

For: LeClairRyan, Richmond, Va.  
From: Parness & Associates, Aberdeen, N.J.

FOR IMMEDIATE RELEASE

**THE TIME IS RIGHT FOR DOCTORS TO 'GO DIGITAL'**

*-Amid push for e-records, sticking with paper is no longer tenable, LeClairRyan EMR attorneys advise*

RICHMOND, Va. (3/3/2010) – The prospect of the U.S. healthcare system moving from paper to electronic medical records (EMR) has given rise to a host of thorny questions on matters of privacy, security, logistics and more. But according to EMR attorneys at the national law firm of LeClairRyan, the time to start making the switch is now—in part because the federal government will soon finalize important new guidelines on what healthcare providers need to do in order to “go digital.”

Already, some \$35 billion in EMR incentives are available through the federal Centers for Medicare & Medicaid Services (CMS). However, healthcare providers—who are required by law to make “meaningful use” of EMR in order to receive \$44,000 EMR-implementation grants—have been waiting for the government to clarify the meaning of this term before investing in new systems, noted senior counsel Patrick J. Hurd, a veteran medical industry attorney based in LeClairRyan’s Norfolk, Va., office.

“Healthcare providers need not sit on the sidelines any longer,” said Hurd, who is the leader of the firm’s Healthcare Industry Team. “The government published its preliminary EMR guidelines in the Federal Register on Dec. 28, its meaningful use regulations January 13, 2010, and it is now in the process of finalizing them. Although new requirements might be added, the benchmarks are unlikely to change dramatically. Much of the uncertainty about EMR-implementation has been removed.”

Medical practices, hospitals and other healthcare providers also should be cognizant of the manifold other reasons to act now on EMR, added Stanley U. North, a Newark-based partner in LeClairRyan and frequent speaker on EMR-related issues. “For example, the legislation that created the current EMR incentives program temporarily relaxed certain regulations that can make it much harder for hospitals to collaborate with local physicians on EMR. Those more stringent regulations will kick in again after a phase-out period, so it only makes sense to act now.”

The beginning of the year, meanwhile, saw the inauguration of an aggressive new auditing program created by Congress to ferret out improper Medicaid payments. The auditors, who are paid a bonus based on the amount of money they recoup, have earned a reputation for demanding clear documentation of medical necessity. “If they are unable to read a document because of illegible handwriting, or if the physician’s signature is missing on an order, they will likely determine that the procedure in question ‘never happened,’ ” Hurd advised. “This will likely result in the government payment for that procedure being labeled an ‘overpayment’ and either disgorged by the practice or subtracted from its next reimbursement check.”

By contrast, EMR systems, so long as they are properly implemented and effectively used, generate thorough and legible records that are ideal to support reimbursement claims. “EMR also means that, when you are audited and the auditors ask for 20 records, you are not forced to go through boxes of files and take up staff time making photocopies,” Hurd continued. “You have an electronic record that can easily be printed, converted to a PDF file and easily submitted for review.”

Nor do healthcare providers need to start with a total conversion of all their operations. The new federal guidelines allow them to make the transition to EMR in three stages, North explained. In the first stage, medical practices can self-certify their compliance. In the second, CMS confirms a practice’s compliance

with its EMR-implementation guidelines. The third stage requires healthcare providers to integrate their electronic records with the public health system. “You have to be ‘meaningfully using’ EMR at the third stage by 2015 or you jump right into a one percent reduction of your general reimbursement revenues in 2015 that grows to a three percent reduction by 2017 and each year thereafter,” North cautioned.

The attorney recommends that medical practices first consider implementing e-prescription programs, which can cost as little as \$2,000. “Electronic prescription programs are already widely used by the nation’s chain drugstores and will increasingly become a necessity for physicians in any case,” North said. “They represent a great way for medical practices to get their feet wet prior to diving into the deep end of the pool with a conversion of their records to EMR.”

Finally, selecting EMR technology has never been easier, the attorneys noted. LeClairRyan’s EMR team, in particular, is a one-stop-shop for the conversion process. A key component is its partnership with Arthur Gasch, a nationally known expert on helping physicians and hospitals select, purchase and implement EMR systems from his web page, [www.ehrselector.com](http://www.ehrselector.com). “Art’s initial-assessment tool helps practices and healthcare providers frame their decision-making process and identify EMR providers,” Hurd said. “And our EMR team includes a number of attorneys who have broad experience with the adoption, implementation and use of these systems, as well as those who have prepared contracts and business agreements with, and between, suppliers of IT systems and software to healthcare providers. Our firm is uniquely positioned to give practical and pragmatic advice on EMR.”

For more information, visit LeClairRyan’s EMR landing page at <http://www.leclairryan.com/electronic-medical-records/>

#### **About LeClairRyan**

A business-minded law firm, LeClairRyan specializes in developing legal solutions to its clients' business challenges. Founded in 1988, LeClairRyan provides business counsel and client representation in corporate law and high-stakes litigation. With offices in California, Connecticut, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, Virginia and Washington, D.C., the firm has more than 300 attorneys representing a wide variety of clients throughout the nation. For more information about LeClairRyan, visit [www.leclairryan.com](http://www.leclairryan.com).

#####

**Press Contacts:** At Parness & Associates Public Relations, Marty Gitlin (631) 765-8519, or Bill Parness, (732) 290-0121, [parnespr@optonline.net](mailto:parnespr@optonline.net)