HIPAA Implementation and the Implications of New Legislation

HIPAA Summit
September 25, 2006

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Administrative Simplification

Title II - Subtitle F of H.R. 3103
(the Kassebaum/Kennedy Bill)

"The Health Insurance Portability and Accountability Act of 1996"
AKA "HIPAA"

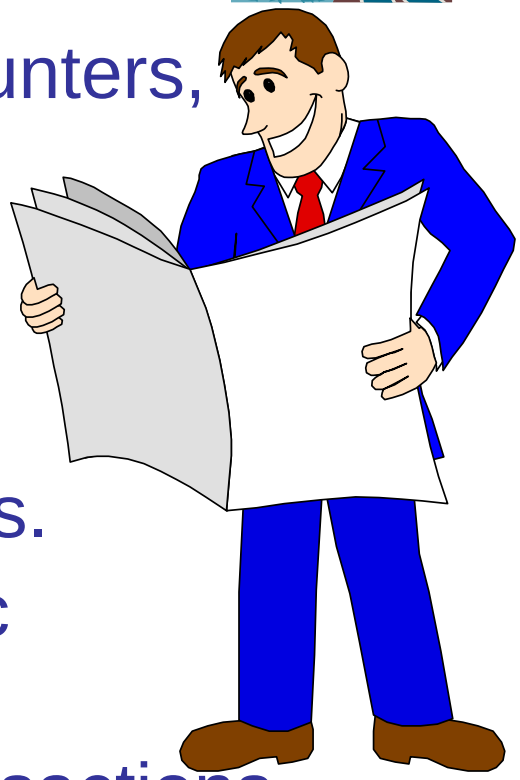
P.L. 104-191

Part C of Title XI of the Social Security Act

Purpose of HIPAA Administrative Simplification Subtitle

- "To improve the efficiency and effectiveness of the health care system
  - by encouraging the development of a health information system
  - through the establishment of standards and requirements for the electronic transmission of certain health information."

Mandated Standards



- 9 transaction standards (claims, encounters, enrollment, etc.) including code sets.
- Coordination of benefits information.
- Unique identifiers (including allowed uses) for individuals, employers, health plans, and health care providers.
- Security, confidentiality, and electronic signatures.
- Other financial and administrative transactions determined appropriate by the Secretary
  - consistent with the goals of improving the operation of the health care system and reducing administrative costs.

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HIPAA Timeline is Long-Term

- WEDI formed – 1991
- WEDI recommendation – 1993
- Legislation written – 1994
- Law Passed – 1996
- First proposed regulation – 1998
- First final regulation – 2000
- First implementation date – 2003
- Last implementation date – 2010 +

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 less than savings.
- Continuous process of rule refinement:
  - Annual update maximum (for each standard) to save on maintenance and transitions.

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.

5 Principles of Fair Info Practices

- Notice
  - Existence and purpose of record-keeping systems must known.
- Choice – information is:
  - Collected only with knowledge and permission of subject.
  - Used only in ways relevant to known purposes.
  - Disclosed only with permission or overriding legal authority.
- Access
  - Individual right to see records and assure quality of information.
    - accurate, complete, and timely.
- Security
  - Reasonable safeguards for confidentiality, integrity, and availability of information.
- Enforcement
  - Violations result in reasonable penalties and mitigation.

Key Security Philosophy

- Identify & assess risks/threats to:
  - Confidentiality
  - Integrity
  - Availability
- Take reasonable steps to reduce risk, and keep it low.

Transaction Philosophy

- One format for each transaction
  - with minimal variation based on plan.
- One rule for each data element
  - with well defined requirements (few options).
- One code set or vocabulary for each element
  - with rapid additions as needed.
- One method of identifying all players
  - with unique identifiers for all.
- One method of secure transmission for all
  - Oops …

HIPAA Expectations

- HIPAA claim transaction --
  - Essentially same data as UB92 and HCFA 1500.
  - Expressed in consistent, national code systems.
  - Transmitted in uniform format (X12N).
  - Specificity as to need for situational data.
    - Regardless of payer
  - Requirement that no payer could ask for more.
    - Data elements limited to those Required, plus Situational data elements where situation was true.
  - Date certain conversion to avoid confusion.
  - Transition could be handled by translator software or clearinghouse.
    - Expected industry agreement on testing and transition timetable
    - Reasonable industry interpretation of implementation guidelines

Unexpected Problems

- Wherever regulation was open to interpretation, industry experience with OIG led to fear and very conservative (often different) legal approaches.
- Insistence on perfection to be compliant.
- New contract requirements delayed testing.
- No industry agreement to testing schedule.
  - No transition period before compliance date.
- Delays in vendor delivery of updates.
  - No information from vendor as to when they will deliver.
- High cost of updates.

‘Reasons’ for Delays

- IGs with unexpected data element requirements.
  - Not fixed in Addenda (minor fixes ignored to get done in time).
  - No time to wait for next round of improved standards.
- No clear guidance as to the meaning of ‘compliant’.
- Unreasonable implementation decisions --
  - All ‘required’ and situational data elements required for ‘compliance’.
  - Errors and missing data not compliant – 100% perfection expected.
  - Reject whole batch when 1 transaction is ‘non-compliant’.
  - Re-enrollment requirement.
  - New EDI contract requirements.
- Regulation publication delays.
  - Addenda not published until after implementation was underway.
  - Enforcement regs unpublished.

Savings Start AFTER Claims

- Getting the claims submitted successfully is just the start!
  - Implementing all the other adopted standards is necessary for savings over next 5-10 years:
    - Eligibility for a Health Plan.
    - Referral Certification and Authorization.
    - Health Care Claim Status.
    - Enrollment and Disenrollment in a Health Plan.
    - Health Care Payment and Remittance Advice.
    - Health Plan Premium Payments.
    - Coordination of Benefits.
- Future HIPAA standards will add to both costs and savings.
  - Health Claim Attachments, PLANID.
  - EHR? CPOE? CDSS?
- Need to move to one standard for each transaction with:
  - Decreased variability that works for all.
  - Provider participation to clean them up.
  - Testing and incremental improvement over time.
- Success of New England and other regions where participants have agreed on a common ‘companion guide’.
  - Partners Healthcare in Boston reports saving $30 million a year.

HR 4157: Procedures to Ensure the Timely Update of Standards

- Provide for an expedited upgrade program to develop and approve additions and modifications to adopted standards
  - to improve the quality of such standards or
  - to extend the functionality of such standards.
- Publish a Federal Register notice not later than 30 days after HHS receives notice from a standard setting organization (SDO) that the organization:
  - Is initiating a process to develop an addition or modification to a standard.
  - Has prepared a preliminary draft of an addition or modification to the standard.
  - Has a proposed addition or modification to a standard.

Under the upgrade program -

- If the SDO develops an addition or modification and the NCVHS recommends approval, then HHS secretary shall provide for expedited treatment.
- Specific requirements of the SDO are:
  - Submits to HHS Secretary a request for publication of a notice in the Federal Register.
  - Receives and responds to public comments before submitting the proposal to NCVHS and then makes publicly available a written explanation for its responses.
  - Submits the proposal to NCVHS for review.
  - Makes public comments available to HHS.

Expedited Treatment

- SDO proposed additions or modifications may be adopted under HIPAA within 240 days:
  - NCVHS has 120 days to submit recommendation to HHS.
  - HHS has 90 days to accept or reject proposal.
  - HHS must publish final rule with modification within 30 days of acceptance.
    - No further public notice or comment allowed.

Upgrading ASC X12 and NCPDP Standards

- Requires *Federal Register* notice for the following replacements of standards to apply to transactions occurring on or after April 1, 2009:
  - replacement of ASC X12 version 4010 with the ASC X12 version 5010, as reviewed by NCVHS.
  - replacement of NCPDP Telecommunications Standards version 5.1 with the latest version of the NCPDP Telecommunications Standards approved by the Council and reviewed by the NCVHS as of April 1, 2007.

Upgrading ICD Codes

- Requires *Federal Register* notice for the replacement of ICD-9-CM with the following (applying to services furnished on or after October 1, 2010):
  - ICD-10-CM
  - ICD-10-PCS
- Specifies that in any regulation or other action implementing ICD-10-CM, ICD-10-PCS, or other version of the ICD, 10th revision, HHS shall ensure that no health care provider is required to code to a level of specificity that would require documentation of non-medical information on the external cause of any given type of injury.

Result of HR 4157

- Immediate (by Feb. 2007) publication of final rule changing HIPAA transaction standards (X12N and NCPDP) to more current versions
  - Compliance required by April 2009.
- Update version of ICD code systems from 9th to 10th edition.
  - Compliance by October 2010.
- Faster process to add to or modify existing HIPAA standards.
  - Pushes public comment periods into SDO and NCVHS processes, instead of APA (NPRM) process.
  - Forces industry to get more involved in testing and reacting to SDO proposals during development.

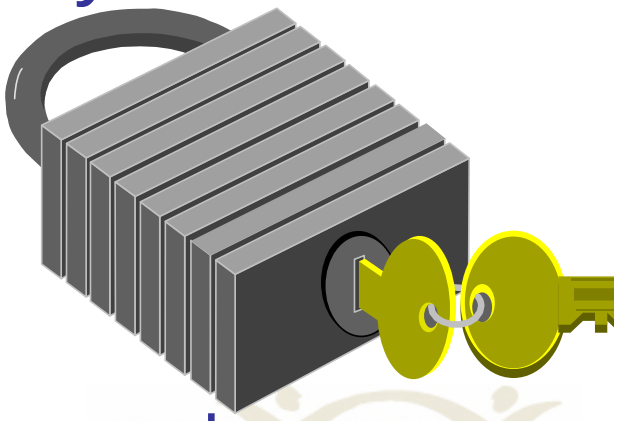
Cost & Quality Relationship to Standards

- Standards-based automation of routine functions lowers rate of rising costs (labor).
  - Only possible if accompanied by process redesign.
- Standardized data increases its usefulness for quality improvement studies.
- Clinical information standards enable cost-effective IT support at point of clinical decision making.
  - Which in turn, leads to fewer errors, higher quality care, and lower costs (e.g. e-Rx, CPOE, CDS, EHR).

Required Standards

- Standard Medical Concept Vocabulary
- Standard Structure and Content
- Standard Protocols of Best Practices
- Standard Electronic Exchange Formats
- Ubiquitous, Standard Connectivity
- Security Protection Standards
- Privacy Protection Standards
- Standards for Workflow?

  + detailed implementation guides for each



HIPAA Interactions with HIE/HIT

- HIPAA lessons about regulatory approach to health information standards.
  - Adoption and maintenance take too long.
  - Compliance is slow and spotty, even when required by federal law!
  - Even if it will save a lot of money, healthcare industry participants will not change rapidly.
- Participation by all parties in the development and testing of HIE standards is critical.
  - Few can afford the investment to send good 'volunteers'.
  - Volunteers are not very responsive to market demand for standards.
  - Clinical data standards are even more difficult to set.

eHIE Saves - Can We Change?

- UNCERTAINTY and Lack of TRUST are the biggest barriers to efficient HIE.
  - Privacy rules may change to make them more consistent across states.
    - Trend to increase patient control over information disclosure will require new technology and processes.
  - Standards must become more specific.
    - Interoperability requires tighter specifications, funding may be required.
    - Conformance testing must become part of acceptance.
  - Explicit guidance and consistent enforcement can also reduce uncertainty.

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Roundtable Discussion

The Status of HIPAA Implementation and Compliance and the Impact of HIPAA on Other Major Health Policy Initiatives

– Including Consumer Driven Healthcare, Health Information Technology and Healthcare Quality Initiatives

- Jodi G. Daniel, JD, MPH
  Director, Office of Policy and Research
  Office of the National Coordinator for Health Information Technology
  Washington, DC

- Janlori Goldman
  Director, Health Privacy Project
  Research Scholar, Center on Medicine as a Profession
  New York, NY

- Mark McLaughlin
  Chair, Workgroup for Electronic Data Interchange
  Reston, VA

- Stanley Nachimson
  Office of HIPAA Standards
  Centers for Medicare and Medicaid Services
  Baltimore, MD