

# **Canadian DFAIT Seminar Opportunities and Risk for Canadian Health IT Companies**

Howard Burde, Esq.  
Howard@BurdeLaw.com

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# Session Content

- Quick ARRA Overview
- Definitions
- Action Items
- Dates & Deadlines (known)

## ARRA is VERY Ambitious Legislation

- ARRA is VERY Ambitious Legislation
  - Fundamentally Changes Health IT
    - Redefines Government and Private Sector Roles
      - Federal Government Takeover as Strategic Leader, Coordinator and Policy Maker for Health IT. HIT Policy and HIT Standards Committees
      - Private Sector to participate in Government Processes.
      - In Place of Public/Private Cooperative. Traditional division of responsibility for a heavily regulated industry.
      - Regulations due within 9 months on a standards. Processes starting now
      - Federal Government as Major Funding Source
- ARRA Presents Opportunity to Transform Health IT Through Investment and Law

## **ARRA: With the Opportunity to Transform Comes Risk . . .**

- Definitions: Certified Qualified EHR; Meaningful Use; Eligible Professional; Significant Hardship
- Comparative Effectiveness
- Breach Notification/ State Law Preemption
- ONC Security Methods
- Regulations, Standards and Testing Coming Fast
- Enforcement

# ARRA Risks and Opportunities

- Enforcement
  - HHS Office of Civil Rights – Privacy
  - CMS – Security
  - Justice Department
    - False Claims Act
    - Start and Antikickback Laws
    - Stored Communications Act
  - PHRs – Federal Trade Commission
  - State Attorneys General
  - Vaporware Liability

# What's In It for Me (my organization)

- Potential Funding Sources
  - Medicare or Medicaid Incentives
  - National Telecommunications & Information Administration
  - Department of Agriculture
  - Office of the National Coordinator
  - Veterans Benefits Administration
  - State planning and implementation grants
  - Department of Agriculture
  - Department of Commerce
  - AHRQ
  - Social Security Administration

# More Risks and Opportunities

- Changes to HIPAA
- Adjustments to Substance and Application of Privacy and Security Rules
  - Access to and Transmission of PHI
  - Accounting Disclosures
  - Marketing and Use of PHI
  - Limited Data Set/Minimum Necessary
  - Health Care Operations
  - Security Breach Notification/Delegation by CEs Coordination with State Laws



# What HIPAA Changes Mean for Providers, Payers, Vendors and Patients

- Relationships have been changed by law.
- Covered entities and business associations must review BA Agreements.
- Disclosure Tracking Mechanisms: Software Upgrade? Policy Revisions? Workforce Retraining?
- Involvement Imperative: Definitional Changes to Marketing, Operations and Research will dramatically impact use and disclosure of data.
- Data Inventories and Network Topologies
- HIPAA Changes Directly Impact and Create Need to Review:
  - Current (hopefully) or impending (likely) Data Retention and Storage Policies and E-Discovery Response Plan
- Engage Counsel.

# Date & Timelines

(Those we know of)

Date	Action
2-17-09	ARRA signed into Law
2-19-09	Federal agencies to begin reporting their formal block grant awards
3-3-09	Federal agencies to begin reporting use of funds
5-2-09	Federal agencies to make Performance Plans publications available and to begin reporting on their allocation for entitlement programs
5-15-09	Detailed agency financial reports to become available
7-15-09	Recipients of Federal funding to begin reporting on their use of funds

# Date & Timelines

(Those we know of)

- 45 days after signing – window for each state to claim the funds allocated by the act
- 90 days after signing:
  - HIT Policy Committee members appointed
  - HIT Standards Committee members appointed
  - Secretary required to publish notice describing the Regional Center Program (Health Information Extension Program)
- No later than 12-31-09, the Secretary shall adopt an initial set of standards, implementation specifications and certification criteria
- Within 12 months after signing, the ONC will appoint a Chief Privacy Officer

# Date & Timelines

(Those we know of)

- 2011 – First year incentive funding available
- 2015 – Penalty imposed for noncompliance

# Resources

- One-stop shop on the ARRA -  
[www.himss.org/EconomicStimulus](http://www.himss.org/EconomicStimulus)
- Summary -  
[www.himss.org/content/files/HIMSSSummaryOfARRA.pdf](http://www.himss.org/content/files/HIMSSSummaryOfARRA.pdf)
- Analysis -  
[www.himss.org/EconomicStimulus](http://www.himss.org/EconomicStimulus)
- FAQs - [www.himss.org/EconomicStimulus/docs/HIMSS\\_FAQs\\_ARRA.pdf](http://www.himss.org/EconomicStimulus/docs/HIMSS_FAQs_ARRA.pdf)
- ONC -  
[www.hhs.gov/healthit](http://www.hhs.gov/healthit)
- Recovery Information –  
[www.recovery.gov](http://www.recovery.gov)