

Using Clinical Integration and Health Information Exchanges to Improve Quality and Replace Managed Care

ABSTRACT-----

Health Maintenance Organizations evolved in the 1980's to control rising health care costs and to promote quality care. They did not live up to their promise, as provider groups lacked the information tools to effectively manage populations. Ironically, as these tools have become available, HMOs have declined in popularity. The concept of clinical integration, which requires information exchange, is a way to promote improved quality and efficiency of health care delivery. The Federal Trade Commission and Department of Justice Antitrust Division, the federal antitrust enforcement agencies, have stated that, if a group of competing health care providers successfully implement a clinical integration program that generates cost and quality efficiencies, the providers will be permitted to jointly contract with health plans and other payers. Absent such integration, joint contracting and price setting by competing providers would be a per se, or automatic, violation of Section 1 of the Sherman Antitrust Act of 1890. Using a case study of one physician group that employed an information exchange to implement a clinical integration program, this presentation will provide an overview of the antitrust regulations pertaining to clinical integration and a discussion of the debate surrounding the federal agencies' guidance on the topic.

BIOGRAPHY-----

Eric Nielsen, MD

Chief Medical Officer

The Greater Rochester Independent Practice Association (GRIPA)

Eric Nielsen is the Chief Medical Officer for The Greater Rochester Independent Practice Association (GRIPA). Dr. Nielsen attended medical school and completed his residency at the University of Rochester. He practiced internal medicine for 29 years. He is certified by the American Board of Internal Medicine and the Certifying Commission in Medical Management.



Since assuming his present post at GRIPA in 2004, Dr. Nielsen has championed GRIPA's efforts toward achieving Clinical Integration as evidenced by GRIPA's favorable Advisory Opinion from the FTC in September 2007. Under his leadership, GRIPA has developed guidelines by and for its member physicians, an IT infrastructure for sharing of clinical information between its members, and systems for monitoring the performance of members and the network.

Dr. Nielsen has presented GRIPA's performance monitoring systems to the National Health Policy Forum and Medicare Payment Advisory Commission and has spoken to various groups throughout the country about GRIPA's Clinical Integration Program.

Christi J. Braun

Senior Associate
Ober|Kaler



Christi Braun is a senior associate with the law firm of Ober|Kaler. She focuses her practice on antitrust and other complex commercial litigation and merger review. Her antitrust experience includes representing clients in federal and state courts and before the Department of Justice and the Federal Trade Commission. Ms. Braun has represented physicians, hospitals, ancillary care providers, trade associations and insurers in all phases of investigation and litigation arising from antitrust claims and other civil statutes. Prior to joining the firm, she was a staff attorney in the Health Care Services & Products Division of the Federal Trade Commission.

Ms. Braun is a graduate of Boston University School of Law, (J.D., cum laude, 2001); Boston University School of Public Health (MPH, 2002); and Creighton University (B.A., summa cum laude, 1998). She is a member of the Bars of the States of New York and Colorado and the District of Columbia.

Ms. Braun is a Vice Chair of the ABA Antitrust Section Health Care and Pharmaceuticals Committee. She served as the Project Chair for The Messenger Model Handbook, published by the ABA Antitrust Section, and is the co-editor of the Chronicle, the scholarly newsletter of the ABA Antitrust Section Health Care and Pharmaceuticals Committee. She is also the Young Lawyers Division Liaison to the ABA Health Care Section and serves on the Section Council of the ABA Health Law Section.

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Eric Nielsen, M.D

Chief Medical Officer, GRIPA

Christi J. Braun, Esq

Ober Kaler Grimes & Shriver, Washington, D.C.



Agenda Overview



- The Problem:
 - ▮ Managed Care did not live up to its promise
- FTC/DOJ: Clinical Integration
- What did GRIPA do?
 - ▮ FTC Advisory Opinion on its Plan for CI
 - ▮ "GRIPA Connect" CI Program
 - ▮ "GRIPA Connect" Web Portal Infrastructure
 - ▮ Market Program/Portal to our Physicians
- CI Implementation & Challenges
- Legal Implications

The Evolution of Managed Care



- Kaiser Foundation Health Plans
- HMO Act (1973)
- Rise of PPOs
- Development of IPAs and PHOs to contract with HMOs and PPOs (1985-2000)
- Transition of insurance coverage from indemnity to HMO, PPO, and POS
- Backlash against HMO gatekeeping and financial incentives to limit care
- Cost of health care and insurance premiums skyrocketing



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Managed Care Changes Forcing IPA/PHO Changes



- Financial risk-sharing with payors, such as capitation and percent withholds, is nearly nonexistent
 - Insurers want to set up their own P4P programs
- Insurers want to direct contract with each physician or practice group
 - Most private physicians in groups ≤ 5 by choice
- Employers want "0" premium increases
- Antitrust constraints on fee-for-service contracting make IPA/PHO contracting difficult



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The Antitrust Problem



Sherman Antitrust Act prohibits agreements among private, competing individuals or businesses that *unreasonably* restrain competition



Physicians want to contract with payers through provider-controlled entities

Options:

- Merging of practices - not preferred
- Messenger model - no negotiation/incentive
- Direct contracting - some win, most lose
- Financial integration - risk of loss/no opportunity
- Clinical integration

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Why Clinical Integration?



- Absent integration, agreements among competing physicians on price is *per se*, or automatically, illegal
 - Justifications, including payer size, don't matter
- Physician joint ventures are analyzed under the *rule of reason* if the integration is likely to produce significant efficiencies and the agreement on price is "ancillary," or reasonably necessary, to the achievement of the joint ventures' efficiencies
 - Requires detailed analysis for the government/plaintiff to prevail



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Clinical Integration: Definition



"An *active* and *ongoing* program to evaluate and modify the clinical practice patterns of the physician participants so as to create a high degree of *interdependence* and *collaboration* among the physicians to *control costs* and *ensure quality*."

FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care, Statement 8.B.1 (1996)
<http://www.ftc.gov/bc/healthcare/industryguide/policy/statement8.htm>

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Indicia of Clinical Integration

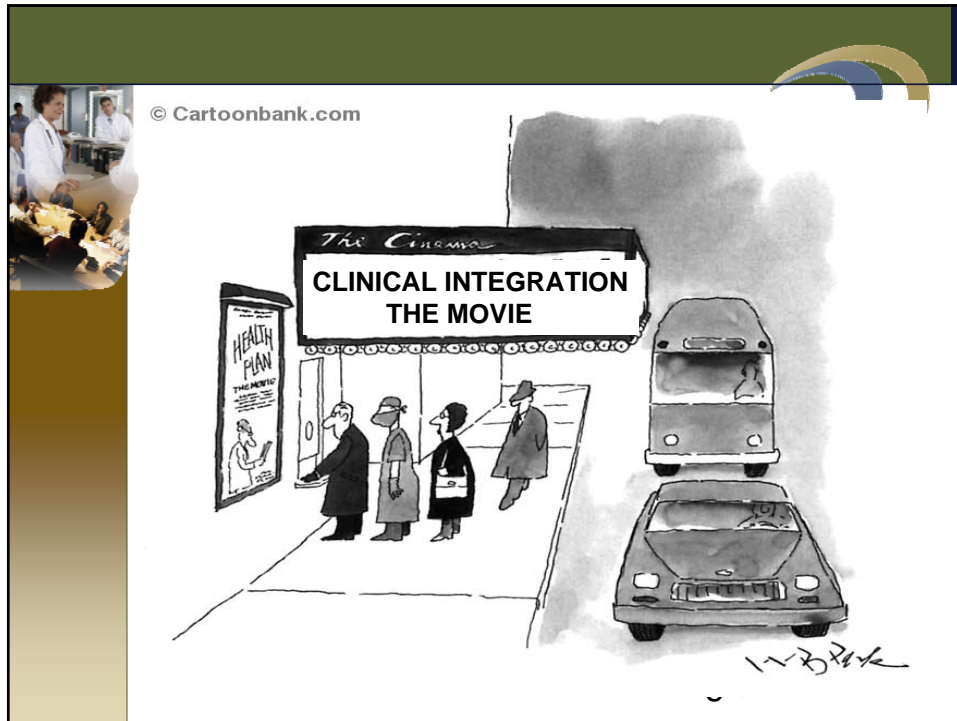


What the FTC looks for:

- "the development and adoption of clinical protocols,
- care review based on the implementation of protocols,
- mechanisms to ensure adherence to protocols"
- "the use of common information technology to ensure exchange of all relevant patient data"

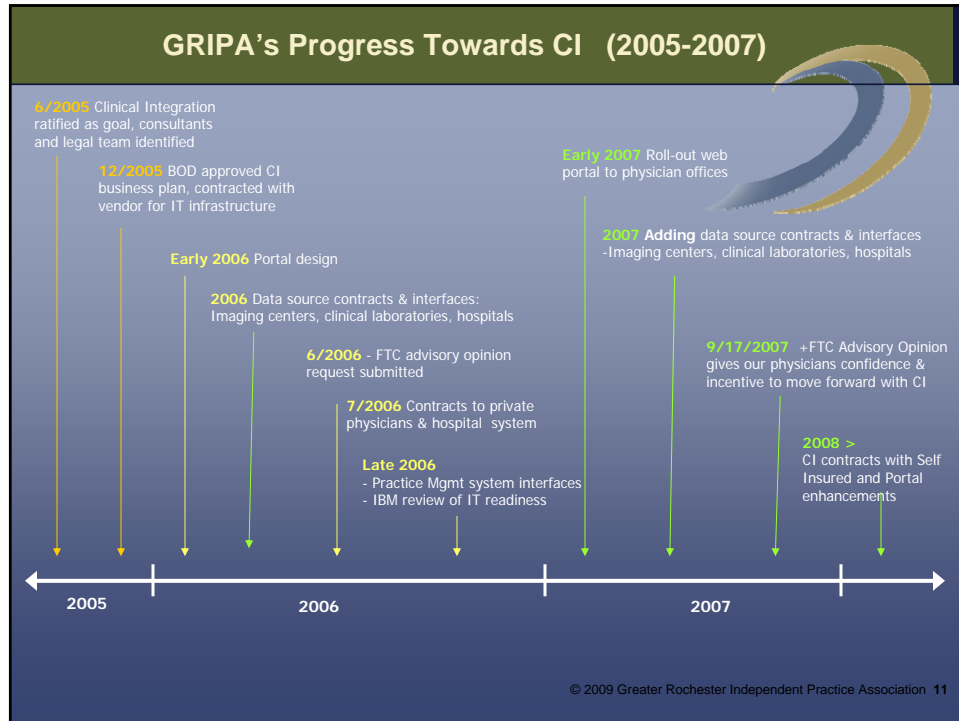
FTC/DOJ, Improving Health Care: A Dose of Competition
Ch. 2, p.37 (July 2004).

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Case Study: Greater Rochester IPA

- For-profit partnership of physicians and hospitals in the Rochester NY area
- Formed in 1996 to negotiate and manage capitated risk contracts with Managed Care Orgs. (HMO insurers)
- Developed Care Management, "P4P" in 1999
- Track record of managing risk, controlling costs and improving quality
- Staff of ~40 and capabilities required to support its payer contracts, including departments for:
 - Care Management
 - Provider Relations/Credentialing
 - Information Technology / Data Analysis
 - Financial/Actuarial/Contracting functions



Participation Conditions



Each physician agrees to:

- Follow evidence-based guidelines created by peers
- Send copy of practice management data to GRIPA
- be subject to education/discipline/expulsion
- serve 1-year term on Quality Assurance Council unless already on another GRIPA committee

GRIPA provides each physician with:

- one tablet computer
- wireless internet access in each office
- immediate access to patient information via Web Portal
- feedback on individual performance

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GRIPA Connect – The Work Groups



Clinical Integration Committee

- 12 physicians oversee the Program & approve guidelines & measures for monitoring individual & network performance

Specialty Advisory Groups

- Each composed of all specialties affected by a guideline
- Discussion of diseases across specialties seen as positive experience by our physicians

Quality Assurance Council

- Composed of 16 Practicing Physicians
- Rotating 1 year terms to maximize participation
- Monitor the performance of the individual members on measures for guidelines
- Develop Corrective Active Plans if necessary

IT Steering Committee

- Composed of 7 to 10 Practicing Physicians

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In-network Referrals



- Physicians, rather than the payors, are “closing” the network
- Electronic Referral Management
 - Establish “Relationship”, to permit data access
 - Access to data at the time/point of care

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Guidelines Developed To Date



Timeframe: April 2006 – December 2008

Total Guidelines approved to date = 33

Allergic Rhinitis	Melanoma, Cutaneous
Asthma	Men (Preventive Care)
Back Pain, Acute Low	Migraine Headache (Management)
CAD & Other Atherosclerotic Vascular Diseases	Neuropathic Pain (Management)
Childhood Immunizations	Obesity (Management)
Cholelithiasis	Osteoarthritis/Degenerative Joint Disease Pain (Management)
Colon Cancer	Osteoporosis (Management)
COPD	Osteoporosis (Screening)
Depression, Major (Management)	Pain, Chronic
Depression, Major (Screening)	Pediatrics (Preventive Care)
Diabetes Mellitus, Adult	Pharyngitis, Acute
Diverticulitis	Prostate Cancer (Management)
Deep Vein Thrombophlebitis	Rheumatoid Arthritis (Management)
Heart Failure	TIA (Management)
Hyperlipidemia	Urolithiasis
Hypertension	Women (Preventive Care)
Ischemic Stroke/TIA (Secondary Prevention)	

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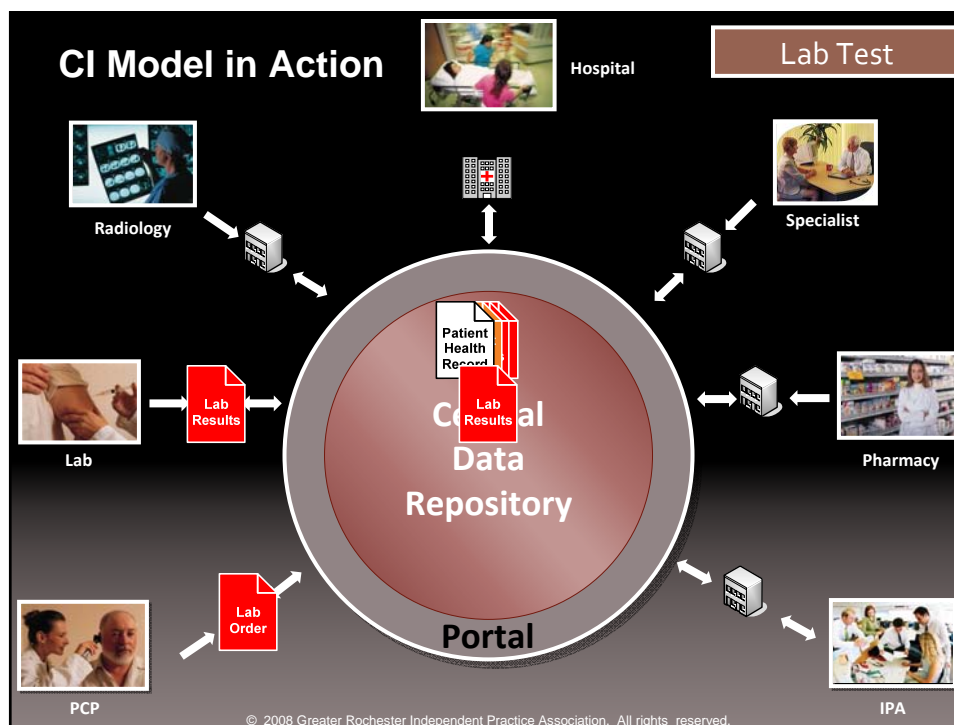
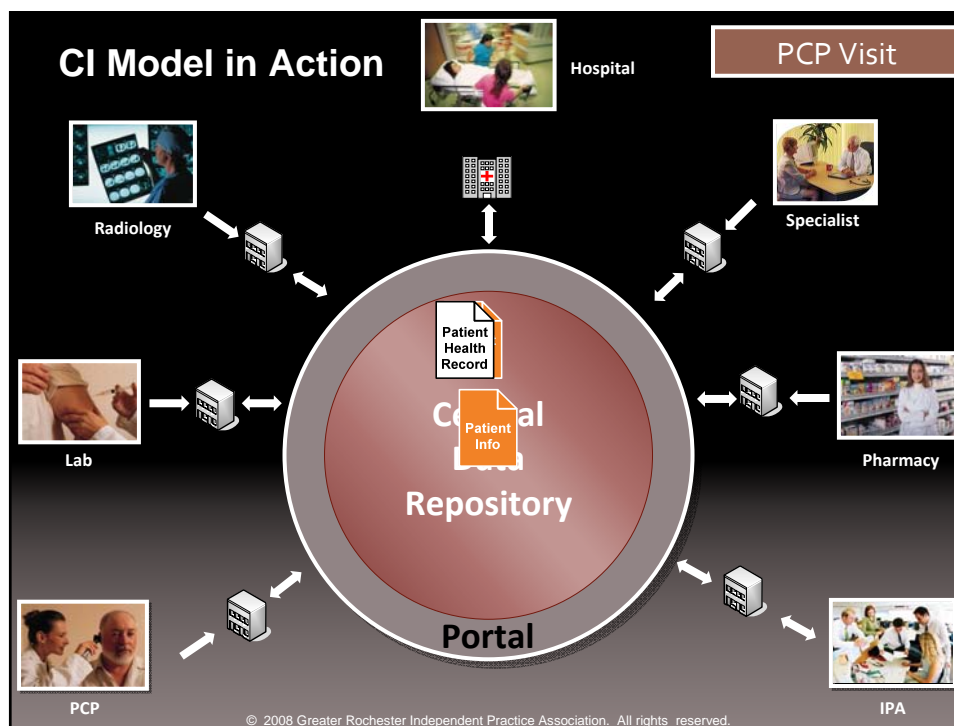
GRIPA Connect step by step for physicians

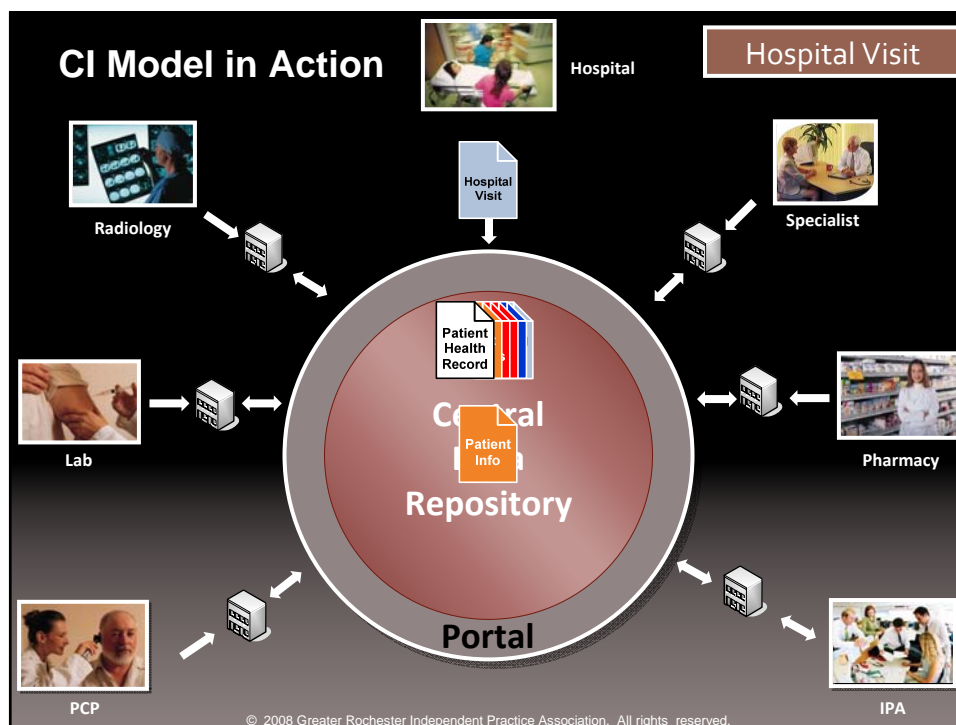
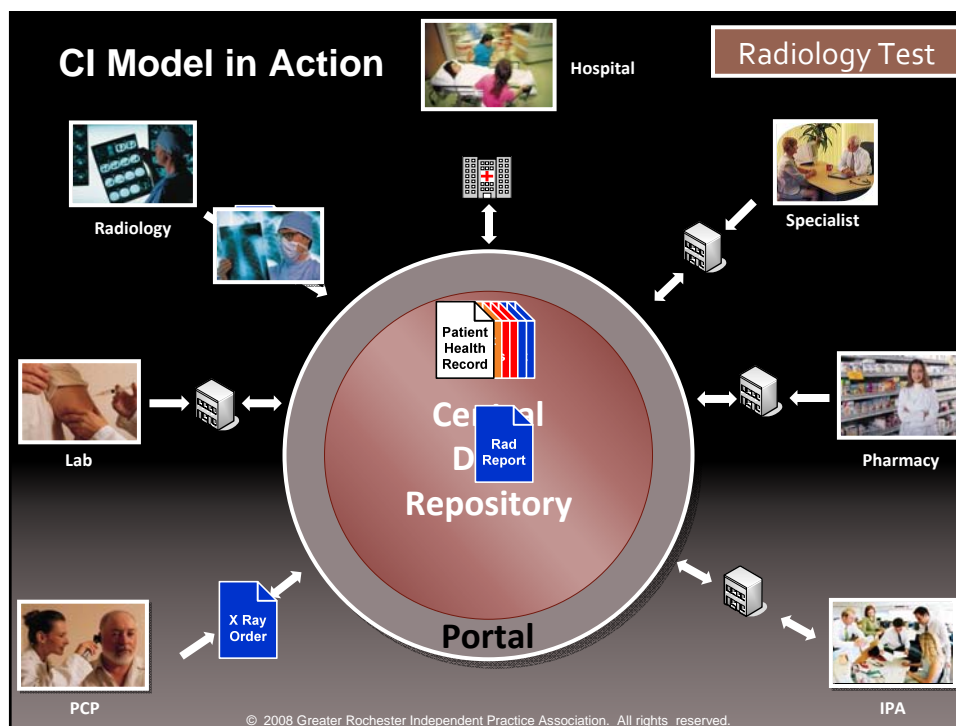


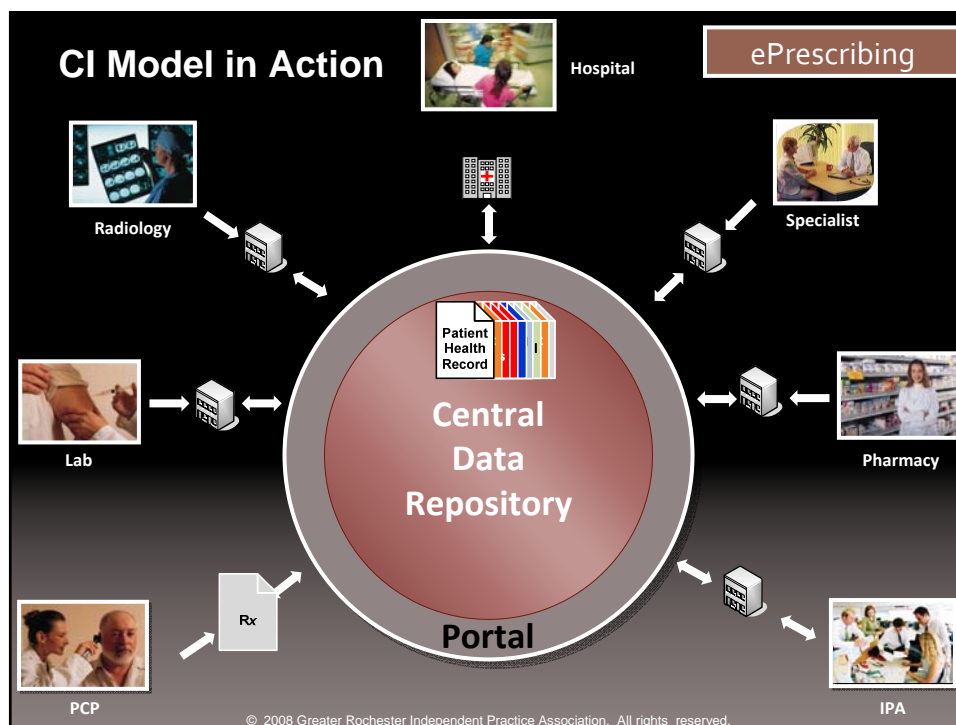
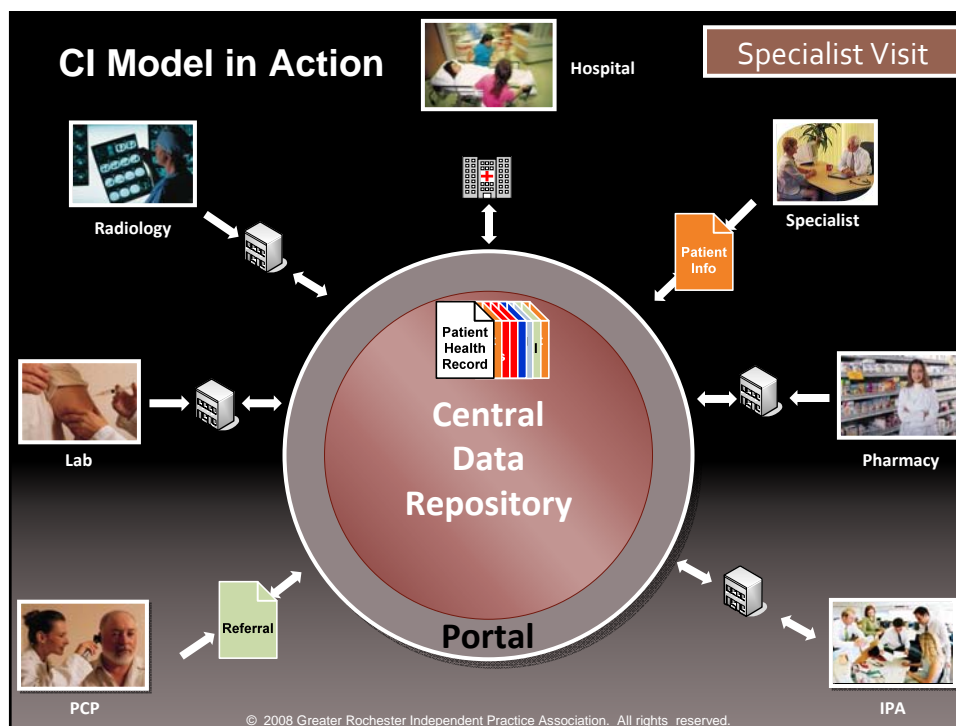
1. Ask staff to print missing lab or x-ray reports from portal *Results Viewer* during or before patient encounter
 - ▶ least impact on present office workflow
2. View reports on (wireless) PC in exam rooms
3. Use portal to send information to other physicians
 - ▶ *Secure Messaging, Referral Management*
4. View and respond to *POC Alerts* before/during encounter
5. Use *COR Reports* to manage patient cohorts by condition
6. Use *PAR Reports* to compare their performance to peers
7. Planned additions: *e-Rx, Lab Order Entry*
8. Optional: migrate patient records to EMR compatible with portal

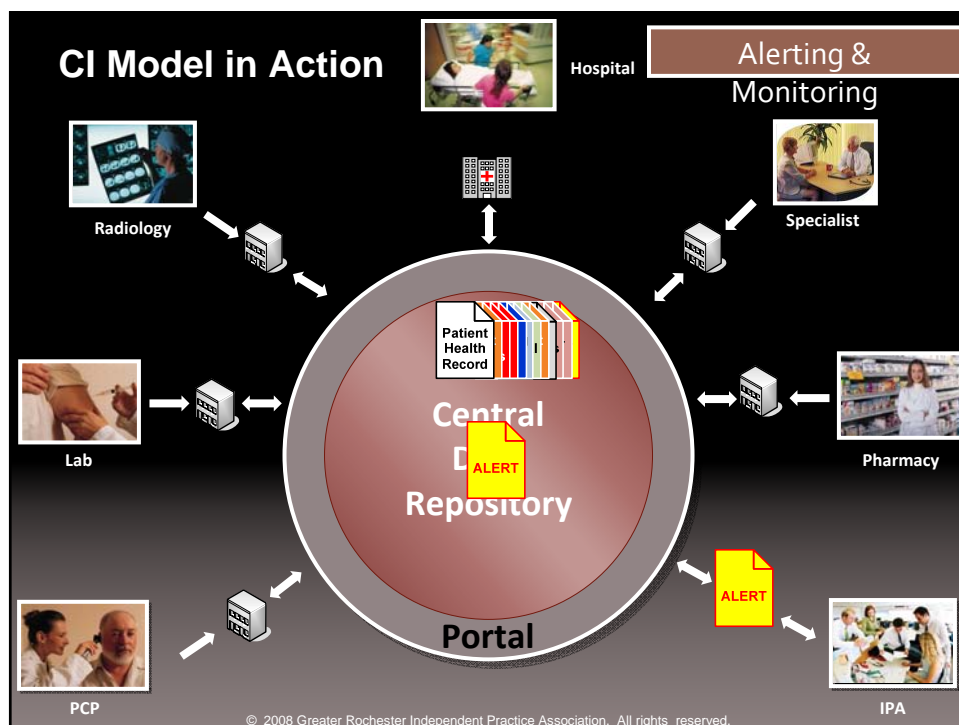
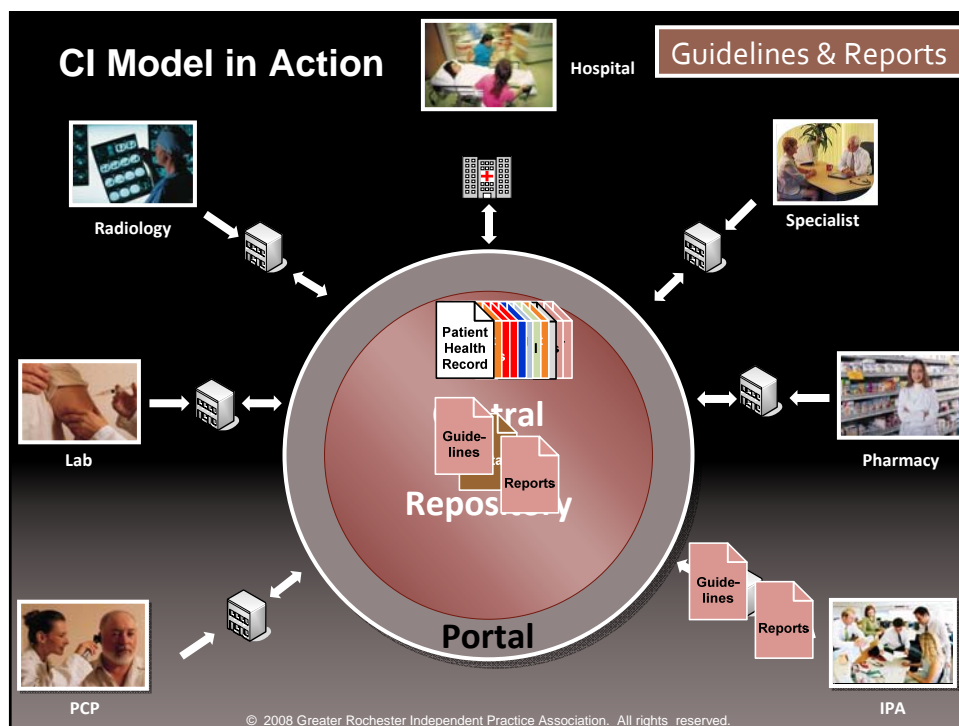
Works for offices that are paper-based and offices with full EMR
Tool for use by providers, *not* a substitute for the medical record

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Improving Guidelines Compliance through Electronic Tools



Point of Care Alerts

- Available to all physicians at Point of Care
- Display services that a patient is overdue for or beyond goal ("Actionable Alerts")
- Updated as transactional data is received
- Physicians are able to provide feedback if a patient is mis-identified with a disease or has a contra-indication related to an alert

Care Opportunities Report

- Population report to look at all "actionable" items on all patients within a practice at once
- Filters allow physician to focus on a subset of population
- Allows offices to do outreach to those patients in need of services

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GRIPA Connect Point of Care (POC) Alerts



Patient

Last Name: **GRIPA** First Name: **TrainingC** DOB: **2/2/1960**
 Gender: **Female** SSN: **Not entered** MRN: **Not entered**

Managed Conditions

Managed Condition	ICD-9	Date Diagnosed	Rank
* Diabetes		05/2004	1
* Prevention		01/2001	2
* Pneumovax Candidate		unspecified	3


* Denotes a managed condition added at another site

Patient Alerts

☒ Actionable Alerts only.

Lab					
Measure (Alert) Name	Last Value	Date Last Value	Patient Goal	Population Goal	Due Date
A1c	7.2	8/14/2007	< 7	< 7	2/9/2008
HDL					
Triglycerides					
LDL					
Preventive Care					
Measure (Alert) Name	Last Value	Date Last Value	Patient Goal	Population Goal	Due Date
Cervical Cancer Screening					
Immunization					
Measure (Alert) Name	Last Value	Date Last Value	Patient Goal	Population Goal	Due Date
PNEUMOCOCCAL VACCINE HIGH RISK	Done	2/15/2001			2/14/2006

GRIPA Connect Care Opportunities Report (COR)



Please select desired criteria before applying the filter.

Site: Cross Keys Internal Medicine

Provider: Nielsen, Eric

Condition: Diabetes

Alert To Display: A1c

[Apply Filter](#)


Care Opportunities Patient List

Patient	Age	# of Actionable Alerts	% of all Alerts	Patient's PCP	Last Action	Alert to Display	Managed Conditions
GRIPA, TrainingB	48	3	23%	Eric Nielsen	06-15-2007 A1c	A1c (<7) 7.5 06-15-2007	Diabetes, Hypertension, Prevention, Pneumovax Candidate, Coronary Artery Disease
GRIPA, TrainingC	48	6	60%	Eric Nielsen	11-20-2007 Breast Cancer Screening	A1c (<7) 7.2 08-14-2007	Diabetes, Pneumovax Candidate, Prevention

[< Previous](#)

[View Outreach Report](#)

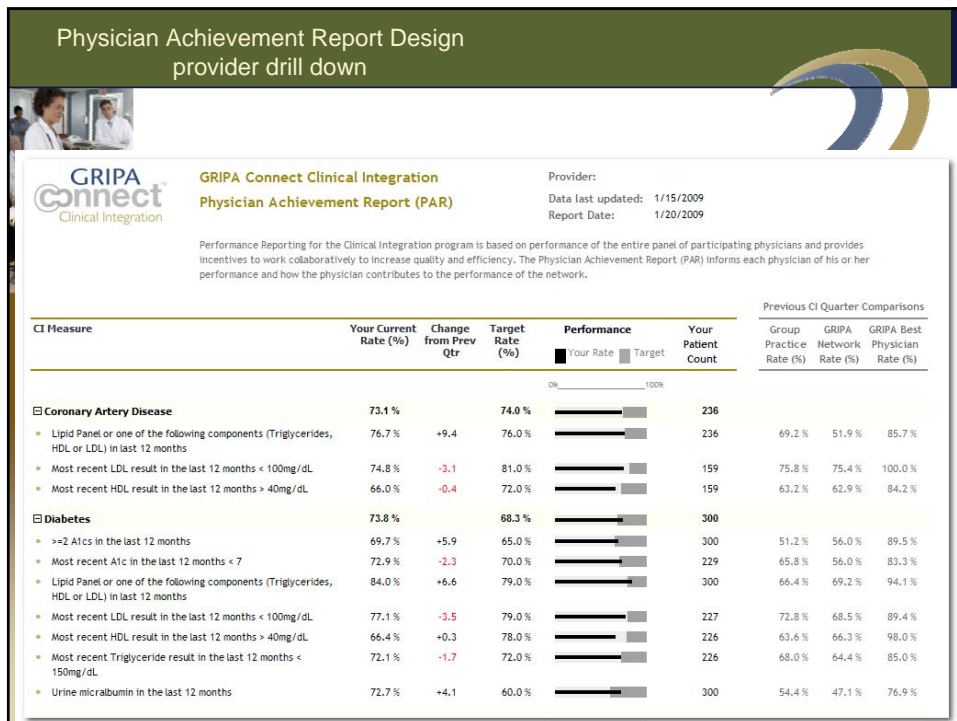
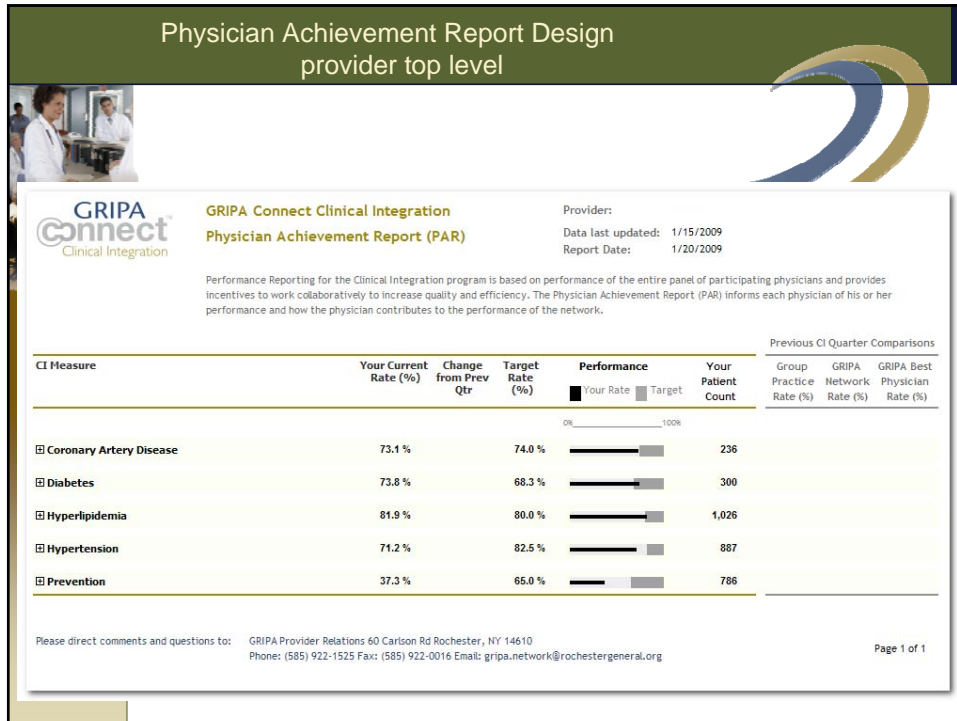
Improving Guidelines Compliance

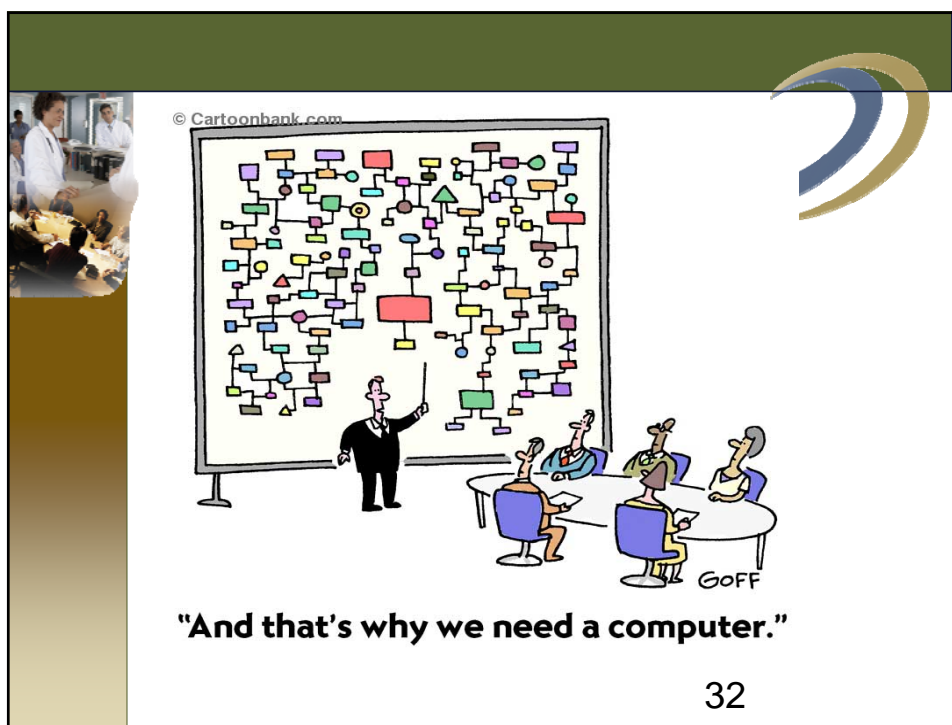
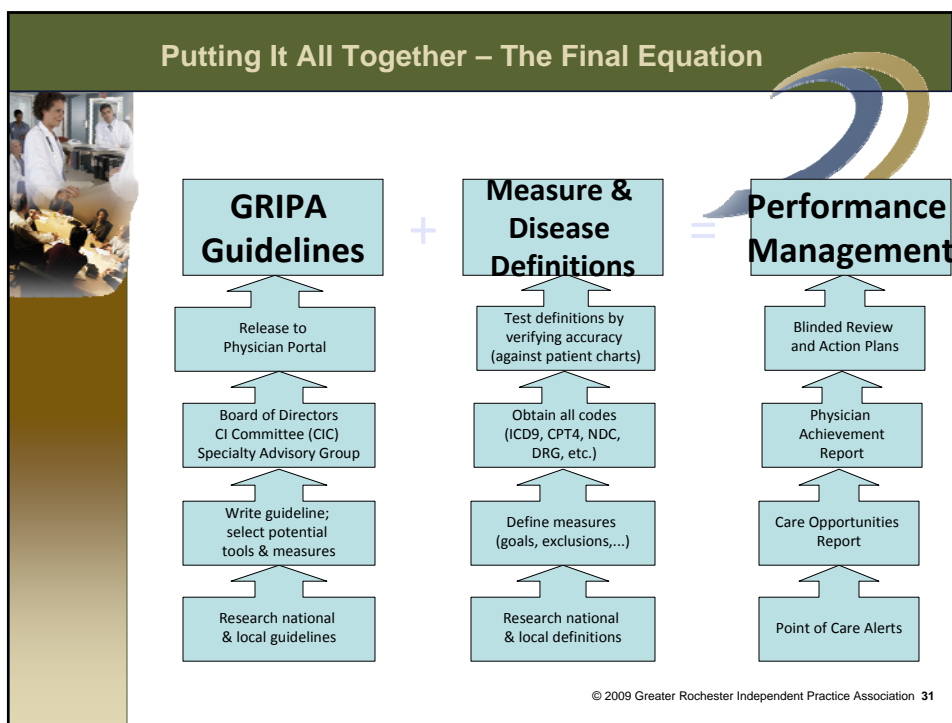


Physician Achievement Report (PAR)

- ▶ Shared only with the responsible provider
- ▶ Dynamically updated (daily)
- ▶ Feedback to physicians
- ▶ Used to determine which physicians may need assistance
- ▶ Used by Care Management staff for case finding
- ▶ Basis of Pay for Performance Program

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Antitrust Guidance from FTC & DOJ



Written Guidance:

- ▶ DOJ/FTC Statements of Antitrust Enforcement Policy in Health Care, Statements 8 & 9 (1996)
 - <http://www.ftc.gov/reports/hlth3s.htm>
- ▶ Health Care Report - "Improving Health Care: A Dose of Competition," Ch. 2, pp. 36-41
 - <http://www.ftc.gov/reports/healthcare/040723healthcarerpt.pdf>
- ▶ Commissioner Thomas Rosch Clinical Integration Speech
 - <http://www.ftc.gov/speeches/rosch/070917clinic.pdf>
- ▶ MedSouth, Inc. Advisory Opinion Letter (2002)
 - <http://www.ftc.gov/bc/adops/medsouth.shtm>
- ▶ MedSouth, Inc. Follow-up Letter (2007)
 - <http://www.ftc.gov/bc/adops/070618medsouth.pdf>
- ▶ Suburban Health Organization Advisory Opinion Letter (2006)
 - <http://www.ftc.gov/os/2006/03/SuburbanHealthOrganizationStaffAdvisoryOpinion03282006.pdf>
- ▶ Greater Rochester IPA Opinion Letter (2007)
 - <http://www.ftc.gov/bc/adops/gripa.pdf>
- ▶ TriState Health Partners Opinion Letter (2009)

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The Controversy about Guidance



- American Hospital Association
 - ▶ Call for more guidance
 - ▶ <http://www.ftc.gov/bc/healthcare/checkup/pdf/AHAComments.pdf>
- American Medical Association
 - ▶ Call to update guidance and recognize HIT push of other agencies
 - ▶ <http://www.ftc.gov/bc/healthcare/checkup/pdf/AMAComments.pdf>
- Continuing stream of requests for advisory opinions
- Federal antitrust enforcers don't want a "cookie-cutter approach"

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Privacy & Security



- Health Insurance Portability and Accountability Act (HIPAA) of 1996 is a road map to health information exchange (HIE), not an impediment
- Health Information Security and Privacy Collaborative (HISPC)
 - ▶ 42 state entities, designated by governors, in 7 groups
 - ▶ Goals:
 - Preserve privacy and security protections in a manner consistent with interoperable health information exchange;
 - Promote stakeholder identification of practical solutions and implementation strategies through an open and transparent consensus-building process; and
 - Create a knowledge base about privacy and security issues in electronic health information exchange in states and communities that endures to inform future HIE activities
 - ▶ More information: www.rti.org/HISPC,
www.hhs.gov/healthit,
www.healthit.ahrq.gov/privacyandsecurity

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Other regulatory issues - 2009



1. American Recovery and Reinvestment Act (ARRA)
2. Health Information Technology for Economic and Clinical Health (HITECH)
3. Office of the National Coordinator for Health Information Technology (ONCHIT)
4. Federal Advisory Committee Act (FACA)

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CONTACT INFORMATION



Eric Nielsen, MD
Phone: (585) 922-3062
Fax: (585) 922-1565
E-mail: eric.nielsen@rochestergeneral.org
<http://www.gripaconnect.com/>



Christi J. Braun, Esq.
Phone: (202) 326-5046
Fax: (202) 336-5246
E-mail: cjbraun@ober.com
<http://www.ober.com>