

**Office of the National Coordinator for Health Information Technology
Certification and Adoption Workgroup of the Health IT Policy Committee
ONC EHR Certification for Behavioral Health Virtual Hearing
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Testimony of Roger D. Smith, Senior Attorney

Good morning. Thank you for inviting us to participate in this panel.

The American Association for Marriage and Family Therapy (AAMFT) is the national professional association that represents the interests of licensed marriage and family therapists (MFTs) in the United States. MFTs are licensed in all 50 states. MFTs conduct individual psychotherapy, as well as family and group psychotherapy. According to a recent SAMHSA report, there are 62,000 marriage and family therapists practicing in the United States.

AAMFT supports the goal of ensuring that MFTs and other behavioral health providers can fully participate in the adoption and effective use of health IT. We believe that health IT certification for behavioral health could improve care. We also see the value to behavioral health providers in a voluntary certification program.

As discussed by other panelists and commentators, there are some issues that will need to be addressed. As you know, most behavioral health providers are ineligible for incentive payments under the HITECH Act. The lack of incentive payments is the most significant barrier to the adoption and meaningful use of health IT by most behavioral health providers. Many behavioral health providers operate as solo practitioners or in a small group practice setting. Without financial assistance, these providers do not have the money for pay for such a large financial investment. Unfortunately, the lack of incentive funding in the Act could even call into question whether Congress truly believes that encouraging the behavioral health community to adopt and use certified EHR technologies is a national priority.

The privacy and security of behavioral health information is another major issue. Other commentators and staff have done a good job in addressing this topic. I just wanted to briefly discuss one potential issue that relates to family and group therapy. In family or group therapy, the “client” can include more than one person. For example, if a therapist is treating two individuals and both individuals are the therapist’s client, the therapist owes a duty of confidentiality to both parties. Since there is only one client in this situation, there is normally only one client record. If two or more clients are on one record, there are issues with transferring protected health information to other providers without the consent of all parties. Although MFTs have specific training in family therapy, this issue impacts the behavioral health field as a whole because many other licensed behavioral health providers also provide family and group therapy.

In terms of any considerations for structure of a voluntary certification program for behavioral health, without more information, AAMFT does not have a strong preference at this time on whether the structure of a voluntary certification program for behavioral health should be modular or focused on core needs. We would note that behavioral health providers all are required to comply with the same federal confidentiality laws and share core functionality. Instead of distinctions between the professions, perhaps the structure should have distinctions between solo and other small providers versus larger providers, or a distinction based upon client volume.

I would like to thank you again for providing AAMFT with the opportunity to participate in this panel discussion. We appreciate it.