Coding Under the HIPAA Umbrella

by Ruthann Russo, JD, MPH, RHIT

Although coding professionals are not ultimately responsible for ensuring appropriate release of patient-protected information, it is important that they understand that coded data is not only one of the most desired pieces of information in the patient's record, it is also the data that is most likely to travel the farthest from its original source. Because coded data outlives even the individually identifiable patient record, coders may have the greatest responsibility of any healthcare professional under HIPAA.

Where the Data Goes

The source of all accurately coded data is the patient's medical record. The coder relies on the physician's documentation to assign codes that represent the patient's diagnoses and procedures during that stay and is essentially responsible for creating a "prototype" of the patient's diagnoses and procedures in the form of ICD-9-CM or CPT codes assigned to the record. Initially, the coded data for the patient is transmitted to the health insurance payer via a UB-92, HCFA 1500, or other computerized data format. From there, individually identifiable information may not be re-released without the patient's consent, except in certain circumstances.

Currently, many state laws do not protect data extracted from a patient's record that is considered billing data. In some instances, this may include ICD-9-CM and CPT coded data. However, under HIPAA, it is clear that all data in the patient's record, including coded data, is protected. All coding professionals must understand that their responsibilities extend to patient privacy protections as well as to the reimbursement, research, and data quality implications of coded data.

Coded data provided to Medicare or private payers ends up in much larger databases. This information is then analyzed across the nation to identify disease patterns, etiology, and other research concerns. Coded data has significant ramifications for the future in terms of disease reporting, research, and treatment as well as individually identifiable and protected health information. The ICD-9-CM and CPT codes assigned to a patient record remain a part of that patient's health information history in perpetuity. And, today, because of the ability to transmit this data so efficiently, there is a greater likelihood that more appropriately authorized people will have the opportunity to view that data than ever before.

The initial thrust of HIPAA was focused on the protection of electronically transmitted individually identifiable healthcare data. Today, it is clear that HIPAA extends to all types of individually identifiable healthcare data, regardless of its medium. Most importantly, the current final HIPAA privacy standards prohibit covered entities from disclosing individually indentifiable health information, except in certain circumstances. The emphasis of HIPAA is on protection of the information. So, if coded data is removed from the patient's medical record, but is still in a medium where the patient can be identified, it is protected under the current HIPAA standard. Further, covered entities are permitted to strip identification from protected information and disclose it if the mechanism that would enable re-identification is not disclosed and the disclosing entity has no reason to think the use or disclosure of the information could lead to use or disclosure of protected information.

Coding Considerations

In the wake of HIPAA, coding professionals should give some attention to the specific coding situations that could have implications for patients and their privacy. These include the following:

Reimbursement and claims submission

Every coder knows that reimbursement is one of the primary functions served by coded data. And, thanks to HIPAA, every coder also knows the importance of ensuring that coded data is reflective of the documentation in the patient's record.

Because HIPAA protects the information (as opposed to the medical record itself as addressed in many state statutes), the coder's role becomes even more important because the patient's coded data information will likely outlive the traditional medical record. As a result, the reliability of that data is more important than ever. Coders should not only follow accepted guidelines for coding but also determine whether the prototype that they create for each patient indeed reflects the patient's condition and stay in the facility. In essence, coding is a statistical representation of the patient's morbidity. That representation should be as reflective of reality as possible, and it is the coder's responsibility to ensure that it is.

Coded data with potential medico-legal ramifications

Every coder takes particular care when dealing with patients who appear to have specially protected diagnoses, because these conditions carry special legal protections. And, although HIPAA does not separately address these issues, coders should continue to ensure that these conditions are documented with absolute certainty because of the transportability of coded data (whether identifiable or not). From a statutory perspective, these include alcohol and drug abuse, psychiatric records, and HIV-infected patients. From a medico-legal perspective, these may include diagnoses like epilepsy, cancer, and pregnancy. Because all of this data is scrutinized from a research and data collection perspective even in the absence of individually identifiable information, coders are responsible for ensuring the accuracy and reliability of the data once again.

Coding audits and reviews

Coding audits and reviews are something that most coding professionals have become accustomed to over the past several years. With the optimization audits of the 1980s behind us, the focus is on coding for correct reimbursement. Proposed HIPAA standards create an interesting bend in the sharing of data for auditing purposes that every healthcare provider needs to address, especially if they plan to have coding audits performed by an outside entity.

Under the HIPAA standards, most auditing firms fall under the definition of a "business partner." The final rule specifies that providers may not disclose protected health information to business partners without "satisfactory assurances" that the partner complies with relevant standards. Certain language must be included in all contracts between the entities. In addition, the provider must take "reasonable steps" to ensure the business partner is in compliance with the final regulations. Further, the provider is liable for the misdeeds of a business partner if it knew or should have known of those misdeeds. As a result, the standards for contracting with coding audit firms will once again be stretched for all providers.

Coding professionals should remember the far-reaching implications of the coded data they provide on patients' records. The prototype that the coder creates that represents the patient's diagnoses and procedures is protected information as long as it is attached to individually identifiable patient information. And, because the coded data is one of the most sought-after pieces of information in the patient record, the coder's responsibility to society and the individual patient is one that should not be taken lightly. As we enter the HIPAA age, accuracy, reliability, compliance, and consistency in coded data are more important now than ever.

Additional Resources

Visit these Web sites for additional information on HIPAA and coding:

• Research state laws at www.alllaw.com

• The Health Insurance Portability and Accountability Act (HIPAA) is available at http://aspe.os.dhhs.gov/admnsimp/

• Responsible health information policy development is promoted by the National Association of Health Data Organizations at www.nahdo.org

• The National Information Center for Health Services Administration at available at www.nichsa.org

---

Ruthann Russo *is founder and CEO of HP3 Healthcare Concepts, Inc. She can be reached at rarusso@hp3.org.*

Article citation:
Russo, Ruthann. "Coding Under the HIPAA Umbrella." *Journal of AHIMA* 72, no.6 (2001): 67-68