Getting Your Arms Around HIPAA

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by Gwen Hughes, RHIA

Have you read the new HIPAA final privacy rules yet? Are you overwhelmed? I've been spending a lot of time poring over the privacy rules and I've seen many similarities between the new privacy rules and the Uniform Health Information Act (UHIA) passed in Washington and Montana about a decade ago. Both acts:

- give patients the right to access their health information
- identify exceptions to patient access and provide a protocol for denial
- give patients the right to make amendments to their health information
- define "health information" a little more broadly than before
- provide for redisclosure
- require a notice of information practices
- spell out to whom and under what circumstances protected health information can be disclosed
- address how much can be charged for disclosure

Implementing the UHIA seemed daunting at the time, much like implementing the new privacy rules now. In retrospect, however, executing the UHIA really wasn't that difficult. It was just a matter of getting my arms around it, breaking it down into pieces, developing an action plan, and following through.

Breaking It Into Pieces

With this in mind, I took the steps I used when implementing the UHIA in Washington and applied them to the final privacy rules. Following them should help you take the lead in implementing the privacy rules in your organization.

Obtain a copy of the privacy rules. If you haven't already done so, you can obtain a copy of the rules at http://aspe.os.dhhs.gov/admnsimp/index.htm. I downloaded the zipped file and printed out only the last two packets of information. Although the 400 or so pages in the beginning of the rule provide interesting background, the standards themselves are on pages 82798-82829 of the December 28, 2000, Federal Register.

Get familiar with the privacy rules. There's so much information in the rules, and it's difficult reading because the verbiage points you forward to standards you haven't read yet, and backward to paragraphs in earlier sections. I found it helpful to read all the way through the rules once without checking every reference, and then to go through them a second time, looking up each reference.

Generate a topic list. While reading the privacy rules the first and second time, I made a list of topics to consider. These included:

- notice of privacy practices
- consent for disclosure
- requested restrictions
- patient access
- patient amendment
- authorization
- disclosures with authorization
- disclosures without authorization
- fundraising/marketing
- information and complaint person/department
- privacy officer
- accounting of disclosures

- contracts with business associates
- compliance

Refine the list. When I reviewed the standards a third time, I used my computer to search my electronic copy for key words or phrases on my topic list. For example, I looked at every occurrence of the word "notice." Then, I highlighted each appearance of this word in a specific color on my written copy. Once I finished this process, I read through every entry in which "notice" was highlighted. As I did so, I added tasks next to each topic on my list. I repeated this process for other privacy rule requirements that seemed complex and for which standards were sprinkled throughout the entire rule. (See "Sample HIPAA Implementation Task List," page 62.) Although it was time consuming, this process allowed me to feel more comfortable with each topic and to develop a task list.

Develop an action plan. Decide how implementation is best accomplished. Can you do it yourself? Do you need a team? Then decide what needs to be done when and by whom. (See "Sample Implementation Action Plan," above.)

Take the lead. This is your chance. Privacy of health information is our area of expertise. Get comfortable with the rule and outline a plan. Approach your boss, summarize the law, explain what needs to be done, and discuss the role you'd like to play.

Work through the tasks. Once you've obtained the administration's support of your overall plan, it's time to begin work on the tasks and subtasks identified. If there's more than one person working on tasks and subtasks, then monthly or biweekly meetings will probably be useful to keep the team moving in the same direction, on track, and informed about each member's progress.

If you're charged with policy development, the same color-coded highlighting used when refining your task list will make it easy to locate the verbiage and standards you'll need in your policy and procedure for each policy topic.

Consult legal counsel. Implementation of the new rules can be challenging. For example, consider a healthcare provider to which the HIPAA privacy rule notice of information practices, the confidentiality of alcohol and substance abuse notice requirements, and state notice requirements apply. Although the federal requirements would prevail over state law unless state law is more stringent, how does one apply that standard to the three notice requirements? Which one is more stringent? Does a healthcare provider pick one set of notice requirements or attempt to blend all three? Although some federal and state laws are straightforward and legal counsel isn't needed to interpret them, the new privacy rules are complicated and consultation with legal counsel is in the best interest of the healthcare organization.

Develop a communication plan. Decide what you need to communicate to whom and when. Although you want to introduce the subject of the HIPAA privacy rules early on, that communication should be limited to the broad requirements and the overall plan for developing a solution. As you're designing implementation strategies, consult those you'll need to depend on to implement the policies and procedures. As policies and procedures become finalized, plan your message to your target audiences.

Manageable Parts

When you break the HIPAA privacy rule down into manageable parts, it's not so overwhelming. You will have a new comfort level with the project. Becoming familiar with the rules, developing an action plan, and communicating with appropriate people in your organization- in other words, taking the lead-will enhance or help you develop your reputation as a health information and privacy expert and as a leader.

Reference

"Standards for Privacy of Individually Identifiable Health Information; Final Rule." 45 CFR Parts 160 and 164. *Federal Register* 65, no. 250 (December 28, 2000).

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Sample HIPAA Implementation Task List

1. Notice

1.1   Draft notice language

1.2   Determine who will be the initial contact for questions

1.3   Determine who will be the initial contact for complaints

1.4   Figure out how we're going to track which notice the patient received

1.5   Develop a notice policy

1.6   Ask legal counsel to review both the notice and policy

1.7   Finalize the notice and policy

1.8   Educate and train staff

1.9   Arrange for the notice to be posted and for copies to be made available for distribution

1.10   Implement the new process

1.11   Monitor compliance

Sample Implementation Action Plan

Task	Subtask	Individual Responsible	Estimated Date of Completion
Notice	Draft notice language	HIM Director	5/01
	Determine who will be the initial contact for questions	COO	4/01
	Determine who will be the initial contact for complaints	COO	4/01
	Determine how we're going to track which notice the patient received	HIM Director	5/01

	Develop a notice policy	HIM Director	5/01
	Ask legal counsel to review both the notice and policy	HIM Director	6/01
	Finalize the notice and policy	HIM Director	7/01
	Educate and train staff	HR and HIM Assistant Director	8/01
	Arrange for the notice to be posted and for copies to be made available for distribution	HIM Director	8/01
	Implement the new process	Patient Registration Manager and HIM Director	9/01
	Monitor compliance	HIM QI Coordinator	10/01

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