

The background of the slide is a close-up, slightly blurred image of the American flag, showing the stars and stripes in red, white, and blue. The flag is draped and folded, creating a sense of movement and texture.

# **5th National HIPAA Summit**

**JCAHO and NCQA and HIPAA  
Business Associates**

**Friday, November 1, 2002**

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***Healthcare Initiative***

**To *P*erplex and  
*A*gitate *A*mericans**

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# ***Healthcare Insurance***

## ***Portability and Accountability Act***

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# The Players

- Sue Miller, Moderator
  - The Kearney Group
  - Co-chair WEDI SNIP SPWG
  - Chair Advisory Committee, NCQA, Business Associate Privacy Certification Program
- Sharon King Donohue, General Counsel, NCQA
- Anthony J. Tirone, JD, Director, Federal Relations, JCAHO



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# What is HIPAA ?

- **H e a l t h I n f o r m a t i o n P o r t a b i l i t y a n d A c c o u n t a b i l i t y A c t**
- **aka “Kennedy-Kassebaum Act”**
- **Adopted August 21, 1996**

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# Why HIPAA ?

- Improve ***efficiency and effectiveness*** of healthcare through ***standardization*** of all shared electronic information
- Protect the ***privacy and security*** of patient information stored and exchanged electronically
- Reduce the ***cost of exchanging information*** among healthcare partners

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# What does HIPAA apply to?

- **Health Insurance Portability**
- **Standards for Electronic Claims Submission**
- **Privacy and Security Protection**

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# Who does HIPAA apply to?

- **Applies to Covered Entities**
  - **Health care providers who transmit any health information in electronic form**
  - **Health plans**
  - **Health care clearinghouses**



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# **HIPAAeze**

(speak the language)

- **PHI – Protected Health Information**
- **CE – Covered Entity**
- **BA – Business Associate**
- **OHCA – Organized Health Care Arrangement**
- **P&P – Policies & Procedures**
- **NPP – Notice of Privacy Practices**
- **TPO – Treatment, Payment and Health Care Operations**

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# When did HIPAA Happen?

- **Transaction and code sets published August 17<sup>th</sup>, 2000**
  - **Effective Date Transaction and Code Sets October, 2002**
  - **With Extension October 2003**
  
- **Privacy Rules published**
  - **December 28, 2000**
  - **August 14, 2002**
  - **Effective Date Privacy Rules April 14, 2003**

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# When did HIPAA Happen?

- **Data Security proposed August 12, 1998**
  - **Final expected late 2002**
- **National Employer Identifier proposed June 16, 1998**
  - **Final rule May 31, 2002**
  - **Effective July 30, 2002**

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# Yet to Come

- **Claims Attachments**
- **Unique Identifiers**
  - **Nat'l Provider Identifier (NPI)**
  - **Health Plan Identifier**
- **Enforcement**



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# Privacy vs Security

- **Privacy Rule** - The right of an individual to withhold his or her individual healthcare information from public scrutiny
- **Security Rule** - The protection of individual healthcare information held by a healthcare entity, or the infrastructure that makes privacy possible

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# HIPAA Covers

- **Paper**
- **Oral**
- **Electronic Transmissions**

**WARNING: Dangerous HIPAA!**  
**Please Keep Her Quiet By Keeping All  
Health Information Confidential**



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# Responsibility for your new “CULTURE Of Caution”

- **Each covered entity must designate a privacy official who is responsible for development and implementation of privacy policies and procedures. Each covered entity must assign security responsibility to one or more individuals.**



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# Roadmap for your new “CULTURE Of Caution”

- **Complete a “PHI” inventory.**
- **Understand the purposes of all uses and disclosures of “PHI”.**
- **Start “looking for leaks.”**

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# Roadmap for your new “CULTURE Of Caution”

- **HIPAA Compliance is impossible without knowing which particular items of PHI your organization uses, and the various forms in which it appears.**

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# **“CULTURE of Caution”**

## **■ Protected Health Information (PHI)**

- All individually identifiable information in ANY form or media**
  - Names**
  - Geo-codes less than state**
  - All dates**
  - Phone, fax, e-mail,**
  - SSN**
  - Medical Record,**
  - Beneficiary**
  - Account #**
  - Certificate / License #**
  - Vehicle IDs**
  - Device IDs**
  - URLs, IP Addresses**
  - Biometrics**
  - Full Face Photo**
  - Any Other Unique ID or Character ID Code**

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# **‘Warning Sign’ for your new “CULTURE Of Caution”**

- **PHI is protected regardless of its form. Protected health information includes written documents, spoken words, data stored on computers, telephone conversations, charts and diagrams, information transmitted via data networks, etc.**

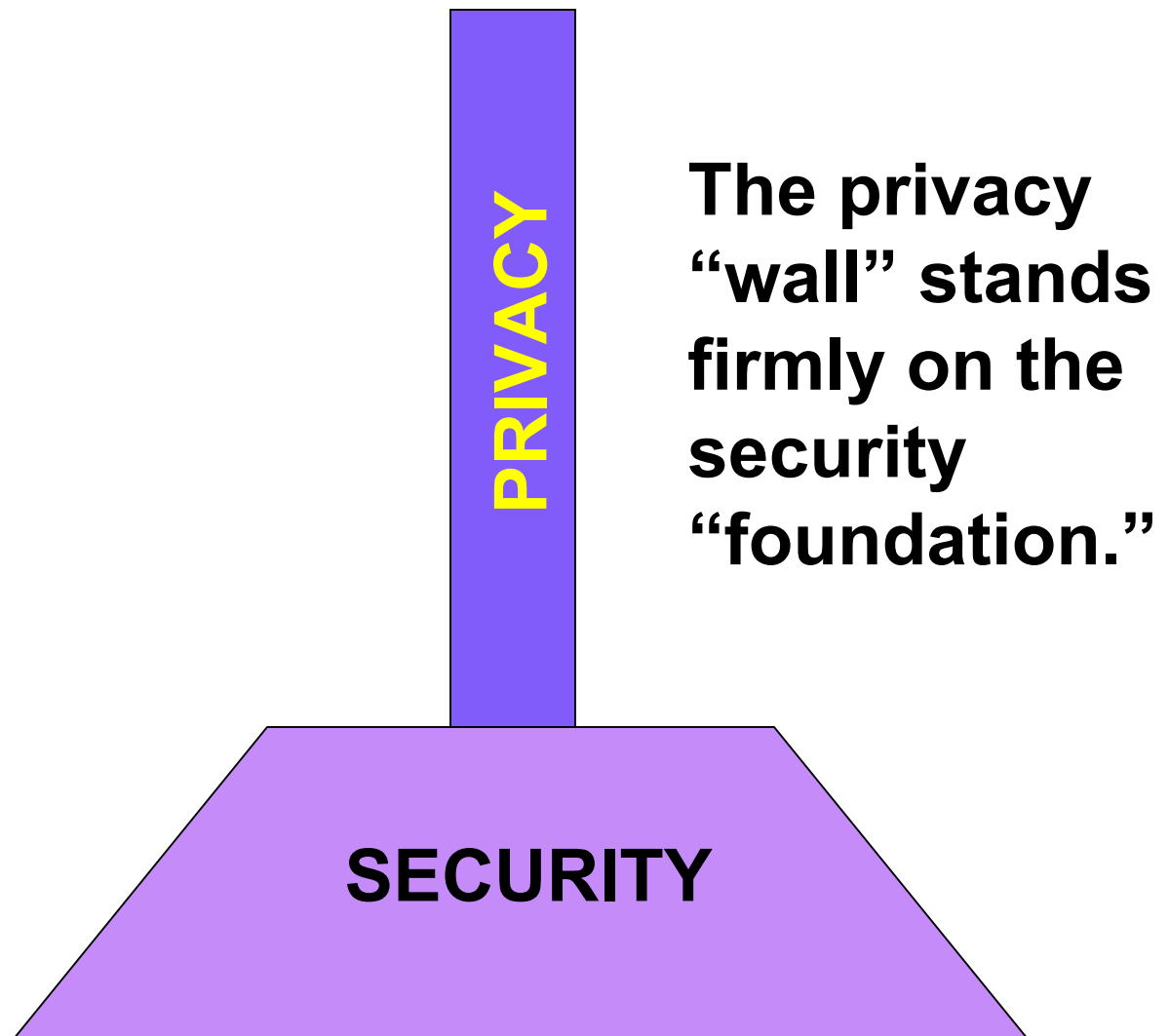


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# Rules for your new “CULTURE Of Caution”

- 1. Establish Rules for Protecting Patient Privacy**
- 2. These rules become your organizations “privacy policy.”**
- 3. Create them ‘livable’, ‘reasonable’ and ‘enforceable’.**
- 4. All people who could come into contact with PHI must be trained in the procedures to be followed.**

# Privacy and Security



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# Barriers for your new “CULTURE Of Caution”

## **Physical security includes:**

- 1. Off-hours building access.**
- 2. Access to areas where “PHI” is readily available.**
- 3. Restricted access file cabinets.**
- 4. Secure waste disposal.**

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# Barriers for your new “CULTURE Of Caution”

## **Technical security includes:**

- 1. User authentication.**
- 2. Access control.**
- 3. Audit trails.**



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# What is “Privacy Compliance?”

- **Never having a privacy complaint.**

**- OR -**

- **Successfully handling all privacy complaints.**

**- OR -**

- **Correctly answering all questions during a compliance review.**

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# Top 10 Privacy Compliance Tasks

- 1. Assign responsibility for privacy and security.**
- 2. Establish procedures for handling sensitive information.**
- 3. Provide physical security.**
- 4. Provide technical security.**
- 5. Establish rules for protecting patient privacy.**

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# Top 10 Privacy Compliance Tasks

- 6. Allow patients access to medical records.**
- 7. Respond to complaints.**
- 8. Publish a notice of privacy practices.**
- 9. Ensure that business associates protect patient privacy.**
- 10. Train the workforce.**

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# HIPAA Privacy Penalties

## Civil

- 
- 
- **Not more than \$100 for each...violation**
- **No more than \$25,000 for all violations of identical type during calendar year**

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# HIPAA Privacy Penalties

## Criminal

- **Improper use of unique health identifiers, or improperly obtaining or disclosing individual health information, on the basis noted, are**
  - **subject to maximum of both:**

■ <b>Knowingly</b>	<b>\$ 50,000</b>	<b>1 year</b>
■ <b>False pretenses</b>	<b>\$100,000</b>	<b>5 years</b>
■ <b>For profit, gain or harm</b>	<b>\$250,000</b>	<b>10 years</b>



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# Security

- **1320d-2 Safeguards**
- **Each person described in section 1320d-1(a) of this title who maintains or**
  - **transmits health information shall maintain reasonable and appropriate**
  - **administrative, technical, and physical safeguards –**
    - **(A) to ensure the integrity and confidentiality of the information;**

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# Security

## ■ 1320d-2 Safeguards (cont)

- (B) to protect against any reasonably anticipated –
  - (i) threats or hazards to the security or integrity of the
  - information; and
  - (ii) unauthorized uses or disclosures of the information; and
- (C) otherwise to ensure compliance with this part of the officers and employees of such person.

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# Implications

- 40% Technical
- 60% Culture
- How we do business will change

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# To Ponder

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**90% of HIPAA is 50% Mental**

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# HIPAA Acceptance Cycle

- **Recoil**
- **Retaliation**
- **Counteraction**
- **Amusement**
- **Cooperation**
- **Appreciation**



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# Covered Entities Need ...

**To effectively implement HIPAA by the compliance date, covered entities need to engage ASAP the following:**

- **Awareness Education**
  - Management as well as employees must buy in
- **Transaction Compliance**
- **Privacy & Security Compliance**
- **Seek Assistance**

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When do I start?

**N O W**

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# Where do I start?

- Workgroup for Electronic Data Interchange
  - <http://www.wedi.org>
- Strategic National Implementation Process
  - <http://www.snip.wedi.org>

# The HIPAA Sleeps Tonight



# Thank You

**Timothy Loewenstein**  
October 7th, 2002