H.R.1

American Recovery and Reinvestment Act of 2009 (Engrossed as Agreed to or Passed by House)

`SEC. 3002. HIT POLICY COMMITTEE.

`(a) Establishment- There is established a HIT Policy Committee to make policy recommendations to the National Coordinator relating to the implementation of a nationwide health information technology infrastructure, including implementation of the strategic plan described in section 3001(c)(3).

`(b) Duties-

`(1) RECOMMENDATIONS ON HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE- The HIT Policy Committee shall recommend a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the strategic plan under section 3001(c)(3) and that includes the recommendations under paragraph (2). The Committee shall update such recommendations and make new recommendations as appropriate.

`(2) SPECIFIC AREAS OF STANDARD DEVELOPMENT-

`(A) IN GENERAL- The HIT Policy Committee shall recommend the areas in which standards, implementation specifications, and certification criteria are needed for the electronic exchange and use of health information for purposes of adoption under section 3004 and shall recommend an order of priority for the development, harmonization, and recognition of such standards, specifications, and certification criteria among the areas so recommended. Such standards and implementation specifications shall include named standards, architectures, and software schemes for the authentication and security of individually identifiable health information and other information as needed to ensure the reproducible development of common solutions across disparate entities.

`(B) AREAS REQUIRED FOR CONSIDERATION- For purposes of subparagraph (A), the HIT Policy Committee shall make recommendations for at least the following areas:

`(i) Technologies that protect the privacy of health information and promote security in a qualified electronic health record, including for the segmentation and protection from disclosure of specific and sensitive individually identifiable health information with the goal of minimizing the reluctance of patients to seek care (or disclose information about a condition) because of privacy concerns, in accordance with applicable law,

and for the use and disclosure of limited data sets of such information.

`(ii) A nationwide health information technology infrastructure that allows for the electronic use and accurate exchange of health information.

`(iii) The utilization of a certified electronic health record for each person in the United States by 2014.

`(iv) Technologies that as a part of a qualified electronic health record allow for an accounting of disclosures made by a covered entity (as defined for purposes of regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996) for purposes of treatment, payment, and health care operations (as such terms are defined for purposes of such regulations).

`(v) The use of certified electronic health records to improve the quality of health care, such as by promoting the coordination of health care and improving continuity of health care among health care providers, by reducing medical errors, by improving population health, by reducing health disparities, and by advancing research and education.

`(vi) Technologies that allow individually identifiable health information to be rendered unusable, unreadable, or indecipherable to unauthorized individuals when such information is transmitted in the nationwide health information network or physically transported outside of the secured, physical perimeter of a health care provider, health plan, or health care clearinghouse.

`(C) OTHER AREAS FOR CONSIDERATION- In making recommendations under subparagraph (A), the HIT Policy Committee may consider the following additional areas:

`(i) The appropriate uses of a nationwide health information infrastructure, including for purposes of--

`(I) the collection of quality data and public reporting;

`(II) biosurveillance and public health;

`(III) medical and clinical research; and

`(IV) drug safety.

`(ii) Self-service technologies that facilitate the use and exchange of patient information and reduce wait times.

`(iii) Telemedicine technologies, in order to reduce travel requirements for patients in remote areas.

`(iv) Technologies that facilitate home health care and the monitoring of patients recuperating at home.

`(v) Technologies that help reduce medical errors.

`(vi) Technologies that facilitate the continuity of care among health settings.

`(vii) Technologies that meet the needs of diverse populations.

`(viii) Any other technology that the HIT Policy Committee finds to be

among the technologies with the greatest potential to improve the quality and efficiency of health care.

`(3) FORUM- The HIT Policy Committee shall serve as a forum for broad stakeholder input with specific expertise in policies relating to the matters described in paragraphs (1) and (2).

`(c) Membership and Operations-

`(1) IN GENERAL- The National Coordinator shall provide leadership in the establishment and operations of the HIT Policy Committee.

`(2) MEMBERSHIP- The membership of the HIT Policy Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

`(3) CONSIDERATION- The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of policies.

`(d) Application of FACA- The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the HIT Policy Committee.

`(e) Publication- The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all policy recommendations made by the HIT Policy Committee under this section.

`SEC. 3003. HIT STANDARDS COMMITTEE.

`(a) Establishment- There is established a committee to be known as the HIT Standards Committee to recommend to the National Coordinator standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption under section 3004, consistent with the implementation of the strategic plan described in section 3001(c)(3) and beginning with the areas listed in section 3002(b)(2)(B) in accordance with policies developed by the HIT Policy Committee.

`(b) Duties-

`(1) STANDARDS DEVELOPMENT-

`(A) IN GENERAL- The HIT Standards Committee shall recommend to the National Coordinator standards, implementation specifications, and certification criteria described in subsection (a) that have been developed, harmonized, or recognized by the HIT Standards Committee. The HIT Standards Committee shall update such recommendations and make new recommendations as appropriate, including in response to a notification sent under section 3004(a)(2)(B). Such recommendations shall be consistent with the latest recommendations made by the HIT Policy Committee.

`(B) PILOT TESTING OF STANDARDS AND IMPLEMENTATION SPECIFICATIONS- In the development, harmonization, or recognition of standards and implementation specifications, the HIT Standards Committee shall, as appropriate, provide for the testing of such standards and specifications by the National Institute for Standards and Technology under section 4201(a) of the HITECH Act.

`(C) CONSISTENCY- The standards, implementation specifications, and certification criteria recommended under this subsection shall be consistent with the standards for information transactions and data elements adopted pursuant to section 1173 of the Social Security Act.

`(2) FORUM- The HIT Standards Committee shall serve as a forum for the participation of a broad range of stakeholders to provide input on the development, harmonization, and recognition of standards, implementation specifications, and certification criteria necessary for the development and adoption of a nationwide health information technology infrastructure that allows for the electronic use and exchange of health information.

`(3) SCHEDULE- Not later than 90 days after the date of the enactment of this title, the HIT Standards Committee shall develop a schedule for the assessment of policy recommendations developed by the HIT Policy Committee under section 3002. The HIT Standards Committee shall update such schedule annually. The Secretary shall publish such schedule in the Federal Register.

`(4) PUBLIC INPUT- The HIT Standards Committee shall conduct open public meetings and develop a process to allow for public comment on the schedule described in paragraph (3) and recommendations described in this subsection. Under such process comments shall be submitted in a timely manner after the date of publication of a recommendation under this subsection.

`(c) Membership and Operations-

`(1) IN GENERAL- The National Coordinator shall provide leadership in the establishment and operations of the HIT Standards Committee.

`(2) MEMBERSHIP- The membership of the HIT Standards Committee shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information.

`(3) CONSIDERATION- The National Coordinator shall ensure that the relevant recommendations and comments from the National Committee on Vital and Health Statistics are considered in the development of standards.

`(4) ASSISTANCE- For the purposes of carrying out this section, the Secretary may provide or ensure that financial assistance is provided by the HIT Standards Committee to defray in whole or in part any membership fees or dues charged by such Committee to those consumer advocacy groups and not for profit entities that work in the public interest as a part of their mission.

`(d) Application of FACA- The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, shall apply to the HIT Standards Committee.

`(e) Publication- The Secretary shall provide for publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Health Information Technology of all recommendations made by the HIT Standards Committee under this section.

`SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED RECOMMENDATIONS; ADOPTION OF INITIAL SET OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA.

`(a) Process for Adoption of Endorsed Recommendations-

`(1) REVIEW OF ENDORSED STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA- Not later than 90 days after the date of receipt of standards, implementation specifications, or certification criteria endorsed under section 3001(c), the Secretary, in consultation with representatives of other relevant Federal agencies, shall jointly review such standards, implementation specifications, or certification criteria and shall determine whether or not to propose adoption of such standards, implementation specifications, or certification criteria.

`(2) DETERMINATION TO ADOPT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA- If the Secretary determines--

`(A) to propose adoption of any grouping of such standards, implementation specifications, or certification criteria, the Secretary shall, by regulation, determine whether or not to adopt such grouping of standards, implementation specifications, or certification criteria; or

`(B) not to propose adoption of any grouping of standards, implementation specifications, or certification criteria, the Secretary shall notify the National Coordinator and the HIT Standards Committee in writing of such determination and the reasons for not proposing the adoption of such recommendation.

`(3) PUBLICATION- The Secretary shall provide for publication in the Federal Register of all determinations made by the Secretary under paragraph (1).

`(b) Adoption of Initial Set of Standards, Implementation Specifications, and Certification Criteria-

`(1) IN GENERAL- Not later than December 31, 2009, the Secretary shall, through the rulemaking process described in section 3004(a), adopt an initial set of standards, implementation specifications, and certification criteria for the areas required for consideration under section 3002(b)(2)(B).

`(2) APPLICATION OF CURRENT STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA- The standards, implementation specifications, and certification criteria adopted before the date of the enactment of this title through the process existing through the Office of the National Coordinator for Health Information Technology may be applied towards meeting the requirement of paragraph (1).

`SEC. 3005. APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY FEDERAL AGENCIES.

`For requirements relating to the application and use by Federal agencies of the standards and implementation specifications adopted under section 3004, see section 4111 of the HITECH Act.

`SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS BY PRIVATE ENTITIES.

`(a) In General- Except as provided under section 4112 of the HITECH Act, any standard or implementation specification adopted under section 3004 shall be voluntary with respect to private entities.

`(b) Rule of Construction- Nothing in this subtitle shall be construed to require that a private entity that enters into a contract with the Federal Government apply or use the standards and implementation specifications adopted under section 3004 with respect to

activities not related to the contract.

`SEC. 3007. FEDERAL HEALTH INFORMATION TECHNOLOGY.

`(a) In General- The National Coordinator shall support the development, routine updating, and provision of qualified EHR technology (as defined in section 3000) consistent with subsections (b) and (c) unless the Secretary determines that the needs and demands of providers are being substantially and adequately met through the marketplace.

`(b) Certification- In making such EHR technology publicly available, the National Coordinator shall ensure that the qualified EHR technology described in subsection (a) is certified under the program developed under section 3001(c)(3) to be in compliance with applicable standards adopted under section 3003(a).

`(c) Authorization To Charge a Nominal Fee- The National Coordinator may impose a nominal fee for the adoption by a health care provider of the health information technology system developed or approved under subsection (a) and (b). Such fee shall take into account the financial circumstances of smaller providers, low income providers, and providers located in rural or other medically underserved areas.

`(d) Rule of Construction- Nothing in this section shall be construed to require that a private or government entity adopt or use the technology provided under this section.

`SEC. 3008. TRANSITIONS.

`(a) ONCHIT- To the extent consistent with section 3001, all functions, personnel, assets, liabilities, and administrative actions applicable to the National Coordinator for Health Information Technology appointed under Executive Order No. 13335 or the Office of such National Coordinator on the date before the date of the enactment of this title shall be transferred to the National Coordinator appointed under section 3001(a) and the Office of such National Coordinator as of the date of the enactment of this title.

`(b) AHIC-

`(1) To the extent consistent with sections 3002 and 3003, all functions, personnel, assets, and liabilities applicable to the AHIC Successor, Inc. doing business as the National eHealth Collaborative as of the day before the date of the enactment of this title shall be transferred to the HIT Policy Committee or the HIT Standards Committee, established under section 3002(a) or 3003(a), as appropriate, as of the date of the enactment of this title.

`(2) In carrying out section 3003(b)(1)(A), until recommendations are made by the HIT Policy Committee, recommendations of the HIT Standards Committee shall be consistent with the most recent recommendations made by such AHIC Successor, Inc.

`(c) Rules of Construction-

`(1) ONCHIT- Nothing in section 3001 or subsection (a) shall be construed as requiring the creation of a new entity to the extent that the Office of the National Coordinator for Health Information Technology established pursuant to Executive Order No. 13335 is consistent with the provisions of section 3001.

`(2) AHIC- Nothing in sections 3002 or 3003 or subsection (b) shall be construed as prohibiting the AHIC Successor, Inc. doing business as the National eHealth Collaborative from modifying its charter, duties, membership, and any other structure or function required to be consistent with section 3002 and 3003 in a manner that would permit the Secretary to choose to recognize such AHIC Successor, Inc. as the HIT Policy Committee or the HIT Standards Committee.

`SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY LAW.

`(a) In General- With respect to the relation of this title to HIPAA privacy and security law:

`(1) This title may not be construed as having any effect on the authorities of the Secretary under HIPAA privacy and security law.

`(2) The purposes of this title include ensuring that the health information technology standards and implementation specifications adopted under section 3004 take into account the requirements of HIPAA privacy and security law.

`(b) Definition- For purposes of this section, the term `HIPAA privacy and security law' means--

`(1) the provisions of part C of title XI of the Social Security Act, section 264 of the Health Insurance Portability and Accountability Act of 1996, and subtitle D of title IV of the HITECH Act; and

`(2) regulations under such provisions.

`SEC. 3010. AUTHORIZATION FOR APPROPRIATIONS.

`There is authorized to be appropriated to the Office of the National Coordinator for Health Information Technology to carry out this subtitle $250,000,000 for fiscal year 2009.'.

SEC. 4102. TECHNICAL AMENDMENT.

Section 1171(5) of the Social Security Act (42 U.S.C. 1320d) is amended by striking `or C' and inserting `C, or D'.

PART II--APPLICATION AND USE OF ADOPTED HEALTH INFORMATION TECHNOLOGY STANDARDS; REPORTS

SEC. 4111. COORDINATION OF FEDERAL ACTIVITIES WITH ADOPTED STANDARDS AND IMPLEMENTATION SPECIFICATIONS.

(a) Spending on Health Information Technology Systems- As each agency (as defined in the Executive order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) implements, acquires, or upgrades health information technology systems used for the direct exchange of individually identifiable health information between agencies and with non-Federal entities, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 4101.

(b) Federal Information Collection Activities- With respect to a standard or implementation specification adopted under section 3004 of the Public Health Service Act, as added by section 4101, the President shall take measures to ensure that Federal activities involving the broad collection and submission of health information are consistent with such standard or implementation specification, respectively, within three years after the date of such adoption.

(c) Application of Definitions- The definitions contained in section 3000 of the Public Health Service Act, as added by section 4101, shall apply for purposes of this part.

SEC. 4112. APPLICATION TO PRIVATE ENTITIES.

Each agency (as defined in such Executive Order issued on August 22, 2006, relating to promoting quality and efficient health care in Federal government administered or sponsored health care programs) shall require in contracts or agreements with health care providers, health plans, or health insurance issuers that as each provider, plan, or issuer implements, acquires, or upgrades health information technology systems, it shall utilize, where available, health information technology systems and products that meet standards and implementation specifications adopted under section 3004 of the Public Health Service Act, as added by section 4101.

SEC. 4113. STUDY AND REPORTS.

(a) Report on Adoption of Nationwide System- Not later than 2 years after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report that--

(1) describes the specific actions that have been taken by the Federal Government and private entities to facilitate the adoption of a nationwide system for the electronic use and exchange of health information;

(2) describes barriers to the adoption of such a nationwide system; and

(3) contains recommendations to achieve full implementation of such a nationwide system.

(b) Reimbursement Incentive Study and Report-

(1) STUDY- The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study that examines methods to create efficient reimbursement incentives for improving health care quality in Federally qualified health centers, rural health clinics, and free clinics.

(2) REPORT- Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of jurisdiction of the House of Representatives and the Senate a report on the study carried out under paragraph (1).

(c) Aging Services Technology Study and Report-

(1) IN GENERAL- The Secretary of Health and Human Services shall carry out, or contract with a private entity to carry out, a study of matters relating to the potential use of new aging services technology to assist seniors, individuals with disabilities, and their caregivers throughout the aging process.

(2) MATTERS TO BE STUDIED- The study under paragraph (1) shall include--

(A) an evaluation of--

(i) methods for identifying current, emerging, and future health technology that can be used to meet the needs of seniors and individuals with disabilities and their caregivers across all aging services settings, as specified by the Secretary;

(ii) methods for fostering scientific innovation with respect to aging services technology within the business and academic communities; and

(iii) developments in aging services technology in other countries that may be applied in the United States; and

(B) identification of--

(i) barriers to innovation in aging services technology and devising strategies for removing such barriers; and

(ii) barriers to the adoption of aging services technology by health care providers and consumers and devising strategies to removing such barriers.

(3) REPORT- Not later than 24 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of jurisdiction of the House of Representatives and of the Senate a report on the study carried out under paragraph (1).

(4) DEFINITIONS- For purposes of this subsection:

(A) AGING SERVICES TECHNOLOGY- The term `aging services technology' means health technology that meets the health care needs of seniors, individuals with disabilities, and the caregivers of such seniors and individuals.

(B) SENIOR- The term `senior' has such meaning as specified by the Secretary.

Subtitle B--Testing of Health Information Technology

SEC. 4201. NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY TESTING.

(a) Pilot Testing of Standards and Implementation Specifications- In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 4101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute for Standards and Technology shall test such standards and implementation specifications, as appropriate, in order to assure the efficient implementation and use of such standards and implementation specifications.

(b) Voluntary Testing Program- In coordination with the HIT Standards Committee established under section 3003 of the Public Health Service Act, as added by section 4101, with respect to the development of standards and implementation specifications under such section, the Director of the National Institute of Standards and Technology shall support the establishment of a conformance testing infrastructure, including the development of technical test beds. The development of this conformance testing infrastructure may include a program to accredit independent, non-Federal laboratories to perform testing.

SEC. 4202. RESEARCH AND DEVELOPMENT PROGRAMS.

(a) Health Care Information Enterprise Integration Research Centers-

(1) IN GENERAL- The Director of the National Institute of Standards and Technology, in consultation with the Director of the National Science Foundation and other appropriate Federal agencies, shall establish a program of assistance to institutions of higher education (or consortia thereof which may include nonprofit entities and Federal Government laboratories) to establish multidisciplinary Centers for Health Care Information Enterprise Integration.

(2) REVIEW; COMPETITION- Grants shall be awarded under this subsection on a merit-reviewed, competitive basis.

(3) PURPOSE- The purposes of the Centers described in paragraph (1) shall be--

(A) to generate innovative approaches to health care information enterprise integration by conducting cutting-edge, multidisciplinary research on the systems challenges to health care delivery; and

(B) the development and use of health information technologies and other complementary fields.

(4) RESEARCH AREAS- Research areas may include--

(A) interfaces between human information and communications technology systems;

(B) voice-recognition systems;

(C) software that improves interoperability and connectivity among health information systems;

(D) software dependability in systems critical to health care delivery;

(E) measurement of the impact of information technologies on the quality and productivity of health care;

(F) health information enterprise management;

(G) health information technology security and integrity; and

(H) relevant health information technology to reduce medical errors.

(5) APPLICATIONS- An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director of the National Institute of Standards and Technology at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of--

(A) the research projects that will be undertaken by the Center established pursuant to assistance under paragraph (1) and the respective contributions of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as information technology, biologic sciences, management, social sciences, and other appropriate disciplines;

(C) technology transfer activities to demonstrate and diffuse the research results, technologies, and knowledge; and

(D) how the Center will contribute to the education and training of researchers and other professionals in fields relevant to health information enterprise integration.

(b) National Information Technology Research and Development Program- The National High-Performance Computing Program established by section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511) shall coordinate Federal research and development programs related to the development and deployment of health information technology, including activities related to--

(1) computer infrastructure;

(2) data security;

(3) development of large-scale, distributed, reliable computing systems;

(4) wired, wireless, and hybrid high-speed networking;

(5) development of software and software-intensive systems;

(6) human-computer interaction and information management technologies; and

(7) the social and economic implications of information technology.

Subtitle C--Incentives for the Use of Health Information Technology

PART I--GRANTS AND LOANS FUNDING

SEC. 4301. GRANT, LOAN, AND DEMONSTRATION PROGRAMS.

Title XXX of the Public Health Service Act, as added by section 4101, is amended by adding at the end the following new subtitle:

`Subtitle B--Incentives for the Use of Health Information Technology

`SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE HEALTH INFORMATION TECHNOLOGY INFRASTRUCTURE.

`(a) In General- The Secretary shall, using amounts appropriated under section 3018, invest in the infrastructure necessary to allow for and promote the electronic exchange and use of health information for each individual in the United States consistent with the goals outlined in the strategic plan developed by the National Coordinator (and as available) under section 3001. To the greatest extent practicable, the Secretary shall ensure that any funds so appropriated shall be used for the acquisition of health information technology that meets standards and certification criteria adopted before the date of the enactment of this title until such date as the standards are adopted under section 3004. The Secretary shall invest funds through the different agencies with expertise in such goals, such as the Office of the National Coordinator for Health Information Technology, the Health Resources and Services Administration, the Agency for Healthcare Research and Quality, the Centers of Medicare & Medicaid Services, the Centers for Disease Control and Prevention, and the Indian Health Service to support the following:

`(1) Health information technology architecture that will support the nationwide electronic exchange and use of health information in a secure, private, and accurate manner, including connecting health information exchanges, and which may include updating and implementing the infrastructure necessary within different agencies of the Department of Health and Human Services to support the electronic use and exchange of health information.

`(2) Development and adoption of appropriate certified electronic health records for categories of providers, as defined in section 3000, not eligible for support under title XVIII or XIX of the Social Security Act for the adoption of such records.

`(3) Training on and dissemination of information on best practices to integrate health information technology, including electronic health records, into a provider's delivery of care, consistent with best practices learned from the Health Information Technology Research Center developed under section 3012(b), including community health centers receiving assistance under section 330, covered entities under section 340B, and providers participating in one or more of the programs under titles XVIII, XIX, and XXI of the Social Security Act (relating to Medicare, Medicaid, and the State Children's Health Insurance Program).

`(4) Infrastructure and tools for the promotion of telemedicine, including coordination among Federal agencies in the promotion of telemedicine.

`(5) Promotion of the interoperability of clinical data repositories or registries.

`(6) Promotion of technologies and best practices that enhance the protection of health information by all holders of individually identifiable health information.

`(7) Improvement and expansion of the use of health information technology by public health departments.

`(8) Provision of $300 million to support regional or sub-national efforts towards health information exchange.

`(b) Coordination- The Secretary shall ensure funds under this section are used in a coordinated manner with other health information promotion activities.

`(c) Additional Use of Funds- In addition to using funds as provided in subsection (a), the Secretary may use amounts appropriated under section 3018 to carry out health information technology activities that are provided for under laws in effect on the date of the enactment of this title.

`SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLEMENTATION ASSISTANCE.

`(a) Health Information Technology Extension Program- To assist health care providers to adopt, implement, and effectively use certified EHR technology that allows for the electronic exchange and use of health information, the Secretary, acting through the Office of the National Coordinator, shall establish a health information technology extension program to provide health information technology assistance services to be carried out through the Department of Health and Human Services. The National Coordinator shall consult with other Federal agencies with demonstrated experience and expertise in information technology services, such as the National Institute of Standards and Technology, in developing and implementing this program.

`(b) Health Information Technology Research Center-

`(1) IN GENERAL- The Secretary shall create a Health Information Technology Research Center (in this section referred to as the `Center') to provide technical assistance and develop or recognize best practices to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004.

`(2) INPUT- The Center shall incorporate input from--

`(A) other Federal agencies with demonstrated experience and expertise in information technology services such as the National Institute of Standards and Technology;

`(B) users of health information technology, such as providers and their support and clerical staff and others involved in the care and care coordination of patients, from the health care and health information technology industry; and

`(C) others as appropriate.

`(3) PURPOSES- The purposes of the Center are to--

`(A) provide a forum for the exchange of knowledge and experience;

`(B) accelerate the transfer of lessons learned from existing public and private sector initiatives, including those currently receiving Federal financial support;

`(C) assemble, analyze, and widely disseminate evidence and experience related to the adoption, implementation, and effective use of health information technology that allows for the electronic exchange and use of information including through the regional centers described in subsection (c);

`(D) provide technical assistance for the establishment and evaluation of regional and local health information networks to facilitate the electronic exchange of information across health care settings and improve the quality of health care;

`(E) provide technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information; and

`(F) learn about effective strategies to adopt and utilize health information technology in medically underserved communities.

`(c) Health Information Technology Regional Extension Centers-

`(1) IN GENERAL- The Secretary shall provide assistance for the creation and support of regional centers (in this subsection referred to as `regional centers') to provide technical assistance and disseminate best practices and other information learned from the Center to support and accelerate efforts to adopt, implement, and effectively utilize health information technology that allows for the electronic exchange and use of information in compliance with standards, implementation specifications, and certification criteria adopted under section 3004. Activities conducted under this subsection shall be consistent with the strategic plan developed by the National Coordinator, (and, as available) under section 3001.

`(2) AFFILIATION- Regional centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies and is awarded financial assistance under this section. Individual awards shall be decided on the basis of merit.

`(3) OBJECTIVE- The objective of the regional centers is to enhance and promote the adoption of health information technology through--

`(A) assistance with the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to healthcare providers nationwide;

`(B) broad participation of individuals from industry, universities, and State governments;

`(C) active dissemination of best practices and research on the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to health care providers in order to improve the quality of healthcare and protect the privacy and security of health information;

`(D) participation, to the extent practicable, in health information exchanges;

`(E) utilization, when appropriate, of the expertise and capability that exists in Federal agencies other than the Department; and

`(F) integration of health information technology, including electronic health records, into the initial and ongoing training of health professionals and others in

the healthcare industry that would be instrumental to improving the quality of healthcare through the smooth and accurate electronic use and exchange of health information.

`(4) REGIONAL ASSISTANCE- Each regional center shall aim to provide assistance and education to all providers in a region, but shall prioritize any direct assistance first to the following:

`(A) Public or not-for-profit hospitals or critical access hospitals.

`(B) Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act).

`(C) Entities that are located in rural and other areas that serve uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).

`(D) Individual or small group practices (or a consortium thereof) that are primarily focused on primary care.

`(5) FINANCIAL SUPPORT- The Secretary may provide financial support to any regional center created under this subsection for a period not to exceed four years. The Secretary may not provide more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such a center, except in an instance of national economic conditions which would render this cost-share requirement detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

`(6) NOTICE OF PROGRAM DESCRIPTION AND AVAILABILITY OF FUNDS- The Secretary shall publish in the Federal Register, not later than 90 days after the date of the enactment of this title, a draft description of the program for establishing regional centers under this subsection. Such description shall include the following:

`(A) A detailed explanation of the program and the programs goals.

`(B) Procedures to be followed by the applicants.

`(C) Criteria for determining qualified applicants.

`(D) Maximum support levels expected to be available to centers under the program.

`(7) APPLICATION REVIEW- The Secretary shall subject each application under this subsection to merit review. In making a decision whether to approve such application and provide financial support, the Secretary shall consider at a minimum the merits of the application, including those portions of the application regarding--

`(A) the ability of the applicant to provide assistance under this subsection and utilization of health information technology appropriate to the needs of particular categories of health care providers;

`(B) the types of service to be provided to health care providers;

`(C) geographical diversity and extent of service area; and

`(D) the percentage of funding and amount of in-kind commitment from other sources.

`(8) BIENNIAL EVALUATION- Each regional center which receives financial assistance under this subsection shall be evaluated biennially by an evaluation panel appointed

by the Secretary. Each evaluation panel shall be composed of private experts, none of whom shall be connected with the center involved, and of Federal officials. Each evaluation panel shall measure the involved center's performance against the objective specified in paragraph (3). The Secretary shall not continue to provide funding to a regional center unless its evaluation is overall positive.

`(9) CONTINUING SUPPORT- After the second year of assistance under this subsection, a regional center may receive additional support under this subsection if it has received positive evaluations and a finding by the Secretary that continuation of Federal funding to the center was in the best interest of provision of health information technology extension services.

`SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFORMATION TECHNOLOGY.

`(a) In General- The Secretary, acting through the National Coordinator, shall establish a program in accordance with this section to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards.

`(b) Planning Grants- The Secretary may award a grant to a State or qualified State-designated entity (as described in subsection (f)) that submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may specify, for the purpose of planning activities described in subsection (d).

`(c) Implementation Grants- The Secretary may award a grant to a State or qualified State designated entity that--

`(1) has submitted, and the Secretary has approved, a plan described in subsection (e) (regardless of whether such plan was prepared using amounts awarded under subsection (b); and

`(2) submits an application at such time, in such manner, and containing such information as the Secretary may specify.

`(d) Use of Funds- Amounts received under a grant under subsection (c) shall be used to conduct activities to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards through activities that include--

`(1) enhancing broad and varied participation in the authorized and secure nationwide electronic use and exchange of health information;

`(2) identifying State or local resources available towards a nationwide effort to promote health information technology;

`(3) complementing other Federal grants, programs, and efforts towards the promotion of health information technology;

`(4) providing technical assistance for the development and dissemination of solutions to barriers to the exchange of electronic health information;

`(5) promoting effective strategies to adopt and utilize health information technology in medically underserved communities;

`(6) assisting patients in utilizing health information technology;

`(7) encouraging clinicians to work with Health Information Technology Regional Extension Centers as described in section 3012, to the extent they are available and

valuable;

`(8) supporting public health agencies' authorized use of and access to electronic health information;

`(9) promoting the use of electronic health records for quality improvement including through quality measures reporting; and

`(10) such other activities as the Secretary may specify.

`(e) Plan-

`(1) IN GENERAL- A plan described in this subsection is a plan that describes the activities to be carried out by a State or by the qualified State-designated entity within such State to facilitate and expand the electronic movement and use of health information among organizations according to nationally recognized standards and implementation specifications.

`(2) REQUIRED ELEMENTS- A plan described in paragraph (1) shall--

`(A) be pursued in the public interest;

`(B) be consistent with the strategic plan developed by the National Coordinator, (and, as available) under section 3001;

`(C) include a description of the ways the State or qualified State-designated entity will carry out the activities described in subsection (b); and

`(D) contain such elements as the Secretary may require.

`(f) Qualified State-Designated Entity- For purposes of this section, to be a qualified State-designated entity, with respect to a State, an entity shall--

`(1) be designated by the State as eligible to receive awards under this section;

`(2) be a not-for-profit entity with broad stakeholder representation on its governing board;

`(3) demonstrate that one of its principal goals is to use information technology to improve health care quality and efficiency through the authorized and secure electronic exchange and use of health information;

`(4) adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation by stakeholders; and

`(5) conform to such other requirements as the Secretary may establish.

`(g) Required Consultation- In carrying out activities described in subsections (b) and (c), a State or qualified State-designated entity shall consult with and consider the recommendations of--

`(1) health care providers (including providers that provide services to low income and underserved populations);

`(2) health plans;

`(3) patient or consumer organizations that represent the population to be served;

`(4) health information technology vendors;

`(5) health care purchasers and employers;

`(6) public health agencies;

`(7) health professions schools, universities and colleges;

`(8) clinical researchers;

`(9) other users of health information technology such as the support and clerical staff of providers and others involved in the care and care coordination of patients; and

`(10) such other entities, as may be determined appropriate by the Secretary.

`(h) Continuous Improvement- The Secretary shall annually evaluate the activities conducted under this section and shall, in awarding grants under this section, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the Secretary, will lead towards the greatest improvement in quality of care, decrease in costs, and the most effective authorized and secure electronic exchange of health information.

`(i) Required Match-

`(1) IN GENERAL- For a fiscal year (beginning with fiscal year 2011), the Secretary may not make a grant under this section to a State unless the State agrees to make available non-Federal contributions (which may include in-kind contributions) toward the costs of a grant awarded under subsection (c) in an amount equal to--

`(A) for fiscal year 2011, not less than $1 for each $10 of Federal funds provided under the grant;

`(B) for fiscal year 2012, not less than $1 for each $7 of Federal funds provided under the grant; and

`(C) for fiscal year 2013 and each subsequent fiscal year, not less than $1 for each $3 of Federal funds provided under the grant.

`(2) AUTHORITY TO REQUIRE STATE MATCH FOR FISCAL YEARS BEFORE FISCAL YEAR 2011- For any fiscal year during the grant program under this section before fiscal year 2011, the Secretary may determine the extent to which there shall be required a non-Federal contribution from a State receiving a grant under this section.

`SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN TRIBES FOR THE DEVELOPMENT OF LOAN PROGRAMS TO FACILITATE THE WIDESPREAD ADOPTION OF CERTIFIED EHR TECHNOLOGY.

`(a) In General- The National Coordinator may award competitive grants to eligible entities for the establishment of programs for loans to health care providers to conduct the activities described in subsection (e).

`(b) Eligible Entity Defined- For purposes of this subsection, the term `eligible entity' means a State or Indian tribe (as defined in the Indian Self-Determination and Education Assistance Act) that--

`(1) submits to the National Coordinator an application at such time, in such manner, and containing such information as the National Coordinator may require;

`(2) submits to the National Coordinator a strategic plan in accordance with subsection (d) and provides to the National Coordinator assurances that the entity will update such plan annually in accordance with such subsection;

`(3) provides assurances to the National Coordinator that the entity will establish a

Loan Fund in accordance with subsection (c);

`(4) provides assurances to the National Coordinator that the entity will not provide a loan from the Loan Fund to a health care provider unless the provider agrees to--

`(A) submit reports on quality measures adopted by the Federal Government (by not later than 90 days after the date on which such measures are adopted), to--

`(i) the Administrator of the Centers for Medicare & Medicaid Services (or his or her designee), in the case of an entity participating in the Medicare program under title XVIII of the Social Security Act or the Medicaid program under title XIX of such Act; or

`(ii) the Secretary in the case of other entities;

`(B) demonstrate to the satisfaction of the Secretary (through criteria established by the Secretary) that any certified EHR technology purchased, improved, or otherwise financially supported under a loan under this section is used to exchange health information in a manner that, in accordance with law and standards (as adopted under section 3004) applicable to the exchange of information, improves the quality of health care, such as promoting care coordination; and

`(C) comply with such other requirements as the entity or the Secretary may require;

`(D) include a plan on how health care providers involved intend to maintain and support the certified EHR technology over time;

`(E) include a plan on how the health care providers involved intend to maintain and support the certified EHR technology that would be purchased with such loan, including the type of resources expected to be involved and any such other information as the State or Indian Tribe, respectively, may require; and

`(5) agrees to provide matching funds in accordance with subsection (h).

`(c) Establishment of Fund- For purposes of subsection (b)(3), an eligible entity shall establish a certified EHR technology loan fund (referred to in this subsection as a `Loan Fund') and comply with the other requirements contained in this section. A grant to an eligible entity under this section shall be deposited in the Loan Fund established by the eligible entity. No funds authorized by other provisions of this title to be used for other purposes specified in this title shall be deposited in any Loan Fund.

`(d) Strategic Plan-

`(1) IN GENERAL- For purposes of subsection (b)(2), a strategic plan of an eligible entity under this subsection shall identify the intended uses of amounts available to the Loan Fund of such entity.

`(2) CONTENTS- A strategic plan under paragraph (1), with respect to a Loan Fund of an eligible entity, shall include for a year the following:

`(A) A list of the projects to be assisted through the Loan Fund during such year.

`(B) A description of the criteria and methods established for the distribution of funds from the Loan Fund during the year.

`(C) A description of the financial status of the Loan Fund as of the date of

submission of the plan.

`(D) The short-term and long-term goals of the Loan Fund.

`(e) Use of Funds- Amounts deposited in a Loan Fund, including loan repayments and interest earned on such amounts, shall be used only for awarding loans or loan guarantees, making reimbursements described in subsection (g)(4)(A), or as a source of reserve and security for leveraged loans, the proceeds of which are deposited in the Loan Fund established under subsection (c). Loans under this section may be used by a health care provider to--

`(1) facilitate the purchase of certified EHR technology;

`(2) enhance the utilization of certified EHR technology;

`(3) train personnel in the use of such technology; or

`(4) improve the secure electronic exchange of health information.

`(f) Types of Assistance- Except as otherwise limited by applicable State law, amounts deposited into a Loan Fund under this section may only be used for the following:

`(1) To award loans that comply with the following:

`(A) The interest rate for each loan shall not exceed the market interest rate.

`(B) The principal and interest payments on each loan shall commence not later than 1 year after the date the loan was awarded, and each loan shall be fully amortized not later than 10 years after the date of the loan.

`(C) The Loan Fund shall be credited with all payments of principal and interest on each loan awarded from the Loan Fund.

`(2) To guarantee, or purchase insurance for, a local obligation (all of the proceeds of which finance a project eligible for assistance under this subsection) if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

`(3) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the eligible entity if the proceeds of the sale of the bonds will be deposited into the Loan Fund.

`(4) To earn interest on the amounts deposited into the Loan Fund.

`(5) To make reimbursements described in subsection (g)(4)(A).

`(g) Administration of Loan Funds-

`(1) COMBINED FINANCIAL ADMINISTRATION- An eligible entity may (as a convenience and to avoid unnecessary administrative costs) combine, in accordance with applicable State law, the financial administration of a Loan Fund established under this subsection with the financial administration of any other revolving fund established by the entity if otherwise not prohibited by the law under which the Loan Fund was established.

`(2) COST OF ADMINISTERING FUND- Each eligible entity may annually use not to exceed 4 percent of the funds provided to the entity under a grant under this section to pay the reasonable costs of the administration of the programs under this section, including the recovery of reasonable costs expended to establish a Loan Fund which are incurred after the date of the enactment of this title.

`(3) GUIDANCE AND REGULATIONS- The National Coordinator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including--

`(A) provisions to ensure that each eligible entity commits and expends funds allotted to the entity under this section as efficiently as possible in accordance with this title and applicable State laws; and

`(B) guidance to prevent waste, fraud, and abuse.

`(4) PRIVATE SECTOR CONTRIBUTIONS-

`(A) IN GENERAL- A Loan Fund established under this section may accept contributions from private sector entities, except that such entities may not specify the recipient or recipients of any loan issued under this subsection. An eligible entity may agree to reimburse a private sector entity for any contribution made under this subparagraph, except that the amount of such reimbursement may not be greater than the principal amount of the contribution made.

`(B) AVAILABILITY OF INFORMATION- An eligible entity shall make publicly available the identity of, and amount contributed by, any private sector entity under subparagraph (A) and may issue letters of commendation or make other awards (that have no financial value) to any such entity.

`(h) Matching Requirements-

`(1) IN GENERAL- The National Coordinator may not make a grant under subsection (a) to an eligible entity unless the entity agrees to make available (directly or through donations from public or private entities) non-Federal contributions in cash to the costs of carrying out the activities for which the grant is awarded in an amount equal to not less than $1 for each $5 of Federal funds provided under the grant.

`(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION- In determining the amount of non-Federal contributions that an eligible entity has provided pursuant to subparagraph (A), the National Coordinator may not include any amounts provided to the entity by the Federal Government.

`(i) Effective Date- The Secretary may not make an award under this section prior to January 1, 2010.

`SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE INFORMATION TECHNOLOGY INTO CLINICAL EDUCATION.

`(a) In General- The Secretary may award grants under this section to carry out demonstration projects to develop academic curricula integrating certified EHR technology in the clinical education of health professionals. Such awards shall be made on a competitive basis and pursuant to peer review.

`(b) Eligibility- To be eligible to receive a grant under subsection (a), an entity shall--

`(1) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

`(2) submit to the Secretary a strategic plan for integrating certified EHR technology in the clinical education of health professionals to reduce medical errors and enhance health care quality;

`(3) be--

`(A) a school of medicine, osteopathic medicine, dentistry, or pharmacy, a graduate program in behavioral or mental health, or any other graduate health professions school;

`(B) a graduate school of nursing or physician assistant studies;

`(C) a consortium of two or more schools described in subparagraph (A) or (B); or

`(D) an institution with a graduate medical education program in medicine, osteopathic medicine, dentistry, pharmacy, nursing, or physician assistance studies;

`(4) provide for the collection of data regarding the effectiveness of the demonstration project to be funded under the grant in improving the safety of patients, the efficiency of health care delivery, and in increasing the likelihood that graduates of the grantee will adopt and incorporate certified EHR technology, in the delivery of health care services; and

`(5) provide matching funds in accordance with subsection (d).

`(c) Use of Funds-

`(1) IN GENERAL- With respect to a grant under subsection (a), an eligible entity shall--

`(A) use grant funds in collaboration with 2 or more disciplines; and

`(B) use grant funds to integrate certified EHR technology into community-based clinical education.

`(2) LIMITATION- An eligible entity shall not use amounts received under a grant under subsection (a) to purchase hardware, software, or services.

`(d) Financial Support- The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

`(e) Evaluation- The Secretary shall take such action as may be necessary to evaluate the projects funded under this section and publish, make available, and disseminate the results of such evaluations on as wide a basis as is practicable.

`(f) Reports- Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, and the Committee on Energy and Commerce of the House of Representatives a report that--

`(1) describes the specific projects established under this section; and

`(2) contains recommendations for Congress based on the evaluation conducted under subsection (e).

`SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS ON HEALTH CARE.

`(a) In General- The Secretary, in consultation with the Director of the National Science Foundation, shall provide assistance to institutions of higher education (or consortia

thereof) to establish or expand medical health informatics education programs, including certification, undergraduate, and masters degree programs, for both health care and information technology students to ensure the rapid and effective utilization and development of health information technologies (in the United States health care infrastructure).

`(b) Activities- Activities for which assistance may be provided under subsection (a) may include the following:

`(1) Developing and revising curricula in medical health informatics and related disciplines.

`(2) Recruiting and retaining students to the program involved.

`(3) Acquiring equipment necessary for student instruction in these programs, including the installation of testbed networks for student use.

`(4) Establishing or enhancing bridge programs in the health informatics fields between community colleges and universities.

`(c) Priority- In providing assistance under subsection (a), the Secretary shall give preference to the following:

`(1) Existing education and training programs.

`(2) Programs designed to be completed in less than six months.

`(d) Financial Support- The Secretary may not provide more than 50 percent of the costs of any activity for which assistance is provided under subsection (a), except in an instance of national economic conditions which would render the cost-share requirement under this subsection detrimental to the program and upon notification to Congress as to the justification to waive the cost-share requirement.

`SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.

`(a) Reports- The Secretary may require that an entity receiving assistance under this subtitle shall submit to the Secretary, not later than the date that is 1 year after the date of receipt of such assistance, a report that includes--

`(1) an analysis of the effectiveness of the activities for which the entity receives such assistance, as compared to the goals for such activities; and

`(2) an analysis of the impact of the project on health care quality and safety.

`(b) Requirement to Improve Quality of Care and Decrease in Costs- The National Coordinator shall annually evaluate the activities conducted under this subtitle and shall, in awarding grants, implement the lessons learned from such evaluation in a manner so that awards made subsequent to each such evaluation are made in a manner that, in the determination of the National Coordinator, will result in the greatest improvement in the quality and efficiency of health care.

`SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.

`For the purposes of carrying out this subtitle, there is authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013. Amounts so appropriated shall remain available until expended.'.

PART II--MEDICARE PROGRAM

SEC. 4311. INCENTIVES FOR ELIGIBLE PROFESSIONALS.

(a) Incentive Payments- Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended by adding at the end the following new subsection:

`(o) Incentives for Adoption and Meaningful Use of Certified EHR Technology-

`(1) INCENTIVE PAYMENTS-

`(A) IN GENERAL- Subject to the succeeding subparagraphs of this paragraph, with respect to covered professional services furnished by an eligible professional during a payment year (as defined in subparagraph (E)), if the eligible professional is a meaningful EHR user (as determined under paragraph (2)) for the reporting period with respect to such year, in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)), from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to 75 percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the payment year) of the allowed charges under this part for all such covered professional services furnished by the eligible professional during such year.

`(B) LIMITATIONS ON AMOUNTS OF INCENTIVE PAYMENTS-

`(i) IN GENERAL- In no case shall the amount of the incentive payment provided under this paragraph for an eligible professional for a payment year exceed the applicable amount specified under this subparagraph with respect to such eligible professional and such year.

`(ii) AMOUNT- Subject to clause (iii), the applicable amount specified in this subparagraph for an eligible professional is as follows:

`(I) For the first payment year for such professional, $15,000.

`(II) For the second payment year for such professional, $12,000.

`(III) For the third payment year for such professional, $8,000.

`(IV) For the fourth payment year for such professional, $4,000.

`(V) For the fifth payment year for such professional, $2,000.

`(VI) For any succeeding payment year for such professional, $0.

`(iii) PHASE DOWN FOR ELIGIBLE PROFESSIONALS FIRST ADOPTING EHR AFTER 2013- If the first payment year for an eligible professional is after 2013, then the amount specified in this subparagraph for a payment year for such professional is the same as the amount specified in clause (ii) for such payment year for an eligible professional whose first payment year is 2013. If the first payment year for an eligible professional is after 2015 then the applicable amount specified in this subparagraph for such professional for such year and any subsequent year shall be $0.

`(C) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS-

`(i) IN GENERAL- No incentive payment may be made under this paragraph in the case of a hospital-based eligible professional.

`(ii) HOSPITAL-BASED ELIGIBLE PROFESSIONAL- For purposes of clause (i), the term `hospital-based eligible professional' means, with respect to covered professional services furnished by an eligible professional during the reporting period for a payment year, an eligible professional, such as a pathologist, anesthesiologist, or emergency physician, who furnishes substantially all of such services in a hospital setting (whether inpatient or outpatient) and through the use of the facilities and equipment, including computer equipment, of the hospital.

`(D) PAYMENT-

`(i) FORM OF PAYMENT- The payment under this paragraph may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

`(ii) COORDINATION OF APPLICATION OF LIMITATION FOR PROFESSIONALS IN DIFFERENT PRACTICES- In the case of an eligible professional furnishing covered professional services in more than one practice (as specified by the Secretary), the Secretary shall establish rules to coordinate the incentive payments, including the application of the limitation on amounts of such incentive payments under this paragraph, among such practices.

`(iii) COORDINATION WITH MEDICAID- The Secretary shall seek, to the maximum extent practicable, to avoid duplicative requirements from Federal and State Governments to demonstrate meaningful use of certified EHR technology under this title and title XIX. The Secretary may also adjust the reporting periods under such title and such subsections in order to carry out this clause.

`(E) PAYMENT YEAR DEFINED-

`(i) IN GENERAL- For purposes of this subsection, the term `payment year' means a year beginning with 2011.

`(ii) FIRST, SECOND, ETC. PAYMENT YEAR- The term `first payment year' means, with respect to covered professional services furnished by an eligible professional, the first year for which an incentive payment is made for such services under this subsection. The terms `second payment year', `third payment year', `fourth payment year', and `fifth payment year' mean, with respect to covered professional services furnished by such eligible professional, each successive year immediately following the first payment year for such professional.

`(2) MEANINGFUL EHR USER-

`(A) IN GENERAL- For purposes of paragraph (1), an eligible professional shall be treated as a meaningful EHR user for a reporting period for a payment year (or, for purposes of subsection (a)(7), for a reporting period under such subsection for a year) if each of the following requirements is met:

`(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY- The eligible professional demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the professional is using certified EHR technology in a meaningful manner, which shall include the use of electronic prescribing as determined to be appropriate by the Secretary.

`(ii) INFORMATION EXCHANGE- The eligible professional demonstrates to

the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

`(iii) REPORTING ON MEASURES USING EHR- Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible professional submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary may provide for the use of alternative means for meeting the requirements of clauses (i), (ii), and (iii) in the case of an eligible professional furnishing covered professional services in a group practice (as defined by the Secretary). The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

`(B) REPORTING ON MEASURES-

`(i) SELECTION- The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

`(I) The Secretary shall provide preference to clinical quality measures that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

`(II) Prior to any measure being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

`(ii) LIMITATION- The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

`(iii) COORDINATION OF REPORTING OF INFORMATION- In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting otherwise required, including reporting under subsection (k)(2)(C).

`(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE-

`(i) IN GENERAL- A professional may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include--

`(I) an attestation;

`(II) the submission of claims with appropriate coding (such as a code indicating that a patient encounter was documented using certified EHR technology);

`(III) a survey response;

`(IV) reporting under subparagraph (A)(iii); and

`(V) other means specified by the Secretary.

`(ii) USE OF PART D DATA- Notwithstanding sections 1860D-15(d)(2)(B) and 1860D-15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D-15 that are necessary for purposes of subparagraph (A).

`(3) APPLICATION-

`(A) PHYSICIAN REPORTING SYSTEM RULES- Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this subsection in the same manner as they apply for purposes of such subsection.

`(B) COORDINATION WITH OTHER PAYMENTS- The provisions of this subsection shall not be taken into account in applying the provisions of subsection (m) of this section and of section 1833(m) and any payment under such provisions shall not be taken into account in computing allowable charges under this subsection.

`(C) LIMITATIONS ON REVIEW- There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the determination of any incentive payment under this subsection and the payment adjustment under subsection (a)(7), including the determination of a meaningful EHR user under paragraph (2), a limitation under paragraph (1)(B), and the exception under subsection (a)(7)(B).

`(D) POSTING ON WEBSITE- The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names, business addresses, and business phone numbers of the eligible professionals who are meaningful EHR users and, as determined appropriate by the Secretary, of group practices receiving incentive payments under paragraph (1).

`(4) CERTIFIED EHR TECHNOLOGY DEFINED- For purposes of this section, the term `certified EHR technology' means a qualified electronic health record (as defined in 3000(13) of the Public Health Service Act) that is certified pursuant to section 3001(c)(5) of such Act as meeting standards adopted under section 3004 of such Act that are applicable to the type of record involved (as determined by the Secretary, such as an ambulatory electronic health record for office-based physicians or an inpatient hospital electronic health record for hospitals).

`(5) DEFINITIONS- For purposes of this subsection:

`(A) COVERED PROFESSIONAL SERVICES- The term `covered professional services' has the meaning given such term in subsection (k)(3).

`(B) ELIGIBLE PROFESSIONAL- The term `eligible professional' means a physician, as defined in section 1861(r).

`(C) REPORTING PERIOD- The term `reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.'.

(b) Incentive Payment Adjustment- Section 1848(a) of the Social Security Act (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

`(7) INCENTIVES FOR MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY-

`(A) ADJUSTMENT-

`(i) IN GENERAL- Subject to subparagraphs (B) and (D), with respect to

covered professional services furnished by an eligible professional during 2016 or any subsequent payment year, if the eligible professional is not a meaningful EHR user (as determined under subsection (o)(2)) for a reporting period for the year, the fee schedule amount for such services furnished by such professional during the year (including the fee schedule amount for purposes of determining a payment based on such amount) shall be equal to the applicable percent of the fee schedule amount that would otherwise apply to such services under this subsection (determined after application of paragraph (3) but without regard to this paragraph).

`(ii) APPLICABLE PERCENT- Subject to clause (iii), for purposes of clause (i), the term `applicable percent' means--

`(I) for 2016, 99 percent;

`(II) for 2017, 98 percent; and

`(III) for 2018 and each subsequent year, 97 percent.

`(iii) AUTHORITY TO DECREASE APPLICABLE PERCENTAGE FOR 2019 AND SUBSEQUENT YEARS- For 2019 and each subsequent year, if the Secretary finds that the proportion of eligible professionals who are meaningful EHR users (as determined under subsection (o)(2)) is less than 75 percent, the applicable percent shall be decreased by 1 percentage point from the applicable percent in the preceding year, but in no case shall the applicable percent be less than 95 percent.

`(B) SIGNIFICANT HARDSHIP EXCEPTION- The Secretary may, on a case-by-case basis, exempt an eligible professional from the application of the payment adjustment under subparagraph (A) if the Secretary determines, subject to annual renewal, that compliance with the requirement for being a meaningful EHR user would result in a significant hardship, such as in the case of an eligible professional who practices in a rural area without sufficient Internet access. In no case may an eligible professional be granted an exemption under this subparagraph for more than 5 years.

`(C) APPLICATION OF PHYSICIAN REPORTING SYSTEM RULES- Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this paragraph in the same manner as they apply for purposes of such subsection.

`(D) NON-APPLICATION TO HOSPITAL-BASED ELIGIBLE PROFESSIONALS- No payment adjustment may be made under subparagraph (A) in the case of hospital-based eligible professionals (as defined in subsection (o)(1)(C)(ii)).

`(E) DEFINITIONS- For purposes of this paragraph:

`(i) COVERED PROFESSIONAL SERVICES- The term `covered professional services' has the meaning given such term in subsection (k)(3).

`(ii) ELIGIBLE PROFESSIONAL- The term `eligible professional' means a physician, as defined in section 1861(r).

`(iii) REPORTING PERIOD- The term `reporting period' means, with respect to a year, a period specified by the Secretary.'.

(c) Application to Certain HMO-Affiliated Eligible Professionals- Section 1853 of the Social Security Act (42 U.S.C. 1395w-23) is amended by adding at the end the following new subsection:

`(l) Application of Eligible Professional Incentives for Certain MA Organizations for Adoption

and Meaningful Use of Certified EHR Technology-

`(1) IN GENERAL- Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1848(o) and 1848(a)(7) shall apply with respect to eligible professionals described in paragraph (2) of the organization who the organization attests under paragraph (6) to be meaningful EHR users in a similar manner as they apply to eligible professionals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

`(2) ELIGIBLE PROFESSIONAL DESCRIBED- With respect to a qualifying MA organization, an eligible professional described in this paragraph is an eligible professional (as defined for purposes of section 1848(o)) who--

`(A)(i) is employed by the organization; or

`(ii)(I) is employed by, or is a partner of, an entity that through contract with the organization furnishes at least 80 percent of the entity's patient care services to enrollees of such organization; and

`(II) furnishes at least 80 percent of the professional services of the eligible professional to enrollees of the organization; and

`(B) furnishes, on average, at least 20 hours per week of patient care services.

`(3) ELIGIBLE PROFESSIONAL INCENTIVE PAYMENTS-

`(A) IN GENERAL- In applying section 1848(o) under paragraph (1), instead of the additional payment amount under section 1848(o)(1)(A) and subject to subparagraph (B), the Secretary may substitute an amount determined by the Secretary to the extent feasible and practical to be similar to the estimated amount in the aggregate that would be payable if payment for services furnished by such professionals was payable under part B instead of this part.

`(B) AVOIDING DUPLICATION OF PAYMENTS-

`(i) IN GENERAL- If an eligible professional described in paragraph (2) is eligible for the maximum incentive payment under section 1848(o)(1)(A) for the same payment period, the payment incentive shall be made only under such section and not under this subsection.

`(ii) METHODS- In the case of an eligible professional described in paragraph (2) who is eligible for an incentive payment under section 1848(o)(1)(A) but is not described in clause (i) for the same payment period, the Secretary shall develop a process--

`(I) to ensure that duplicate payments are not made with respect to an eligible professional both under this subsection and under section 1848(o)(1)(A); and

`(II) to collect data from Medicare Advantage organizations to ensure against such duplicate payments.

`(C) FIXED SCHEDULE FOR APPLICATION OF LIMITATION ON INCENTIVE PAYMENTS FOR ALL ELIGIBLE PROFESSIONALS- In applying section 1848(o)(1)(B)(ii) under subparagraph (A), in accordance with rules specified by the Secretary, a qualifying MA organization shall specify a year (not earlier than 2011) that shall be treated as the first payment year for all eligible professionals with respect to such organization.

`(4) PAYMENT ADJUSTMENT-

`(A) IN GENERAL- In applying section 1848(a)(7) under paragraph (1), instead of the payment adjustment being an applicable percent of the fee schedule amount for a year under such section, subject to subparagraph (D), the payment adjustment under paragraph (1) shall be equal to the percent specified in subparagraph (B) for such year of the payment amount otherwise provided under this section for such year.

`(B) SPECIFIED PERCENT- The percent specified under this subparagraph for a year is 100 percent minus a number of percentage points equal to the product of--

`(i) the number of percentage points by which the applicable percent (under section 1848(a)(7)(A)(ii)) for the year is less than 100 percent; and

`(ii) the Medicare physician expenditure proportion specified in subparagraph (C) for the year.

`(C) MEDICARE PHYSICIAN EXPENDITURE PROPORTION- The Medicare physician expenditure proportion under this subparagraph for a year is the Secretary's estimate of the proportion, of the expenditures under parts A and B that are not attributable to this part, that are attributable to expenditures for physicians' services.

`(D) APPLICATION OF PAYMENT ADJUSTMENT- In the case that a qualifying MA organization attests that not all eligible professionals are meaningful EHR users with respect to a year, the Secretary shall apply the payment adjustment under this paragraph based on the proportion of such eligible professionals that are not meaningful EHR users for such year.

`(5) QUALIFYING MA ORGANIZATION DEFINED- In this subsection and subsection (m), the term `qualifying MA organization' means a Medicare Advantage organization that is organized as a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act).

`(6) MEANINGFUL EHR USER ATTESTATION- For purposes of this subsection and subsection (m), a qualifying MA organization shall submit an attestation, in a form and manner specified by the Secretary which may include the submission of such attestation as part of submission of the initial bid under section 1854(a)(1)(A)(iv), identifying--

`(A) whether each eligible professional described in paragraph (2), with respect to such organization is a meaningful EHR user (as defined in section 1848(o)(2)) for a year specified by the Secretary; and

`(B) whether each eligible hospital described in subsection (m)(1), with respect to such organization, is a meaningful EHR user (as defined in section 1886(n)(3)) for an applicable period specified by the Secretary.'.

(d) Conforming Amendments- Section 1853 of the Social Security Act (42 U.S.C. 1395w-23) is amended--

(1) in subsection (a)(1)(A), by striking `and (i)' and inserting `(i), and (l)';

(2) in subsection (c)--

(A) in paragraph (1)(D)(i), by striking `section 1886(h)' and inserting `sections 1848(o) and 1886(h)'; and

(B) in paragraph (6)(A), by inserting after `under part B,' the following: `excluding expenditures attributable to subsections (a)(7) and (o) of section 1848,'; and

(3) in subsection (f), by inserting `and for payments under subsection (l)' after `with the organization'.

(e) Conforming Amendments to e-Prescribing-

(1) Section 1848(a)(5)(A) of the Social Security Act (42 U.S.C. 1395w-4(a)(5)(A)) is amended--

(A) in clause (i), by striking `or any subsequent year' and inserting `, 2013, 2014, or 2015'; and

(B) in clause (ii), by striking `and each subsequent year' and inserting `and 2015'.

(2) Section 1848(m)(2) of such Act (42 U.S.C. 1395w-4(m)(2)) is amended--

(A) in subparagraph (A), by striking `For 2009' and inserting `Subject to subparagraph (D), for 2009'; and

(B) by adding at the end the following new subparagraph:

`(D) LIMITATION WITH RESPECT TO EHR INCENTIVE PAYMENTS- The provisions of this paragraph shall not apply to an eligible professional (or, in the case of a group practice under paragraph (3)(C), to the group practice) if, for the reporting period the eligible professional (or group practice) receives an incentive payment under subsection (o)(1)(A) with respect to a certified EHR technology (as defined in subsection (o)(4)) that has the capability of electronic prescribing.'.

SEC. 4312. INCENTIVES FOR HOSPITALS.

(a) Incentive Payment- Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

`(n) Incentives for Adoption and Meaningful Use of Certified EHR Technology-

`(1) IN GENERAL- Subject to the succeeding provisions of this subsection, with respect to inpatient hospital services furnished by an eligible hospital during a payment year (as defined in paragraph (2)(G)), if the eligible hospital is a meaningful EHR user (as determined under paragraph (3)) for the reporting period with respect to such year, in addition to the amount otherwise paid under this section, there also shall be paid to the eligible hospital, from the Federal Hospital Insurance Trust Fund established under section 1817, an amount equal to the applicable amount specified in paragraph (2)(A) for the hospital for such payment year.

`(2) PAYMENT AMOUNT-

`(A) IN GENERAL- Subject to the succeeding subparagraphs of this paragraph, the applicable amount specified in this subparagraph for an eligible hospital for a payment year is equal to the product of the following:

`(i) INITIAL AMOUNT- The sum of--

`(I) the base amount specified in subparagraph (B); plus

`(II) the discharge related amount specified in subparagraph (C) for

a 12-month period selected by the Secretary with respect to such payment year.

`(ii) MEDICARE SHARE- The Medicare share as specified in subparagraph (D) for the hospital for a period selected by the Secretary with respect to such payment year.

`(iii) TRANSITION FACTOR- The transition factor specified in subparagraph (E) for the hospital for the payment year.

`(B) BASE AMOUNT- The base amount specified in this subparagraph is $2,000,000.

`(C) DISCHARGE RELATED AMOUNT- The discharge related amount specified in this subparagraph for a 12-month period selected by the Secretary shall be determined as the sum of the amount, based upon total discharges (regardless of any source of payment) for the period, for each discharge up to the 23,000th discharge as follows:

`(i) For the 1,150th through the 23,000th discharge, $200.

`(ii) For any discharge greater than the 23,000th, $0.

`(D) MEDICARE SHARE- The Medicare share specified under this subparagraph for a hospital for a period selected by the Secretary for a payment year is equal to the fraction--

`(i) the numerator of which is the sum (for such period and with respect to the hospital) of--

`(I) the number of inpatient-bed-days (as established by the Secretary) which are attributable to individuals with respect to whom payment may be made under part A; and

`(II) the number of inpatient-bed-days (as so established) which are attributable to individuals who are enrolled with a Medicare Advantage organization under part C; and

`(ii) the denominator of which is the product of--

`(I) the total number of inpatient-bed-days with respect to the hospital during such period; and

`(II) the total amount of the hospital's charges during such period, not including any charges that are attributable to charity care (as such term is used for purposes of hospital cost reporting under this title), divided by the total amount of the hospital's charges during such period.

Insofar as the Secretary determines that data are not available on charity care necessary to calculate the portion of the formula specified in clause (ii)(II), the Secretary shall use data on uncompensated care and may adjust such data so as to be an appropriate proxy for charity care including a downward adjustment to eliminate bad debt data from uncompensated care data. In the absence of the data necessary, with respect to a hospital, for the Secretary to compute the amount described in clause (ii)(II), the amount under such clause shall be deemed to be 1. In the absence of data, with respect to a hospital, necessary to compute the amount described in clause (i)(II), the amount under such clause shall be deemed to be 0.

`(E) TRANSITION FACTOR SPECIFIED-

`(i) IN GENERAL- Subject to clause (ii), the transition factor specified in this subparagraph for an eligible hospital for a payment year is as follows:

`(I) For the first payment year for such hospital, 1.

`(II) For the second payment year for such hospital, 3/4 .

`(III) For the third payment year for such hospital, 1/2 .

`(IV) For the fourth payment year for such hospital, 1/4 .

`(V) For any succeeding payment year for such hospital, 0.

`(ii) PHASE DOWN FOR ELIGIBLE HOSPITALS FIRST ADOPTING EHR AFTER 2013- If the first payment year for an eligible hospital is after 2013, then the transition factor specified in this subparagraph for a payment year for such hospital is the same as the amount specified in clause (i) for such payment year for an eligible hospital for which the first payment year is 2013. If the first payment year for an eligible hospital is after 2015 then the transition factor specified in this subparagraph for such hospital and for such year and any subsequent year shall be 0.

`(F) FORM OF PAYMENT- The payment under this subsection for a payment year may be in the form of a single consolidated payment or in the form of such periodic installments as the Secretary may specify.

`(G) PAYMENT YEAR DEFINED-

`(i) IN GENERAL- For purposes of this subsection, the term `payment year' means a fiscal year beginning with fiscal year 2011.

`(ii) FIRST, SECOND, ETC. PAYMENT YEAR- The term `first payment year' means, with respect to inpatient hospital services furnished by an eligible hospital, the first fiscal year for which an incentive payment is made for such services under this subsection. The terms `second payment year', `third payment year', and `fourth payment year' mean, with respect to an eligible hospital, each successive year immediately following the first payment year for that hospital.

`(3) MEANINGFUL EHR USER-

`(A) IN GENERAL- For purposes of paragraph (1), an eligible hospital shall be treated as a meaningful EHR user for a reporting period for a payment year (or, for purposes of subsection (b)(3)(B)(ix), for a reporting period under such subsection for a fiscal year) if each of the following requirements are met:

`(i) MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY- The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period the hospital is using certified EHR technology in a meaningful manner.

`(ii) INFORMATION EXCHANGE- The eligible hospital demonstrates to the satisfaction of the Secretary, in accordance with subparagraph (C)(i), that during such period such certified EHR technology is connected in a manner that provides, in accordance with law and standards applicable to the exchange of information, for the electronic exchange of health information to improve the quality of health care, such as promoting care coordination.

`(iii) REPORTING ON MEASURES USING EHR- Subject to subparagraph (B)(ii) and using such certified EHR technology, the eligible hospital submits information for such period, in a form and manner specified by the Secretary, on such clinical quality measures and such other measures as selected by the Secretary under subparagraph (B)(i).

The Secretary shall seek to improve the use of electronic health records and health care quality over time by requiring more stringent measures of meaningful use selected under this paragraph.

`(B) REPORTING ON MEASURES-

`(i) SELECTION- The Secretary shall select measures for purposes of subparagraph (A)(iii) but only consistent with the following:

`(I) The Secretary shall provide preference to clinical quality measures that have been selected for purposes of applying subsection (b)(3)(B)(viii) or that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

`(II) Prior to any measure (other than a clinical quality measure that has been selected for purposes of applying subsection (b)(3)(B)(viii)) being selected under this subparagraph, the Secretary shall publish in the Federal Register such measure and provide for a period of public comment on such measure.

`(ii) LIMITATIONS- The Secretary may not require the electronic reporting of information on clinical quality measures under subparagraph (A)(iii) unless the Secretary has the capacity to accept the information electronically, which may be on a pilot basis.

`(iii) COORDINATION OF REPORTING OF INFORMATION- In selecting such measures, and in establishing the form and manner for reporting measures under subparagraph (A)(iii), the Secretary shall seek to avoid redundant or duplicative reporting with reporting otherwise required, including reporting under subsection (b)(3)(B)(viii).

`(C) DEMONSTRATION OF MEANINGFUL USE OF CERTIFIED EHR TECHNOLOGY AND INFORMATION EXCHANGE-

`(i) IN GENERAL- A hospital may satisfy the demonstration requirement of clauses (i) and (ii) of subparagraph (A) through means specified by the Secretary, which may include--

`(I) an attestation;

`(II) the submission of claims with appropriate coding (such as a code indicating that inpatient care was documented using certified EHR technology);

`(III) a survey response;

`(IV) reporting under subparagraph (A)(iii); and

`(V) other means specified by the Secretary.

`(ii) USE OF PART D DATA- Notwithstanding sections 1860D-15(d)(2)(B) and 1860D-15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D-15 that are necessary for purposes of subparagraph (A).

`(4) APPLICATION-

`(A) LIMITATIONS ON REVIEW- There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the determination of any incentive payment under this subsection and the payment adjustment under subsection (b)(3)(B)(ix), including the determination of a meaningful EHR user under paragraph (3), determination of measures applicable to services furnished by eligible hospitals under this subsection, and the exception under subsection (b)(3)(B)(ix)(II).

`(B) POSTING ON WEBSITE- The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names of the eligible hospitals that are meaningful EHR users under this subsection or subsection (b)(3)(B)(ix) and other relevant data as determined appropriate by the Secretary. The Secretary shall ensure that a hospital has the opportunity to review the other relevant data that are to be made public with respect to the hospital prior to such data being made public.

`(5) CERTIFIED EHR TECHNOLOGY DEFINED- The term `certified EHR technology' has the meaning given such term in section 1848(o)(4).

`(6) DEFINITIONS- For purposes of this subsection:

`(A) ELIGIBLE HOSPITAL- The term `eligible hospital' means a subsection (d) hospital.

`(B) REPORTING PERIOD- The term `reporting period' means any period (or periods), with respect to a payment year, as specified by the Secretary.'.

(b) Incentive Market Basket Adjustment- Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended--

(1) in clause (viii)(I), by inserting `(or, beginning with fiscal year 2016, by one-quarter)' after `2.0 percentage points'; and

(2) by adding at the end the following new clause:

`(ix)(I) For purposes of clause (i) for fiscal year 2016 and each subsequent fiscal year, in the case of an eligible hospital (as defined in subsection (n)(6)(A)) that is not a meaningful EHR user (as defined in subsection (n)(3)) for the reporting period for such fiscal year, three-quarters of the applicable percentage increase otherwise applicable under clause (i) for such fiscal year shall be reduced by 33 1/3 percent for fiscal year 2016, 66 2/3 percent for fiscal year 2017, and 100 percent for fiscal year 2018 and each subsequent fiscal year. Such reduction shall apply only with respect to the fiscal year involved and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i) for a subsequent fiscal year.

`(II) The Secretary may, on a case-by-case basis, exempt a subsection (d) hospital from the application of subclause (I) with respect to a fiscal year if the Secretary determines, subject to annual renewal, that requiring such hospital to be a meaningful EHR user during such fiscal year would result in a significant hardship, such as in the case of a hospital in a rural area without sufficient Internet access. In no case may a hospital be granted an exemption under this subclause for more than 5 years.

`(III) For fiscal year 2016 and each subsequent fiscal year, a State in which hospitals are paid for services under section 1814(b)(3) shall adjust the payments to each subsection (d) hospital in the State that is not a meaningful EHR user (as defined in subsection (n)(3)) in a manner that is designed to result in an aggregate reduction in payments to hospitals in the State that is equivalent to the aggregate reduction that would have occurred if

payments had been reduced to each subsection (d) hospital in the State in a manner comparable to the reduction under the previous provisions of this clause. The State shall report to the Secretary the methodology it will use to make the payment adjustment under the previous sentence.

`(IV) For purposes of this clause, the term `reporting period' means, with respect to a fiscal year, any period (or periods), with respect to the fiscal year, as specified by the Secretary.'.

(c) Application to Certain HMO-Affiliated Eligible Hospitals- Section 1853 of the Social Security Act (42 U.S.C. 1395w-23), as amended by section 4311(c), is further amended by adding at the end the following new subsection:

`(m) Application of Eligible Hospital Incentives for Certain MA Organizations for Adoption and Meaningful Use of Certified EHR Technology-

`(1) APPLICATION- Subject to paragraphs (3) and (4), in the case of a qualifying MA organization, the provisions of sections 1886(n) and 1886(b)(3)(B)(ix) shall apply with respect to eligible hospitals described in paragraph (2) of the organization which the organization attests under subsection (l)(6) to be meaningful EHR users in a similar manner as they apply to eligible hospitals under such sections. Incentive payments under paragraph (3) shall be made to and payment adjustments under paragraph (4) shall apply to such qualifying organizations.

`(2) ELIGIBLE HOSPITAL DESCRIBED- With respect to a qualifying MA organization, an eligible hospital described in this paragraph is an eligible hospital that is under common corporate governance with such organization and serves individuals enrolled under an MA plan offered by such organization.

`(3) ELIGIBLE HOSPITAL INCENTIVE PAYMENTS-

`(A) IN GENERAL- In applying section 1886(n)(2) under paragraph (1), instead of the additional payment