



ABT Medical, Inc.

# ABT NEWS

QUARTERLY NEWSLETTER 1st Quarter 2018

*Architecting document control systems for healthcare providers and pharmaceutical companies*

## NEW ABT AFFILIATE

### Photo-Stat, Dallas, TX

[www.photostat.org](http://www.photostat.org)

ABT Medical welcomes Photo-Stat as an ROI+ affiliate. A true leader in health information solutions throughout Dallas/Fort Worth, Waco, Austin, and San Antonio, Photo-Stat processes 1M+ pages of requested medical records for more than 2,000 Healthcare Providers.

Photo-Stat offers a variety of services to its Healthcare Provider community:

- Release of Information
- Centralized Records Processing
- Paper Medical Records to EHR Migration
- Redundant Physical & Cloud Records Storage
- Retired Physician Records Management

Founded by Phillip Klotz & Bruce Hopper over 20 years ago, Photo-Stat succeeds with this philosophy: *"If you are doing business tomorrow like you are today, you are already going out of business; you just don't know when."*

*As business process innovators, Phillip and Bruce closely evaluated the ROI+ platform to determine if it could bring the following benefits to them:*

- Reduction in labor cost
- Improved request turnaround
- 95% plus fee collection rate
- 98% secure seamless web delivery
- Detailed request activity tracking
- Unlimited ad hoc reporting ability
- HITRUST-certified data center
- ERE-WS DDS request submission
- esMD digital HIH interface with CMS

***In a true win-win, ROI+ has exceeded each of these goals set by Photo-Stat.***

## CIOX SUES HHS OVER ROI FEES

Source: Davis, Jessica. (2018, Jan. 11). [HealthcareITNews. http://www.healthcareitnews.com/news/ciox-health-sues-hhs-over-absurd-and-irrational-hipaa-enforcement](http://www.healthcareitnews.com/news/ciox-health-sues-hhs-over-absurd-and-irrational-hipaa-enforcement)



Ciox Health, formerly known as HealthPort, has sued the US Department of Health & Human Services (HHS) over a lack of clarity, purpose, and cost basis concerning medical records copy rates set forth in 45 CFR 164.524-1 for patients requesting medical records. It challenges the legitimacy of the patient flat fee of \$6.50 as having no research to support it. Ciox is also objecting to the obscurity of the rule's alternative methods for calculating a *"reasonable cost-based fee,"* where the term *"reasonable"* carries a clear hint of retribution, should a Provider charge more than the \$6.50 fee.

Clearly, HHS lacks an understanding of the processes involved in fulfilling a request for medical records, which are subject to substantial variability in labor and logistics based on factors such as the unique operational dynamics of each EMR/EHR or the multiple repositories that a single Provider might use to house records (perhaps due to switching EMRs or storing different media types such as paper, digital, microfilm, imaging).

It is evident that when 45 CFR 164.524-1 was written, HHS did not possess sufficient knowledge of the convoluted medical records landscape that is navigated daily by ROI outsource services companies and Providers. ROI outsource companies do not offer *"free"* services; they elect to not charge a Provider for fulfilling medical records requests as long as state and federal ROI fee structures fairly compensate them in exchange for being timely, 100% HIPAA-compliant, and patient satisfaction centric.

In line with Ciox's overall position in its lawsuit, ABT Medical has written many times about the patient/consumer conundrum arising from the stereotypical patient profile, adopted by both HHS and Providers, that patients are computer-inept, especially within disadvantaged socioeconomic groups. However, the *"every person's"* computer is the smartphone, which is used daily by no less than 85% of the US population.

Working closely with patients from all demographics, we have verified they are most willing and able to 1) order, 2) pay for in advance, and 3) access their records, all on a secure website. *Patients need and want their medical records or disability forms processed online the same way they order other goods and services; they as consumers prefer—and will pay—an average fee of \$25.00 per request if their requests are processed with a sense of urgency (48 hours or less).*

## D-Trak Enhancements



D-Trak has proven to be an invaluable Disability Forms management tool for our Provider-clients, bringing them the following benefits:

- Significant reduction of inbound and outbound communications with patients
- Dashboard for “single click” tracking of Disability Forms processing status
- Automatic patient text notifications when forms are received and completed
- 24x7 secure web access to completed forms for patients
- Patient payment tracking for Providers who charge patients to process Disability Forms
- Complete report of the types of forms processed, broken down by patient and by physician, including the total number of days required to process each and every form
- Digital sticky notes to record important comments for each form processing event

In many cases, patients burden the Healthcare Provider with faxing completed forms to a 3rd party such as an insurance company or employer.

Consequently, a large portion of inbound/outbound communications with patients is driven by patients’ sense of urgency to confirm that their completed form has indeed been faxed by the Provider to the 3rd party. This forwarding of Disability Forms to 3rd parties is a tedious and extremely time-consuming task for the Provider.

D-Trak will now have the capability of sending a text message to the patient that confirms that their Disability Form has been completed and has been automatically faxed to the appropriate 3rd party on behalf of the patient. This is a big win for both the patient and the Provider.

## CIOX continued (NATURE OF THE ACTION)

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA  
CIOX HEALTH, LLC

925 North Point Parkway, Suite 350  
Alpharetta, GA 30005  
Plaintiff,

v.

ERIC D. HARGAN, in his official capacity as  
Acting Secretary of Health and Human Services  
200 Independence Ave. S.W.

Washington, D.C. 20201,  
and  
UNITED STATES DEPARTMENT OF HEALTH  
AND HUMAN SERVICES,  
200 Independence Ave. S.W.  
Washington, D.C. 20201,  
Defendants.

**CIOX HEALTH’S COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**  
Plaintiff CIOX Health, LLC (“CIOX”) brings this civil action seeking declaratory and injunctive relief against defendants Eric D. Hargan, in his official capacity as Acting Secretary of Health and Human Services, and the United States Department of Health and Human Services (collectively “HHS,” “the Department,” or “Defendants”). In support thereof, CIOX states the following:

### NATURE OF THE ACTION

1. This lawsuit seeks the entry of declaratory and injunctive relief to prevent HHS from enforcing a series of rules and regulations that unlawfully, unreasonably, arbitrarily, and capriciously seek to restrict the fees that healthcare providers and their business affiliates (like CIOX and other medical-records providers) are entitled to charge for gathering and disseminating patient records containing individuals’ protected health information (“PHI”) pursuant to the Health Insurance Portability and Accountability Act (“HIPAA”), Pub. L. No. 104-191, 110 Stat. 1936 (1996), as amended by the Health Information Technology for Clinical and Economic Health Act (“the HITECH Act”), Pub. L. No. 111-5, 123 Stat. 226 (2009), and the 21st Century Cures Act, Pub. L. No. 114-255, 130 Stat. 1033 (2016), and as codified in relevant part at 42 U.S.C. § 17291 et seq.
2. As set forth below, HHS’s rules are (a) impossible to square with the plain language of the controlling legislative enactments—as HHS itself conceded expressly at the time it issued them; (b) irrational, arbitrary, capricious, and absurd on their own terms; and (c) in key respects were promulgated by the Department without advance notice to the public or any opportunity to provide comment, in defiance of the Administrative Procedure Act and the most elementary requirements of good governance.
3. Most important, HHS’s continued application and enforcement of these rules imposes tremendous financial and regulatory burdens on healthcare providers and threatens to upend the medical-records industry that services them. These burdens are having a severe adverse impact on already-struggling healthcare providers, including non-profit hospitals, community hospitals, academic hospitals involved in research, local clinics, and physicians’ practices. And today, these rules are being exploited by for-profit commercial businesses to shift costs they properly should bear onto healthcare providers and patients. In short, HHS’s unlawful rules are forcing healthcare providers to bear costs Congress never contemplated and threaten to bankrupt the dedicated medical-records providers who service the healthcare industry by effectively—and quite deliberately—mandating that they fulfill a rapidly growing percentage of requests for PHI at a net loss.
4. At a time when the American public is clamoring to reduce healthcare costs, the rules challenged in this Complaint threaten to substantially increase costs for patients and challenge the long-term viability of the medical-records industry, which plays a critical role in facilitating healthcare providers’ ability to deliver high-quality, error-free, and cost-effective healthcare services by ensuring that our Nation’s healthcare professionals are able to access, share, and distribute critical patient-related information in real-time. Indeed, the vast majority of hospitals in the United States contract with medical-records providers like CIOX precisely because these companies’ highly specialized services are efficient, cost-effective, and critical to the timely dissemination of key medical information, thereby allowing healthcare providers to focus their full attention on the task before them: ensuring the best possible care for patients. Left unchecked, Defendants’ unlawful actions thereby threaten to disrupt the American healthcare system and increase healthcare costs for patients, with dire consequences for millions of Americans.