Charting HIPAA's Course: Past Roads Lead to Today's ARRA, Affordable Care Act Changes

By Dan Rode, MBA, CHPS, FHFMA

This year the healthcare industry will contend with more changes to HIPAA resulting from the American Recovery and Reinvestment Act of 2009 and the Affordable Care Act of 2010. In order to understand where the HIPAA regulations are heading, it helps to take a look back at the roads they have traveled over the past two decades.

HIPAA's Origins

HIPAA has been around for nearly 16 years. While most of its provisions address health insurance, one section on administrative simplification directly affects healthcare administrative functions and the standards used in those functions.

The HIPAA transaction standards were developed in the early 1990s by the American National Standards Institute's Accredited Standards Committee X12 and the National Council for Prescription Drug Programs. Although there was considerable consensus on the standards, there was no healthcare industry council to require adoption of the standards universally and determine how the standards would be used.

As early as 1992 industry leaders discussed the idea of asking Congress to develop legislation that would form such a council under the federal government. In 1993 associations including AHIMA pushed for such legislation, but the movement ran into the Clinton administration's healthcare reform activities, which failed. The association-sponsored legislation included a healthcare governance body similar to today's HIT Policy Committee.

The associations continued their efforts, and in 1996 Congress married the concepts of administrative simplification to health insurance reform. HIPAA became law, but the industry council envisioned by the associations was replaced by the National Committee for Vital and Health Statistics.

Recognizing that NCVHS did not have healthcare administrative background, Congress called for two additional appointments to be made to the committee. Congress also added an enhanced provision for privacy and security and called on the Centers for Medicare and Medicaid Services to oversee the development of regulations.

It took CMS until 1999 to develop its first set of HIPAA requirements, which addressed eight of the transactions in the legislation. The regulations included CMS's and the Centers for Disease Control and Prevention's finalized standards for ICD-10-CM/PCS, but required use of ICD-9-CM.

While the transaction regulations were first proposed in 1999, it would take until 2003 for compliance to take effect. Within the next two years regulation related to privacy and security would make its way through interim and final rules. By 2006 HIPAA was essentially adopted and implemented using the X12 version 4010A standard, which had been finalized back in 1998.

Updating the HIPAA Process

HIPAA's process for updates and revision did not accommodate the rapid change facing the healthcare industry. Further, the regulations did not result in the industry using the transaction standards in a uniform manner. By 2007 it was reported that there were more than 1,200 guides to using the X12-837 claims standard.

During the past five years, AHIMA has advocated updating the HIPAA transaction process. The association was finally joined by a number of other organizations in its efforts, which culminated in a provision in the Affordable Care Act of 2010 that called for the development and use of uniform guides and a more streamlined process for updating HIPAA versions.

In 2009 CMS released final rules upgrading the HIPAA version, a necessary step in transitioning to ICD-10. The deadline for the 5010 and D.0 version upgrade was January 1, 2012, and the ICD classification changes will go into effect October 1, 2013.

Parallel to the work on the transactions and code sets, privacy and security rules were developed and implemented. These rules were then addressed in ARRA-HITECH.

ARRA-HITECH has affected HIPAA in a number of ways-some yet to be seen. HITECH expands the HIPAA rules to a much larger group of HIPAA covered entities and establishes penalties and enforcement actions that did not exist in the original legislation.

HIPAA Developments to Come

The healthcare industry is still awaiting the final HITECH privacy regulations, but it is clear that they will change access to and disclosure of information, which in turn affects what information can or cannot be included in the HIPAA transactions.

The original ARRA-HITECH proposed rules suggested merging the clinical and administrative transactions and using this information in the electronic health record. These proposals were dropped in the final version of the stage 1 meaningful use requirements, but the industry expects to see them in the proposed stage 2 requirements, due this month.

The original HIPAA legislation also permitted the Health and Human Services secretary to add additional transactions, potentially including clinical transactions to fall under HIPAA. However, HHS secretaries under the Bush and Obama administrations have heeded the national coordinator for health IT's advice not to do so, since upgrades under HIPAA could take years.

NCVHS continues to have oversight of the HIPAA rules and has recently added transactions affecting payments made using the HIPAA transactions. (Read more about these transactions in "Simplification at Last?" article) In addition, the first guides under the Affordable Care Act have been issued. Expect more this year and in the future.

Meet the Advocacy and Policy Team

Over the course of the last year AHIMA has reorganized to better meet the needs of its members. The changes encompass AHIMA's advocacy and policy department.

Rita Scichilone, MHSA, RHIA, CCS, CCS-P, has taken on the role of coordinating AHIMA's global standards efforts with AHIMA's team of professional experts and volunteers. She and her team will also be working to ensure members are aware of the standards work AHIMA is doing and how that work affects the profession, as well as providing oversight to AHIMA's ISO 215 Designated Secretariat Office administered by Lisa Spellman, MBA.

Allison Viola, MBA, RHIA, will continue as AHIMA's director of federal relations and will have a very busy year keeping up with the many changes anticipated from ARRA-HITECH, the Affordable Care Act, and other federal agency activities.

Sue Bowman, RHIA, CCS, will also continue in her role as director of coding policy and compliance, balancing her time in the arena of ICD-10 implementation and compliance and international efforts associated with future versions of ICD.

Don Asmonga, MBA, CAE, AHIMA's director of government relations, will direct most of his attention to AHIMA's new advocacy and leadership programs for CSAs, including a series of monthly advocacy and leadership webinars for state association leaders. He will also work with CSA leaders on state advocacy and influence projects that extend AHIMA's policy agenda to the front lines of state government.

Asmonga will work closely with AHIMA's new congressional relations manager Margarita Valdez, who will move AHIMA's agenda forward in the second session of the 112th Congress.

HIM's Role in the HIPAA Changes

The fruits of HIPAA are now coming to bear at the same time that the healthcare industry addresses the rapid pace of EHR implementation and an ever-increasing need for health information via clinical and administrative data.

In the months to come the industry will hear of considerable work on an attachment transaction called for in HIPAA and the Affordable Care Act that will merge even more clinical and administrative data. While this sounds simple, it will not be an easy transaction to fashion or use, given the need to consider such items as the sequestering of data in EHRs, which calls for developing metadata vocabularies and integrating privacy requirements directly into the data.

This transaction also raises considerable security issues, and HIM professionals will have to step forward to work through these issues within their organizations. The Affordable Care Act calls for regulations by 2014 and compliance by 2016.

HIM professionals have been the point between administrative and clinical data uses. This will continue to be the case, especially since HIM professionals have been trained to work with data in both spheres.

This is an excellent opportunity to let your organization know of these impending situations and discuss how to proceed. Do not hesitate to send us your questions so AHIMA can address them through its various media outlets. These questions help the advocacy and policy team as it interacts and advocates with the policy makers who are working on these requirements.

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