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# Implementation of HIPAA Standards

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Second National HIPAA Summit  
March 1, 2001

HHS/OGC

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- ◆ The information in this presentation does not represent official views of the U.S. Department of Health and Human Services

# Health Insurance Portability and Accountability Act of 1996

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- ◆ 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:

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- ◆ 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

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- ◆ Transactions
- ◆ Code sets
- ◆ Unique National Identifiers
- ◆ Security
- ◆ Electronic signatures

# Privacy Standards

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- ◆ 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

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# Adoption of HIPAA Standards:

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- ◆ 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:

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- ◆ 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:

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

# Influence of ANSI SDOs on HIPAA Standards Adoption:

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- ◆ 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

# Standards Implementation Issues

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- ◆ 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

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- ◆ 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

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- ◆ 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

# Notices of Proposed Rulemaking published summer of 1998 for:

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- ◆ 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

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- ◆ 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

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- ◆ 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
- ◆ 45 C.F.R. 162.910 (65 Fed Reg 50312, 50368, Aug. 17, 2000)

# Privacy Standards

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

# Next Final Standards:

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- ◆ Provider Identifier
- ◆ Employer Identifier
- ◆ Security
- ◆ Electronic Signatures

# Under Development for Publication as Proposed Rules:

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- ◆ Standard for national plan identifier
- ◆ Standard for claims attachments
- ◆ Standards for supplemental transactions
- ◆ Enforcement

# HIPAA Regulations Issues:

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

# Other Influences

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

# Choices for Privacy

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- ◆ 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

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- ◆ 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

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- ◆ WEDI: [www.wedi.org](http://www.wedi.org)
- ◆ Washington Publishing Co. for Transaction Standards:
  - [http://www.wpc-edl.com/hipaa\\_40.asp](http://www.wpc-edl.com/hipaa_40.asp)
- ◆ For Security Forum:  
[www.healthcaresecurity.org](http://www.healthcaresecurity.org)

## And still more resources:

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- ◆ 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>