



Quick Links

[CAP Home](#)

[Risk E-Notes Archive](#)

[CAPsules Archive](#)

[CAP Risk Management
& Patient Safety](#)

[Contact Us](#)



Understanding Electronic Health Record Contracts

If you are preparing to buy an Electronic Health Record (EHR) system, be sure to scrutinize the contract language as part of your due diligence before signing the agreement with the EHR provider. While CAP does not review contracts, we can offer this advice: It is vital that you clearly understand your specific contract obligations, as well as the vendor's obligations, including:

Data Ownership

- Who owns the data? This may seem like a silly question - you probably assume you will, but that is not always the case. Confirm this ownership term.
- If you cannot pay your ongoing vendor bill, will you still have access to the medical record data?
- If you move to a new office and you need your data, can you obtain a copy or must you pay an exorbitant withdrawal fee to access it in digital form?

Vendor Obligations:

- What is the vendor's obligation to maintain and support the product?
- What is the vendor's obligation regarding recovery after a catastrophic data loss?
- What obligations are disclaimed by the vendor if things go wrong?
- What guarantees, if any, has the vendor made that the EHR will be upgraded to continue to meet the "Certified EHR" requirement to qualify for HITECH Act subsidies?

Your Practice's Obligations:

- What obligations will your practice be held to? For example, if you do not purchase the vendor's most recent program release, will you and your staff have the right to ongoing training and technical support?
- What hardware specifications, e.g. server, high-speed scanner, computer, hand-held device, are required to support the EHR software?

Click [here](#) to read the American Medical Association's informative document, "*15 Questions to Ask Before Signing an Electronic Medical Record or Electronic Health Record Agreement.*"

Authored by
Georgia McCullough, RN, JD
Risk Management & Patient Safety Department

If you have questions about this article, please use the "Contact Us" button to the left.

Published comments of this information should not be considered legal advice applicable to a specific situation. Legal guidance for individual matters should be obtained from a retained attorney.