

HIPAA

Administrative Simplification Overview

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Nature-wildlife.com

PRICEWATERHOUSECOOPERS 

1996: HIPAA Passes

Administrative Simplification Tags Along

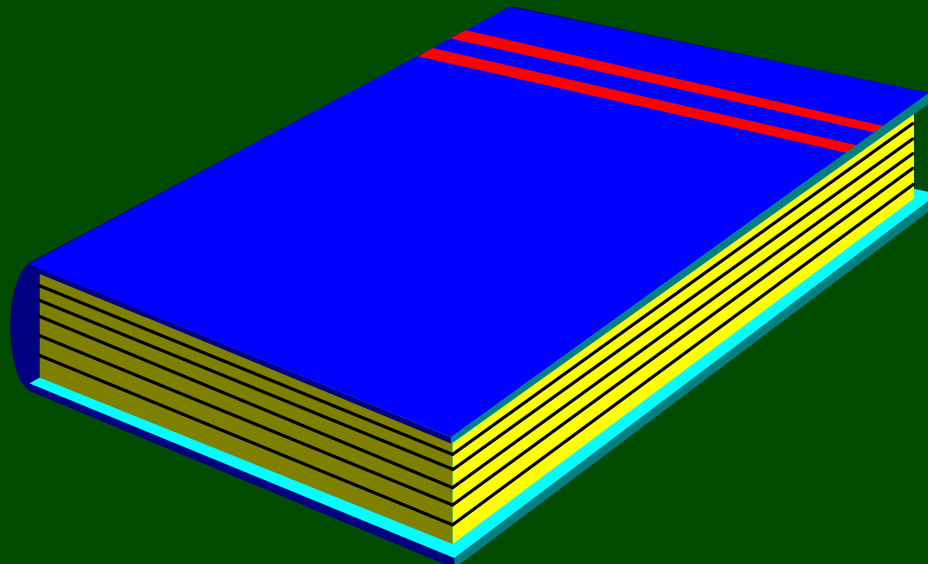


Administrative Simplification Subtitle

The Health Insurance Portability and
Accountability Act of 1996 (HIPAA)

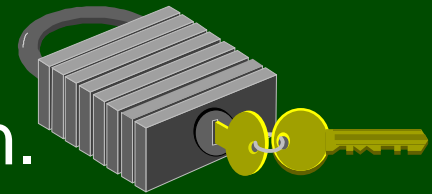
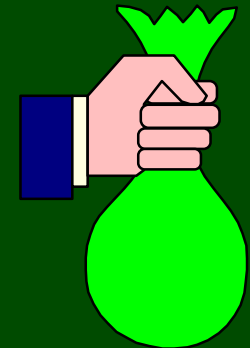
Signed into Law August 21, 1996

Aministrative Simplification Subtitle



Administrative Simplification Purpose

- Save money by setting **standards and requirements** for electronic transmissions.
 - Public responsibility imposed additional purpose:
- Protect **security and privacy** of individually identifiable health information.



It's a package deal!

3 Parts to Administrative Simplification

45 CFR Subtitle A, Subchapter C

PART 160 – General Administrative Requirements

- Scope, common definitions, enforcement.

PART 162 – Administrative Requirements

- Transaction, code set, [and identifier] standards.

PART 164 – Security And Privacy

- Privacy [and security] rules.

You wanted HHS to lead!



HHS Required to Adopt Standards:

Electronic transmission of specific administrative and financial transactions (including data elements and code sets)

- List includes claim, remittance advice, claim status, referral certification, enrollment, claim attachment, etc.
- Others as adopted by HHS.

Unique identifiers (including allowed uses)

- Health care providers, plans, employers, & individuals.
- For use in the health care system.

Security and electronic signatures

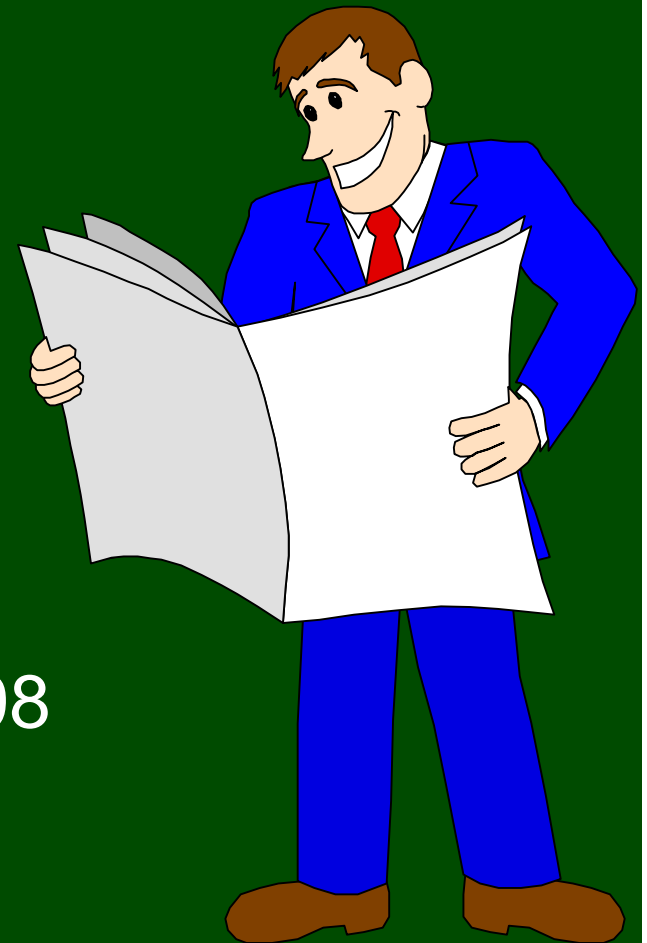
- Safeguards to protect health information.

Privacy

- For individually identifiable health information.

Federal Register Publications

- Transactions NPRM - 5/7/98
 - Final Rule - 8/17/00
 - Compliance plan by 10/16/02
 - Testing by 4/16/03
 - Compliance by 10/16/03
- Privacy NPRM - 11/3/99
 - Final Rule - 12/28/00
 - Guidance issued 7/6/01.
 - Compliance by 4/14/03
- National Provider ID NPRM - 5/7/98
- Employer ID NPRM - 6/16/98
- Security NPRM - 8/12/98



There is a lot beneath the surface.



HIPAA Standards Philosophy

To save money:

- every payer must conduct standard transactions.
- no difference based on where transaction is sent.

Standards must be

- industry consensus based (whenever possible).
- national, scalable, flexible, and technology neutral.

Implementation costs must be less than savings.

Continuous process of rule refinement:

- Annual update maximum (for each standard) to save on maintenance and transitions.

Consultations Required

Consult with: 4 groups named in the statute (NUBC, NUCC, WEDI, ADA).

“Appropriate Federal and State agencies and private organizations.”

“Rely on the recommendations of the National Committee on Vital and Health Statistics (NCVHS).”

Many opportunities for individual input:

- participate in open SDO processes,
- participate in WEDI (SNIP), NCVHS hearings,
- comment during rulemaking comment periods,
- communicate with HHS Secretary or staff.

Scope: Who is Covered?

Limited by HIPAA law to ‘covered entities’:

- “A health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter.”
 - Providers get a choice; made by conducting electronic transactions (or getting a business associate to).
- “A health care clearinghouse.”
 - clearinghouses get no choice.
- “A health plan.”
 - Explicitly including government plans such as Medicaid & Medicare, VA, DoD, CHAMPUS, IHS, etc.
 - All health plans are covered (or \$ cannot be saved).
 - Exceptions for some not primarily “health” plans.
 - e.g., workers comp, property & casualty.

Business Associates

Only covered entities are subject to the rules.

- this limit doesn't make sense
 - because healthcare uses outsourcing extensively and
 - these other entities would not be required by law to safeguard our health information ...
- ... so 'business associate agreements' were invented to obligate outsource agents, vendors, and contractors to safeguard the health information they need to do their jobs.

Transaction/Code Set Standards

Transaction standards developed and maintained by industry consensus through SDOs.

- DSMOs to integrate requests and responses for new/modified standards.

Likewise, national code sets continue to be maintained by current developers and maintainers.

- Emphasis by HHS on open processes.
- No regulation of mechanism (licensing) for funding continuous development and maintenance.

Implementation Specifications

Published by SDO (some with HHS support) and incorporated into regulation by reference.

- SDOs are writing actual language of regulation.
- If you don't like it, there is an open process to change it.
- Trading partner agreement cannot change the meaning or intent of the implementation specification(s).

If a covered entity conducts an electronic transaction with another covered entity (or within the same covered entity) for which the Secretary has adopted a standard, it must be conducted as a standard transaction.

- Transactions are defined without regard to whether they are within or between entities. In some cases, the from and to entities are specified in the definition.

How do you tell one HIPAA from the rest?



Identifiers

Identifiers should contain no 'intelligence'.

- Characteristics of entities are contained in databases, not imbedded in construction of identifier.

Identifiers should be all numeric.

- For easy telephone and numeric keypad data entry.

Identifiers should incorporate an ANSI standard check digit to improve accuracy.

- Exception for Employer Identification Number [EIN].
 - Already exists and supported.

Security Requirements

Covered Entities shall maintain **reasonable and appropriate administrative, technical, and physical safeguards --**

- to ensure integrity and confidentiality
- to protect against **reasonably** anticipated
 - threats or hazards to security or integrity
 - unauthorized uses or disclosures
- taking into account
 - technical capabilities
 - costs, training, value of audit trails
 - needs of small and rural providers

Key Security Philosophy

Identify & assess risks/threats to:

- Availability
- Integrity
- Confidentiality

Take **reasonable** steps to reduce risk.

BE REASONABLE!



Security Issues

Covers transmitted data plus data at rest.

Involves policies/procedures & contracts with business associates.

- For most security technology to work, behavioral safeguards must also be established and enforced.
 - requires administration commitment and responsibility.

Electronic signatures:

- Final rule will depend on industry progress on reaching consensus on a standard.

HIPAA Enforcement: Watching, Listening



Enforcement Philosophy

Preemption of state law wherever feasible.

- not politically possible for privacy.

Enforcement by investigating complaints.

- not HIPAA police force -- OCR not OIG.

“The Secretary will, to the extent practicable, seek the cooperation of covered entities in obtaining compliance”

The philosophy is to **improve the health care system by helping entities comply, not by punishing unintentional mistakes.**

Excuses from civil penalties (from law)

NONCOMPLIANCE NOT DISCOVERED

- the person did not know, and by exercising reasonable diligence would not have known.

FAILURES DUE TO REASONABLE CAUSE.

- the failure was due to reasonable cause and not to willful neglect; and
- the failure is corrected within 30-days (which may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.)
- the failure was because the person was unable to comply

REDUCTION

- If the failure is due to reasonable cause , any penalty may be waived ...

Penalties

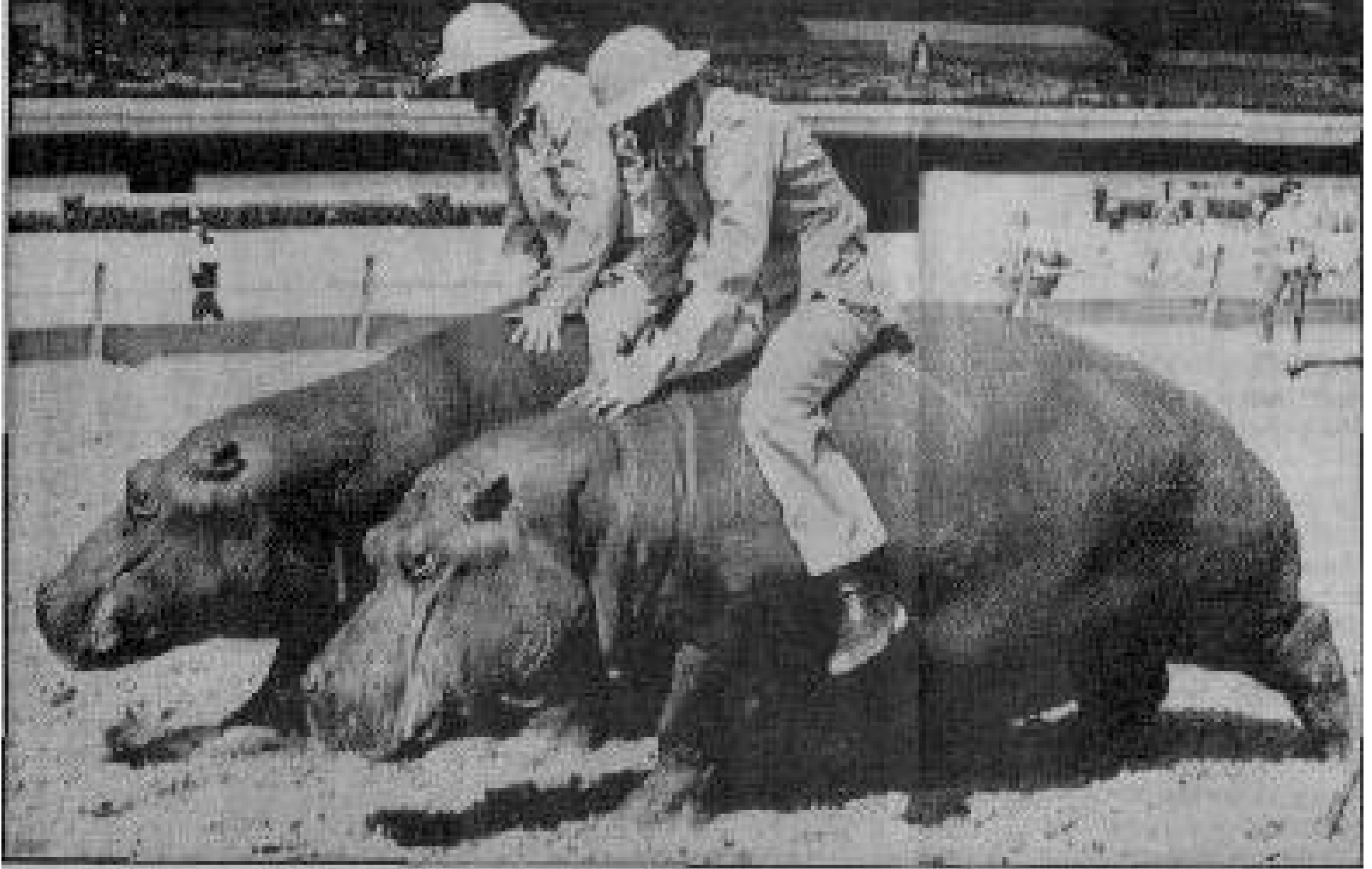
Civil: any person who violates a provision of [the privacy regulations]:

- \$100 per violation.
- Capped at \$25,000 for each calendar year for each requirement or prohibition that is violated.

Criminal: A person who knowingly and in violation of [the privacy regulations]:

- Up to \$50,000 & 1 year imprisonment for knowingly disclosing IIHI .
- Up to \$100,000 & 5 years if under false pretenses.
- Up to \$250,000 & 10 years if intent to sell or for commercial advantage, personal gain, or malicious harm.
- Enforced by Department of Justice.

HIPAA: The race to compliance ...



Extension Law

Administrative Simplification Compliance Act, aka H.R. 3323.

- May file a compliance plan with HHS by 10/16/2002
 - Testing must be planned to start by 4/16/2003
- For those who file plans
 - new compliance date for transactions 10/16/2003.
- No delay for privacy compliance 4/14/2003.
- All Medicare claims must be in standard electronic form by 10/16/2003
 - exception for very small providers.

Don't get left behind ...



Expected Final Rules and NPRMs

- Transactions and Code Sets
 - 1st Modifications NPRM expected soon.
- Privacy
 - Modifications NPRM expected soon.
- Employer ID
 - Final Rule expected soon.
- Security
 - Final Rule expected in Summer.
- Claim Attachment
 - NPRM expected in Summer.
- National Provider ID NPRM - 5/7/98
 - Final Rule expected in Fall.
- Health Plan ID
 - NPRM expected in Fall.

The Cost, Quality, Standards Relationship

Standards-based automation of routine functions lowers rate of rising costs (labor).

- Only possible if accompanied by process redesign.
- Could allow increased investment in clinical IT support.

Standardized data increases its usefulness for quality improvement studies.

- Knowing what's best can improve quality, but doesn't prevent error.
- 4th leading cause of death: medical errors!

Standards for clinical information will allow more cost-effective introduction of IT support at point of clinical decision making.

- Which in turn, will lead to fewer errors, higher quality care, and lower costs (e.g. e-Rx, CPOE).
- NCVHS recommendations for PMRI standards.

Resources

Administrative Simplification Web Site:

- <http://aspe.hhs.gov/admnsimp/>
 - posting of law, process, regulations, and comments.
- instructions to join Listserv to receive e-mail notification of events related to HIPAA regulations.
- submission of rule interpretation questions.

National Committee on Vital and Health Statistics

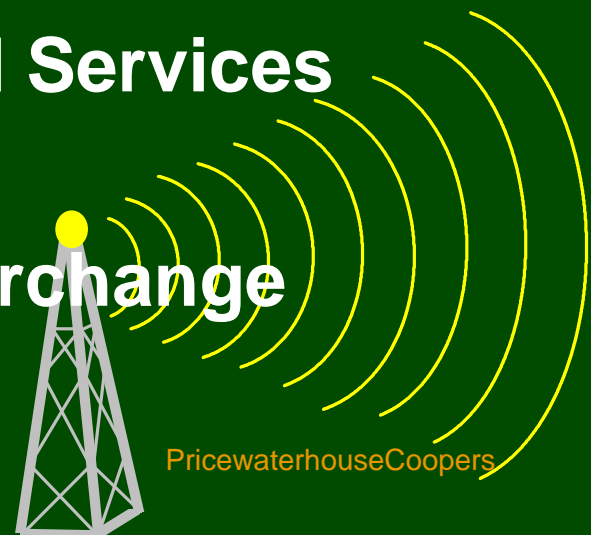
- ncvhs.hhs.gov

Centers for Medicare and Medicaid Services

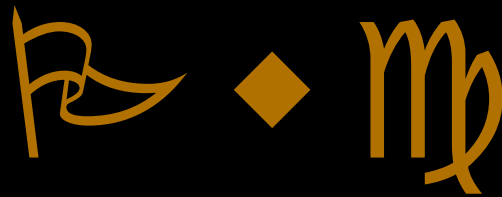
- www.hcfa.gov/hipaa/hipaahm.htm

Workgroup on Electronic Data Interchange

- www.wedi.org
- snip.wedi.org



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Your worlds

Our people

