

technology and services. The EHR exception and safe harbor require that the software be “interoperable” as defined in the regulations. The rules also provide that certain software will be deemed to be “interoperable” if that software has been certified by a certifying body recognized by the Secretary within 12 months prior to the donation. Under the interim guidance for the recognition of certifying bodies published by the ONC (“Office of the National Coordinator for Health Information Technology (ONC) Interim Guidance Regarding the Recognition of Certification Bodies”), for an organization to be recognized as a recognized certifying body (RCB), the organization must, among other characteristics:

- Have in place a demonstrated process for and experience in certifying products to be in compliance with criteria recognized by the Secretary;
- Have a method by which it can incorporate all applicable standards and certification criteria recognized by the Secretary into its certification processes; and

- Have the ability to adapt its processes to emerging certification criteria recognized by the Secretary.

The RCBs would therefore have to certify such products in conformity with, among other provisions, these Interoperability Standards, once recognized, for the certified products to be deemed interoperable under the physician self-referral exception and anti-kickback safe harbor, respectively, and, thus, eligible for donation to certain health care providers under the physician self-referral law and the anti-kick back statute.

The Department is mindful that the ability of software to be interoperable evolves as technology develops. Consequently, if an enforcement action is initiated for an allegedly improper donation of EHR non-certified software, the Department would review whether the software was interoperable at the time of donation, as defined in the regulations. The Department would consider the prevailing state of technology at the time the items or services were provided to the recipient. As explained in the regulations, the Department understands that parties should have a reasonable basis for determining whether the EHR software is interoperable. We therefore indicated that “it would be appropriate—and, indeed, advisable—for parties to consult any standards and criteria related to interoperability recognized by the Department.” Compliance with these standards and criteria, as we explained in the regulations, “will provide greater

certainty to donors and recipients that products meet the interoperability requirement, and may be relevant in an enforcement action.” (See 71 FR 45156 and 71 FR 45127.)

The Department believes that the one-year period between acceptance in January 2008 and recognition in January 2009 provided both the public and private sectors with adequate time to review, test, and provide input on the identified HITSP Interoperability Specifications prior to their recognition. Based on the above, the Secretary has now recognized these HITSP Interoperability Specifications.

**FOR FURTHER INFORMATION CONTACT:**  
Judith Sparrow at (202) 690-7151.

Dated: January 14, 2009.

**Marc R. Weisman,**

*Executive Director, Office of the National Coordinator for Health Information Technology.*

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**BILLING CODE 4150-45-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Healthcare Infection Control Practices Advisory Committee (HICPAC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting for the aforementioned committee:

*Times and Dates:* 9 a.m.–5 p.m., February 12, 2009.

9 a.m.–12 p.m., February 13, 2009.

*Place:* Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, Atlanta, Georgia 30333, Global Communications Center, Bldg. 19, Auditorium B3.

*Status:* Open to the public, limited only by the space available.

*Purpose:* The Committee is charged with providing advice and guidance to the Secretary, the Assistant Secretary for Health, the Director, CDC, and the Director, National Center for Preparedness, Detection, and Control of Infectious Diseases (NCPDCID), regarding (1) The practice of hospital infection control; (2) strategies for surveillance, prevention, and control of infections (e.g., nosocomial infections), antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of guidelines and other policy statements regarding prevention of healthcare-associated infections and healthcare-related conditions.

*Matters to be Discussed:* The agenda will include a follow up discussion of Health and Human Services Healthcare-Associated

Infections (HAI) elimination plan, Norovirus Guideline and Healthcare worker vaccination update.

Agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Wendy Vance, HICPAC, Division of Healthcare Quality Promotion, NCPDCID, CDC, 1600 Clifton Road, NE., Mailstop D-10, Atlanta, Georgia 30333 Telephone (404) 639-2891.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: January 12, 2009.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. E9-1187 Filed 1-16-09; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Rescission of February 4, 2004, Order and Subsequent Amendments Prohibiting the Importation of Birds and Bird Products From Specified Countries

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS) is announcing its intent to rescind its February 4, 2004 order and subsequent amendments prohibiting the importation of birds and bird products from specified countries based on the threat that imports from such countries increases the risk that highly pathogenic avian influenza H5N1 may be introduced into the United States. After consideration of public comment, CDC will publish a final notice regarding these prohibitions. The U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) has implemented and continues to enforce regulations to prohibit or restrict the importation of birds, poultry, and unprocessed birds and poultry products from regions that have reported the presence of highly pathogenic avian influenza H5N1 in poultry. See 9 CFR 93.101, 93.201, 94.6, & 95.30. While USDA/APHIS actions are based primarily on protecting the U.S.

commercial poultry industry from the introduction of highly pathogenic avian influenza H5N1, these actions have the added benefit of mitigating the risk of human exposure to the virus. Because the USDA/APHIS import restrictions adequately address risks to human health, HHS/CDC is announcing the intent to lift its embargo against imports of birds and unprocessed bird products from those same countries and solicits comments on this proposal. All of the bird embargoes that are currently in force under USDA regulations will remain in force. HHS/CDC will work closely with USDA/APHIS to monitor the international situation regarding HPAI H5N1 outbreaks and will take additional action if it identifies human health risks that are not adequately contained by USDA regulatory actions.

**DATES:** Written comments must be received on or before February 20, 2009. Comments received after January 21, 2009 will be considered to the extent possible.

**ADDRESSES:** You may submit written comments to the following address: Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, Attn: Rescission Notice, 1600 Clifton Road, NE., MS E-03, Atlanta, Georgia 30333.

You may submit written comments electronically via the Internet at the following Address: <http://regulations.gov>, or via e-mail to [DGMQpubliccomments@cdc.gov](mailto:DGMQpubliccomments@cdc.gov).

**FOR FURTHER INFORMATION CONTACT:** Stacy M. Howard, Division of Global Migration and Quarantine, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, 1600 Clifton Road, NE., MS E-03, Atlanta, Georgia 30333; telephone 404-498-1600.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 4, 2004, the Centers for Disease Control and Prevention (CDC) within the U.S. Department of Health and Human Services issued an order to ban immediately the import of all birds (Class: *Aves*) from specified countries, subject to limited exemptions for returning pet birds of U.S. origin and certain processed bird-derived products. HHS/CDC took this step because birds from these countries can potentially infect humans with avian influenza (influenza A/[H5N1]). Countries affected by the February 4, 2004, order included

Cambodia, Indonesia, Japan, Laos, People's Republic of China (including Hong Kong Special Administrative Region [SAR]), South Korea, Thailand, and Vietnam. This order was further amended on March 10, 2004, to lift the embargo of birds and bird products from the Hong Kong SAR because of the documented control of the outbreak there and the absence of highly pathogenic avian influenza H5N1 cases in Hong Kong's domestic bird populations. Following the documentation of highly pathogenic avian influenza H5N1 in commercial birds in additional countries, HHS/CDC issued amendments to the February 4, 2004, order that added these countries to its embargo: Malaysia on September 28, 2004; Kazakhstan, Romania, Russia, Turkey, and Ukraine on December 29, 2005; Nigeria on February 8, 2006; India on February 22, 2006; Egypt on February 27, 2006; Niger on March 2, 2006; Albania, Azerbaijan, Cameroon, and Burma (Myanmar) on March 15, 2006; Israel on March 20, 2006; Afghanistan on March 21, 2006; Jordan on March 29, 2006; Burkina Faso on April 10, 2006; Pakistan on April 10, 2006; Gaza, the West Bank, and the Ivory Coast (Côte d'Ivoire) on April 28, 2006; Sudan on May 16, 2006; Djibouti on June 2, 2006; and Kuwait on February 28, 2007.

The HHS/CDC February 4, 2004, order and subsequent amendments have complemented simultaneous actions taken by the Animal and Plant Health Inspection Service (APHIS) within the U.S. Department of Agriculture (USDA). USDA/APHIS amended its regulations to prohibit or restrict the importation of birds, poultry, and unprocessed birds and poultry products from regions that have reported the presence of highly pathogenic avian influenza H5N1 in poultry. See 9 CFR 93.101, 93.201, 94.6, & 95.30. As the United Nations Food and Agriculture Organization and the World Organization for Animal Health (OIE) have confirmed additional cases of highly pathogenic avian influenza (H5N1) in commercial birds, USDA/APHIS has added additional countries and regions to its ban.

HHS/CDC believes that the actions taken to date by USDA/APHIS adequately mitigate the human health risks associated with birds and unprocessed bird products imported from the countries of concern, and that the HHS/CDC order of February 4, 2004, and subsequent amendments are no longer needed. HHS/CDC announces its

intent to lift its embargo of birds and unprocessed bird products from specified countries to ensure a more coordinated federal response to the control of highly pathogenic avian influenza H5N1.

Dated: January 9, 2009.

**Julie Louise Gerberding,**

*Director, Centers for Disease Control and Prevention.*

[FR Doc. E9-1029 Filed 1-16-09; 8:45 am]

**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Comment Request**

*Title:* ACF-IV-E-1 Foster Care and Adoption Assistance Financial Reporting Form.

*OMB No.:* 0970-0205.

*Description:* State agencies administer the Foster Care and Adoption Assistance Programs under Title IV-E of the Social Security Act. The Administration for Children and Families provides Federal funding at the rate of 50 percent for most of the administrative costs and at other rates for other specific categories of costs as detailed in Federal statutes and regulations. This form is submitted quarterly by each State to estimate the funding needs for the upcoming fiscal quarter and to report expenditures for the fiscal quarter just ended. The information collected in this report is used by this agency to calculate quarterly Federal grant awards and to enable oversight of the financial management of the programs.

Part 3 of this form had also been used to collect semiannual budget projections. In response to the publication of the **Federal Register** Notice on October 10, 2008, comments from the ACF budget office indicated that this information is now available from other sources and the information previously collected on Part 3 is no longer needed. We are, therefore, deleting Part 3 of this form.

*Respondents:* State agencies (including the District of Columbia and Puerto Rico) administering the Foster Care and Adoption Assistance programs under Title IV-E of the Social Security Act.