



December 7, 2018

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National Committee on Vital and Health Statistics

RE: Predictability Roadmap

The National Uniform Claim Committee (NUCC) is pleased to submit the following comments on the National Committee on Vital and Health Statistics (NVCHS) Predictability Roadmap.

The NUCC is a Data Content Committee that was named in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Committee is a diverse group of health care industry stakeholders representing providers, health plans, designated standards maintenance organizations, public health organizations, and vendors. Our goal is to promote the development of a uniform claim “form” for use by the professional health care community to transmit related claim and encounter information to and from all third-party payers. As such, we provide a broad perspective on professional data reporting and claims processing needs impacting the industry.

The NUCC, as a Data Content Committee, member of the Designated Standards Maintenance Organization (DSMO), and a named advisor to the Secretary of Health and Human Services (HHS) for the adoption of new and modified standards, is deeply committed to the work of administrative simplification. Our member organizations see first-hand the burdens that come from manual and outdated processes. We recognize that the health care industry has made significant progress since the passage of HIPAA 22 years ago to standardize and automate administrative transactions, resulting in improved efficiencies and reduced costs. We also see a continued need to improve the standards and operating rules development, adoption, and implementation processes and are, thus, pleased with the efforts by NCVHS to address this work through its Predictability Roadmap.

## **RECOMMENDATIONS**

### **Education, Outreach, and Enforcement**

The NUCC appreciates the work that has been done by the Centers for Medicare & Medicaid Services (CMS) to date to educate the industry on compliance with the standards and operating rules and manage the complaint-driven process. The Administrative Simplification Enforcement and Testing Tool (ASETT) is a helpful resource for the industry to test their compliance and file complaints. While the

existing information and tools are good, we agree with the recommendations for HHS to increase transparency of the complaint process, comply with current regulations for handling complaints of noncompliance, and provide guidance on the appropriate use of the standards and operating rules<sup>1</sup>. We also agree that the division within HHS responsible for education, compliance, and regulatory processes must be properly funded and resourced to conduct this work to its fullest extent<sup>2</sup>.

There continues to be anecdotal stories about organizations not being fully compliant with the standards and operating rules and concerns about filing complaints. More transparency of what complaints have been filed may encourage others to file complaints on issues they are experiencing. More transparency with complaints may also encourage noncompliant organizations to become compliant.

Providing additional information about the complaints that have been filed would also benefit the industry. Currently, the CMS website lists only the number of complaints that are open and closed in the two categories of transactions and code sets and operating rules. A brief summary of each complaint should be posted to the website and include information such as the standards and operating rules involved, specifics of what was noncompliant, impact of the noncompliance on trading partners, date the complaint was filed, date the complaint was closed, and any penalty incurred. This additional information will allow the industry to better understand the issues of noncompliance as a whole by analyzing if certain standards and operating rules have more issues, whether ongoing issues have been previously addressed, and the impacts of noncompliance. The complaints received can also be used to better educate the industry on the importance of correct usage of the standards and operating rules.

The goal of the standards and operating rules is to standardize the information that is sent and received between organizations, which provides an efficient and cost-effective system for the exchange of information. Noncompliance of the standards and operating rules adds burden and costs to the system. Having an effective enforcement program benefits the industry, as there is accountability and lack of tolerance for noncompliance. Implementers will be less likely to be noncompliant if they know they are being closely monitored and there are consequences to their noncompliance.

### **Future of the DSMO**

The NUCC believes that the DSMO is fulfilling its current scope of work, which is to review requests submitted by the industry for consideration for a standard transaction and review requests to adopt a new or updated standard. During the early days of the DSMO, the general industry had less knowledge about the standards development organizations (SDOs) and how to submit change requests and the DSMO served as a point of entry for this work. Now that the industry is much more aware of the standards development and change request processes, there is less of a need to submit change requests

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<sup>1</sup> Recommendations 1, 2, and 7

<sup>2</sup> Recommendation 9

to the DSMO. For several years, the DSMO has received few initial change requests. The DSMO does, however, continue to receive requests to adopt new and updated standards.

It is unclear what is envisioned to be the scope of work for the replacement entity, if the DSMO is disbanded<sup>3</sup>. An analysis should first be done to identify the current responsibilities of the DSMO and what needs are unmet by it. This analysis will then determine whether the DSMO should be replaced, what work a new entity would be doing, and what entities would be most appropriate to participate in the new entity. A transition plan would need to be put in place to move from the DSMO to the new entity, if there is agreement to disband the DSMO. The DSMO should not be disbanded before the new entity is established and the transition has occurred. Additionally, appropriate rulemaking will need to be completed to establish the role of the new entity, since the DSMO was recognized in previous regulation<sup>4</sup>.

Recommendation #4 states the new entity should have oversight and governance over the standards development processes. Further examination of this proposal is needed in order to understand what authority it would have for governance and oversight versus the SDO's current governance as ANSI accredited organizations. There may be unintended consequences of conflicting requirements for the SDOs from ANSI and the new entity.

If the intent of the recommendation to disband the DSMO is to eliminate this step in the standards adoption process, then adding a new entity will not achieve the efficiency. While the NUCC does not believe the current DSMO process is a burdensome or time-consuming in the overall standards adoption process, we recognize that it is an additional step. Without the DSMO or another entity, requests to adopt new or updated versions of standards could be made directly to NCVHS by the SDO. The NUCC would still be consulted by HHS about the adoption of the standards, per the statutory requirement. NCVHS could also solicit our input, as they typically do for the adoption of new or updated standards.

### **Standards Development and Adoption Cycles**

The NUCC agrees with the recommendations for a more predictable schedule for the development and publication of standards and operating rules, publication of regulations to adopt new or updated standards and operating rules, and adoption of incremental updates to standards and operating rules, as permitted in §1774 of the Act<sup>5</sup>. Having predictability with the development and adoption processes will give the industry assurance that incremental updates will be implemented.

A consequence of adopting updated standards on a more frequent basis is the significant direct and indirect costs to all organizations for implementation, which includes system changes, testing, training, purchasing implementation guides, resolving issues, and loss of productivity. The costs of implementing

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<sup>3</sup> Recommendations 3 and 4

<sup>4</sup> Recommendation 5

<sup>5</sup> Recommendations 6, 8, and 10

updated standards and operating rules will need to be weighed against the anticipated benefits. Any cost-benefit analysis or financial impact assessment done must reflect the true costs on the implementers.

A potential unintended consequence of increasing the development cycle for standards and operating rules is the burden it could put on the volunteers who are primarily responsible for the work and usually have full-time jobs in addition to their work with the SDOs. Increasing the development cycle may overtax the current limited pool of volunteers. The industry will need to look at how it can speed up the work when the volunteer resources are limited.

### **Standards Innovation**

The NUCC is unclear of the intent to allow innovation above the baseline of standards and operating rules<sup>6</sup>. If the problem that is trying to be solved is the need for faster innovation, then the industry should focus on speeding up the standards and operating rules development and adoption processes.

If the intent is to require the adoption of the standard and then allow trading partners to vary the data content that is sent and received, this will have unintended consequences. It will eliminate the standardization of the data content, because different organizations could request different variations of data content, which would require the users to support multiple variations. It is the standardization of data content that increases efficiency and decreases costs of the administrative functions and this will be lost.

We also have questions about the recommendation to enable voluntary use of new or updated standards and operating rules prior to their adoption<sup>7</sup>. Allowing the use of updated standards and operating rules prior to their adoption would result in organizations using different versions and it is unclear if this is functionally possible. An unintended consequence would be that organizations would have to support multiple versions and manage which version to send to which organization, which would be in contrast to administrative simplification.

If the intent is to more easily allow the implementation of new, nonmandated standards and operating rules, then there may be benefits to this. Early adopters have been helpful for the industry, because they provide real-world experience and information on the costs and benefits of implementation. This allowance could support the need to adopt the standards or operating rules for wider spread use.

We request that NCVHS provide specific examples to demonstrate scenarios involving innovations above the baseline and voluntary use of new and updated standards and operating rules.

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<sup>6</sup> Recommendation 11

<sup>7</sup> Recommendation 12

## **CALLS TO ACTION**

### **Education and Collaboration<sup>8</sup>**

The NUCC recommends that providers be included in the work to identify best practices for mitigating barriers to the effective use of the transactions and prioritizing use cases. We also suggest that industry groups currently doing this work, such as the Workgroup for Electronic Data Interchange (WEDI), be included. We believe this work will ensure that the standards and operating rules development is focused on the most pressing needs of the industry.

### **Increase Industry Participation<sup>9</sup>**

The NUCC agrees that the membership and diversity of membership in the SDOs needs to be increased. The success of the standards and operating rules is dependent on fully understanding the industry's needs. As noted above, the standards and operating rules development work is done primarily by volunteers and the long-term success is dependent on having more organizations involved.

### **Certification and Governance<sup>10</sup>**

The NUCC is unclear of the intent of the call for certification/validation tools and how these will differ from current tools. We understand that certification/validation tools provide a sense of security that organizations are using the standards and operating rules in a compliant manner, but they also come at a cost to the users. It is also unclear what is intended by a coordinated governance process. We recommend that NCVHS provides additional information on these calls to action.

### **Costs and Benefits<sup>11</sup>**

The NUCC agrees with the need to study the costs and benefits of the standards and operating rules and recommends this be given a higher priority. We recommend a cost-benefit analysis be done as soon as possible for the current standards and operating rules before the industry moves forward with adopting more standards and operating rules. We also recommend that these analyses be done on a periodic basis going forward to maintain an understanding of the costs and benefits on the industry.

### **Universal Dictionary<sup>12</sup>**

The NUCC agrees with continuing the Interoperability Standards Advisory and believes it will benefit the industry to work within a common set of standards.

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<sup>8</sup> Calls to Action A and B

<sup>9</sup> Calls to Action E and F

<sup>10</sup> Calls to Action C and G

<sup>11</sup> Call to Action D

<sup>12</sup> Call to Action H

## **MEASUREMENTS**

The NUCC believes it is too soon to identify specific measurements. While we agree with the need for measurements, the specific changes need to be determined before the appropriate measures can be identified.

We agree that NCVHS should conduct ongoing monitoring of the changes implemented per the Predictability Roadmap to assess if the identified problems have been addressed, if predictability of the standards and operating rules development and adoption processes has improved, and that no unintended consequences have occurred.

## **CONCLUSION**

The NUCC commends NCVHS for its thorough and diligent work that led to the recommendations, calls to action, and measurements to improve the predictability of standards and operating rules development and adoption processes. This is important work for the industry to undertake and well-timed as the industry will be considering new and updated standards and operating rules over the next few years.

The NUCC is available and willing to assist in this work as needed. If you have any questions, please contact Nancy Spector, NUCC Chair, at (862) 261-9622 or [nancy.spector@ama-assn.org](mailto:nancy.spector@ama-assn.org)

Sincerely,

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