Implementation of HIPAA Standards

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Health Insurance Portability and Accountability Act of 1996

- Established health insurance portability requirements and fraud prevention measures
- Sections 261 through 263 added “Administrative Simplification” provisions to Title XI of the Social Security Act
- Section 264 added privacy provisions
HIPAA directs the Secretary of HHS to adopt standards:

- Necessary for national electronic health data system
- For the transmission, uses, storage and disclosure of health information
- Applicable to health care plans, clearinghouses and those providers who conduct designated transactions electronically
Required HIPAA Standards

- Transactions
- Code sets
- Unique National Identifiers
- Security
- Electronic signatures
Privacy Standards

- Originally just one more standard
- Congress gave itself until August 21, 1999 to enact comprehensive federal health privacy legislation
- If no legislation, the Secretary of HHS required to promulgate privacy regulations
- No final standards available from ANSI accredited standards development organization
Adoption of HIPAA Standards:

- From existing voluntary consensus standards
  - developed by a Standard Development Organization (SDO) accredited by the American National Standards Institute (ANSI)

- Different standards only
  - if offer lower administrative costs and
  - are adopted through negotiated rulemaking
If No ANSI Standards:

- Secretary to develop such standards
- Following consultation with
  - National Committee on Vital and Health Statistics
  - National Uniform Billing Committee
  - National Uniform Claim Committee
  - American Dental Association
  - Workgroup for Electronic Data Interchange (WEDI)
ANSI Accreditation Produces Standards by:

- Open process for all interested parties
- Consensus building
- Due process protections:
  - notice
  - voting
  - appeals
- Communication

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Influence of ANSI SDOs on HIPAA Standards Adoption:

- More open communication between government and industry representatives
- High levels of participation by many members of affected industries
- Cross agency and cross department communication
- Development of new cooperative organizations and associations

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Standards Implementation Issues

- Numerous administrative requirements for development and adoption
- Compliance two (or, for small health plans, three) years following adoption
- Emphasis on achieving voluntary compliance
- Statutory civil and criminal enforcement provisions
Preemption

- HIPAA did not repeal existing federal laws
- State laws will be preempted by HIPAA standards except for laws:
  - determined to be necessary by the Secretary of HHS
  - for public health or
  - for state regulatory reporting
- Special preemption for state privacy laws
Applicability of Standards

- **Apply to:**
  - All health plans
  - All health data clearinghouses
  - Providers who conduct transactions electronically

- **Do NOT apply directly to:**
  - Employers
  - Life, casualty, disability or worker’s compensation insurers
  - Other users of health information

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Notices of Proposed Rulemaking published summer of 1998 for:

- Transactions and Code Sets
  - Final published 65 Fed Reg 50312 (8/17/00)
- National Provider Identifier
- National Employer Identifier
- Security and Electronic Signatures
Transactions and Code Sets Rule

- Published as final rule on August 17, 2000
  - effective October 16, 2000
  - compliance date of October 16, 2002
- Framework for all HIPAA requirements
- Definitions
- Process for updating and revising standards
Designated Standards Maintenance Organizations

- On-going role for SDOs in maintaining standards
- Mechanism for communication and coordination among SDOs for all standards
- Orderly route for requests, suggestions, revisions, testing of new standards
Privacy Standards

- Final rule published December 28, 2000
- Effective date scheduled for February 28, 2001
- Compliance date of February 28, 2003
Next Final Standards:

- Provider Identifier
- Employer Identifier
- Security
- Electronic Signatures
Under Development for Publication as Proposed Rules:

- Standard for national plan identifier
- Standard for claims attachments
- Standards for supplemental transactions
- Enforcement
HIPAA Regulations Issues:

- **Scope:**
  - incomplete universe
  - pre Internet, pre Web design
- **Roles for individuals**
- **Roles for SDOs**
- **Interaction between ANSI process and standard rulemaking process**
Other Influences

- Technology developments
- Court cases
- Public awareness
- Interplay with other federal actions on data
  - Gramm-Leach-Bliley
  - Federal Trade Commission
  - future legislation
Choices for Privacy

- The Privacy Standards
- Comprehensive health privacy laws
- Piecemeal fixes to existing laws
- Scott McNealy, Sun Microsystems CEO: You already have zero privacy: Get over it!
Resources

- Administrative Simplification web site:
  - http://aspe.hhs.gov/admnsimp/

- Privacy web site:
  - http://www.hhs.gov/ocr/hipaa

- NCVHS web site:
  - http://aspe.hhs.gov/ncvhs
More resources

- WEDI: www.wedi.org
- Washington Publishing Co. for Transaction Standards:
- For Security Forum:
  www.healthcaresecurity.org
And still more resources:

- Health Information and Technology Committee and Listserv: http://HIT@HealthLawyers.org
- For computer based record: http://www.CPRI-HOST.org
- For CPRI Toolkit http://healthcare.3com.com/securitynet/hipaa/toc.html