people. HIMSS frames and leads healthcare public policy and industry practices through its advocacy, educational and professional development initiatives designed to promote information and management systems' contributions to ensuring quality patient care. Visit us on-line at www.himss.org.
