



October 29, 2013

The Honorable Marsha Blackburn
US House of Representatives
217 Cannon House Office Building
Washington, DC 20515

The Honorable Phil Gingrey
US House of Representatives
442 Cannon House Office Building
Washington, DC 20515

The Honorable G.K. Butterfield
US House of Representatives
2305 Rayburn House Office Building
Washington, DC 20515

The Honorable Gene Green
US House of Representatives
2470 Rayburn House Office Building
Washington, DC 20515

The Honorable Diana DeGette
US House of Representatives
2368 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Greg Walden
US House of Representatives
2182 Rayburn House Office Building
Washington, DC 20515

Dear Representatives,

athenahealth commends your bipartisan collaboration in the introduction of the Software Oversight for Technology Which Advances Regulatory Efficiency (SOFTWARE) Act of 2013. This legislation provides much-needed clarity regarding the oversight of various types of health information technology (health IT).

As many of you know, athenahealth provides electronic health record (“EHR”), practice management, care coordination, patient communication, data analytics, and related services to physician practices, working with a network of over 40,000 healthcare professionals in nearly every state. All of our providers access our services on the same instance of continuously-updated, cloud-based software. Our cloud platform affords to us and our clients a significant advantage over traditional, static software-based health IT products as we work to realize our company vision of a national information backbone enabling healthcare to work as it should. Our client’s successes, exemplified by a Meaningful Use attestation rate more than double the national average, underscore the very real potential of health IT to improve care delivery and patient outcomes while increasing efficiency and reducing systemic costs.

Consistent with the clear intent of the Food and Drug Administration Safety and Innovation Act of 2012 (FDASIA) and the approach laid out in a recent multi-stakeholder effort led by the Bipartisan Policy Center, [***An Oversight Framework for Patient Safety in Health Information Technology***](#), the SOFTWARE Act appropriately identifies three categories of health IT according to relative risk (medical software, clinical software, and health software) and provides the basis for a new risk-based regulatory framework for clinical software and health software that encourages innovation, increases patient safety, and reduces regulatory burden.

It is imperative that any oversight framework for health IT distinguishes technologies that present real risks to patients from those that do not present such risks. A rational framework will protect patients while preserving and protecting the ability of industry leaders like athenahealth to innovate and improve our services, providing myriad benefits—including safety benefits—to care providers and their patients.



athenahealth supports the SOFTWARE Act's tiered approach to oversight of health IT, as it sets forth an oversight framework for health IT that will ensure quality, protect safety, and promote innovation to continually improve health care.

We look forward to continuing to engage with your offices on this important issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Haley".

Dan Haley
Vice President
Government and Regulatory Affairs

A handwritten signature in black ink, appearing to read "S. Zaremba".

Stephanie Zaremba
Senior Manager
Government and Regulatory Affairs