

## COMPLIANCE, RISK & RESILIENCE:

# COMPLIANCE FOR ELECTRONIC HEALTH RECORDS (“EHR”)

Fines and penalties imposed by the Center for Medicare and Medicaid (CMS) and the U.S. Department of Justice are prompting providers and users of Electronic Health Records (EHR) systems to seek third-party system audits. These audits validate whether functional elements of the EHR system comply with the Criteria and Clinical Quality Measures (CQM) included in the systems’ certification as recorded by the Office of the National Coordinator at CHPL.HealthIT.gov.

Undetected certification issues can expose those involved – possibly including board members personally – to False Claims Act claims, class action lawsuits, and other significant liabilities and brand damage.

B. Riley’s Compliance, Risk & Resilience team provides expert independent meaningful use audits and gap analyses to document the state of compliance or noncompliance. These are typically conducted at the request of counsel, which can support the client’s assertion of privilege. We also help clients exploit their meaningful use audit results as a competitive advantage in the EHR marketplace.

Meaningful use audits result in many different types of actionable findings, which might include:

- Failure to detect certain adverse drug-drug interactions, which is attributed to a third-party vendor’s elected and previously undisclosed exclusion of certain categories of interactions present in RxNorm data.
- System tiers designed to limit access to information could be bypassed by selecting data export tools.
- Emergency access through “break-the glass” functionality remained in effect even after logout.
- Programmers represented to management that a criterion was fully functional using Fast Healthcare Interoperability Resources (FHIR) when it was only partially functional.
- Data export functionality, though certified, was not fully compliant.
- Certification included items which were not assessed by the certifying entity, prompting the re-issuance of the certification letter.
- Age exclusion was improperly applied beyond the CQM’s limit.
- System correctly parsed and saved the data for three entered implantable devices. Deletion of the Global Unique Device Identification Database (GUDID) data not reflected in audit log.
- System did not include all eligible records in CQM calculations.



## SERVICES

In our meaningful use audits and advisory services, we:

- Review and validate providers' certifications of their EHR systems and help EHR system users understand whether the systems on which they depend may be "tainted".
- Provide unique insight into EHR users' Health Insurance Portability and Accountability Act (HIPAA) compliance status.
- Help companies fix and develop workarounds on their path to compliance.

Our approach creates new and undisclosed audit protocols for each system to prevent preprogrammed, hard-wired programming workarounds often found in flawed and suspect systems. We create, track, and document our protocols in a proprietary system that aligns with B. Riley system and portal audits for compliance relative to HIPAA, accessibility and information security.

This is specialized work that probes and tests systems over a wide spectrum of potential expected and unexpected end-user behavior. We often work directly with clients' outside legal counsel on meaningful use projects to ensure that clients - both EHR vendors and users - can preserve the assertion of attorney-client privilege around systems findings that have potentially material negative legal, regulatory or financial impact.

## REPRESENTATIVE ENGAGEMENTS

### Audit Cycle of all EHR Releases for an EHR Provider

We are engaged by a leading EHR provider to conduct meaningful use audits on its regular software releases across several modalities.

### Meaningful Use Audit for Buy-Side Private Equity Firm

We audited the EHR of a target acquisition for the private equity firm driving the transaction.

### Sell-Side Meaningful Use Audit

We conducted a meaningful use audit alongside developers to accelerate their remediation of open issues that could affect the acquisition for an EHR provider interested in having its EHR system acquired.

## THE B. RILEY DIFFERENCE

Our uniquely experienced team spends significant time on clients' Meaningful use matters, with backgrounds in healthcare sector programming, privacy, technology, auditing, and the Lean Six Sigma discipline. We provide insight into how non-compliance can create regulatory and legal vulnerability, not just for EHR software providers, but also for their downstream healthcare industry users. Because we know this subject matter empirically, we can respond to clients' needs and execute the audits efficiently with immediate, actionable feedback.

## PRACTICE LEADER

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# ABOUT THE FIRM

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## ABOUT B. RILEY ADVISORY SERVICES

B. Riley Advisory Services provides specialty advisory services and solutions to complex business problems and board-level agenda items. Our team applies a unique mix of skill sets to address top-level, non-typical business challenges, such as developing compliance and risk systems for organizations, planning and executing a major acquisition or divestiture, pursuing a fraud investigation or corporate litigation, or managing through a business crisis or bankruptcy. In addition, we are a leading provider of valuation and appraisal services for asset-based lending applications.

Our team works with lenders, law firms, government entities, private equity sponsors and companies of all types. Our Advisory Services are a unique mix of Compliance, Risk & Resilience Services, Valuation and Appraisal Services, Restructuring and Turnaround Management, Operations Management Services, Forensic Accounting and Litigation Support and Transaction Support Services including Due Diligence and Quality of Earnings Reviews. B. Riley Advisory Services is a combination of the firms formerly known as GlassRatner Advisory & Capital Group and Great American Group.

## ABOUT B. RILEY FINANCIAL (“B. RILEY”)

B. Riley Financial, Inc. (NASDAQ: RILY) companies provide tailored financial solutions to meet the strategic, operational, financial advisory and capital needs of its clients through a diverse range of collaborative and complementary business capabilities.

B. Riley's diverse suite of business capabilities goes beyond traditional financial service offerings. By leveraging cross-platform expertise and assets, our business units are uniquely positioned to provide full service, collaborative solutions at every stage of the business life cycle and in all market conditions.