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# Strategically Aligning the Implementation of Consumer-Directed Healthcare & HIPAA

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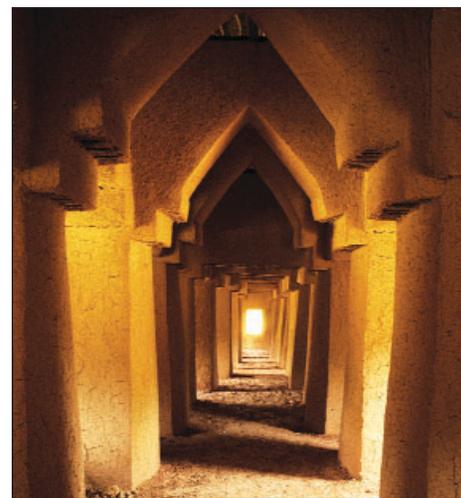
*Michael Thompson, Jeff Fusile and Jon Neiditz*

Two critical and emerging issues facing purchasers of health benefits are the desire for greater consumerism in healthcare (often called Consumer-Directed Healthcare ["CDHC"]) and the implementation of the "administrative simplification" requirements of the Health Insurance Portability and Accountability Act ["HIPAA"].

Despite the attractiveness of CDHC and the urgency of HIPAA, few employers have considered how these

two forces relate to each other. Understanding their relationship is vitally important, however, because implementation of either may be significantly less effective if not done in full consideration of the constraints and opportunities of the other.

This article presents a succinct framework for thinking about the two forces, their relationship to each other, and the need for a strategic alignment of their implementation.



## The Relationship Between CDHC and HIPAA

Simply speaking, consider CDHC as the emerging architecture of health benefits and HIPAA as its systems and ethical infrastructure.

Employers introducing CDHC are working to achieve a number of important goals:

- 1) To enable and drive informed decision-making by healthcare consumers, based on evidence-based guidelines,
- 2) To create greater transparency of specific measures and information related to cost and quality metrics, and
- 3) To target and leverage a variety of program interventions for optimal program effectiveness.

Of course, the overall goal of CDHC is to enhance the efficiency of the healthcare program as a whole while better supporting the needs, behaviors, and values of the various segments of a covered population. At the core of such a program, however, is an infrastructure of human-, information-, and decision-support systems, which is where the clearest and most immediate convergence with HIPAA can be found.

Among other things, HIPAA standardizes transactions and code sets, which will, in fact, permit CDHC to offer options with comparable information and to quickly and inexpensively add and/or remove options based on demand. At the same time, HIPAA's requirements related to privacy and security

provide an ethical foundation that most employees will require to protect the increasingly sensitive, personal, healthcare information that will be transmitted across a number of system elements. These arise not only as a result of the proliferation of condition-specific choices and risk-adjustment methodologies inherent in CDHC, but also from likely developments in genetic testing, e-health, and electronic medical records.

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## **A** *Empowering Shared Decision-Making with Standard Transactions and Code Sets, Information, and Technology*

An empowered consumer needs real options, good information, and decision support to organize, simplify, and interpret those options and that information. As a result, benefit-plan purchasers must be able to incorporate new options offering comparable information, while achieving low costs of administration.

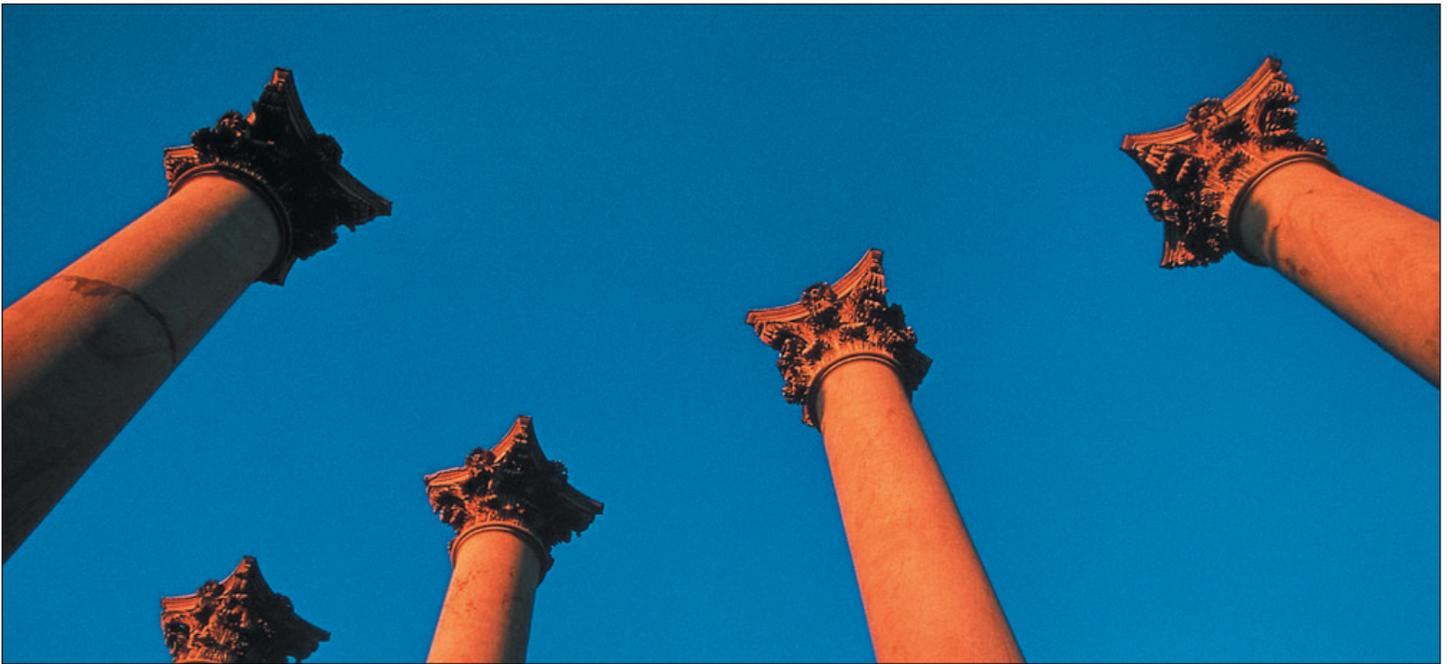
HIPAA's standard transactions and code sets enable comparable information to be generated by payors, providers, and other health-industry participants, allowing both the expansion of choice and the simplification of choice using decision-support tools. Because the data generated by the standard transactions is much more detailed and granular than most current formats, the standard transactions and code sets also permit more innovative "bundling" of services by competitors, without sacrificing comparability of information.

The standard transactions will also enable improved comparability and integrity of information related to the quality and cost-effectiveness of various health plans, treatments, and providers, (particularly as the standards for clinical information mature). Finally, for our country's highly mobile workforce, standardization may permit innovations such as multi-year health insurance policies that better align insurer cost-containment goals with the goal of long-term health maintenance.

## **B** *Employer Privacy as a Prerequisite to Employee Participation*

CDHC requires an effective flow of information to and from individuals about health-care choices and needs in order to help educate patients and their families and help them to target appropriate program supports. In many cases, effective CDHC may require the stratification of consumers based on healthcare values, behaviors, attitudes, and/or needs. Furthermore, incentives and/or other design elements may be targeted to various segments of the covered population based on specific healthcare or information needs and behaviors. This collection and transfer of information about consumers and outreach to consumers must be cognizant of privacy as one of our most salient political and consumer issues. While some employers understandably believe HIPAA privacy rules are unnecessary given their current uses of health information, the value of those rules is more apparent in relation to emerging trends in the use of such information, including health-risk appraisal, needs segmentation, risk adjustment, genetic testing, and digitized medical records.

HIPAA's privacy and security requirements provide the backbone of rights that many consumers and citizens will consider a fundamental prerequisite to new types of information transfers about their personal health and healthcare status. Employees will be particularly concerned about the release of that information to their employers. In fact, HIPAA addresses those concerns directly by strictly limiting the use and disclosure of such information to "plan administration" purposes, and by requiring the creation of a "firewall" preventing its use for any employment-related purposes about which the employee would likely be concerned. Furthermore, the HIPAA "minimum



necessary" rules require that even within the administration of the health plan, only purposeful exchanges of personal health information occur.

Consequently, HIPAA's privacy and security rules and its broad consumer protections enable CDHC strategies to move forward in an environment of clearer

boundaries, rights, and responsibilities. At the same time, however, HIPAA broadly permits various uses and disclosures for the purposes of "treatment, payment, and health-care operations," which-if the design of a CDHC program pays appropriate attention to HIPAA-will allow the uses and disclosures generally contemplated by CDHC models.

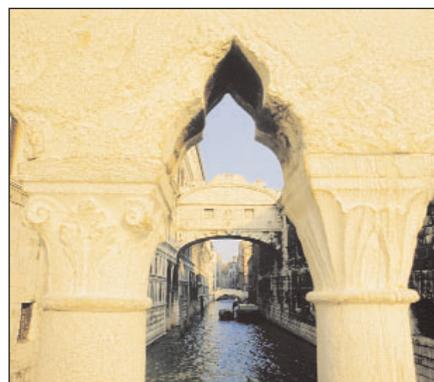
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## Strategic Alignment of HIPAA and CDHC Implementation

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Many continue to misunderstand the interrelationship between HIPAA and CDHC. CDHC advocates may underestimate the importance of privacy concerns and risks as they implement integrated healthcare process solutions, design healthcare information systems, or allow

unfettered exchanges of healthcare information among parties within and outside the plan. On the other



hand, many others are blind to the opportunities that HIPAA offers to CDHC by defining clearer boundaries for privacy and security concerns and

by providing the opportunity for a more standardized, detailed, and seamless healthcare information platform (which, for enrollment and eligibility feeds and the payment functions of self-funded plans, is not a requirement).

HIPAA is not, of course, an option; it is something employers must do, and soon. Nonetheless, it can represent an excellent opportunity to rethink and create the systems and ethical platform for a more effective and sustainable form of employee benefits.

## Foundation for Healthcare Consumerism

### Consumer-Directed Healthcare

*Digitization and Seamlessness*  
*Transparency of Cost & Quality*  
*Tailored Incentives*  
*Consumer Segmentation*  
*Targeted Support & Advocacy*

### HIPAA

*Standardization and Comparability*  
*Granularity and Richness of Data*  
*Firewalls Protecting Health Information*  
*Minimum Necessary Uses and Disclosures*  
*Backbone of Consumer Rights*

### About the Authors

Michael Thompson is a principal and serves as national champion of Consumer-Directed Health Care initiatives for PricewaterhouseCoopers. He has over 20 years of experience in healthcare and employee benefits strategy development and implementation, design, financing, pricing, operations and analysis. Mike currently consults with major employers on a variety of health and welfare issues including consumer focused healthcare, disease management, defined contribution retiree health, integrated health & productivity and process excellence vendor management strategies. He can be reached at (646) 394-4720, or [atmichael.thompson@us.pwcglobal.com](mailto:atmichael.thompson@us.pwcglobal.com).

Jeff Fusile is national partner in charge of HIPAA Advisory Services for PricewaterhouseCoopers and an author of HIPAA's Myths, Practical Realities and Opportunities, published by PricewaterhouseCoopers and the Blue Cross Blue Shield Association. From his Atlanta base, Fusile

assists some of the nation's largest healthcare enterprises in addressing administrative simplification provisions of HIPAA. Before assuming leadership of HIPAA Advisory Services, Fusile served as PricewaterhouseCoopers' national director for Regulatory Advisory Services to the health insurance industry. He is a member of the advisory council for the Privacy Officer's Association, and has provided testimony before the National Council for Vital Statistics (NCVHS). Jeff can be reached at (678) 419-1558, or at [jeff.fusile@us.pwcglobal.com](mailto:jeff.fusile@us.pwcglobal.com).

Jon Neiditz services as national practice leader for employer issues in HIPAA for PricewaterhouseCoopers. Jon leads privacy initiatives with major U.S. employers, managed care organizations and government agencies. He has 20 years of experience as a general counsel and consultant in the health field, and serves as a director of many innovative health and research organizations. Jon's recent HIPAA-related publications include HIPAA's Myths, Practical Realities and Opportunities: The Work Providers Need to Perform for Standard Transactions and Code Sets (written with Jeff Fusile and Tom Hanks and published by the Blue Cross Blue Shield Association), Managing the Privacy



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