HIPAA Privacy Turns One: Time to Assess

by Dan Rode

It hardly seems possible, but this month marks a year since the implementation of the HIPAA privacy rule—as marked by AHIMA's celebration of National Health Information Privacy and Security Week this month. Interestingly, few disasters have occurred on the scale many predicted. Instead, once the regulations were finalized, HIM professionals, privacy officers, and privacy committees ably developed policies, processes, and education to address the requirements.

Yes, there were problems as the status quo and the mindset of some 290 million Americans had to change—in practice and in acceptance of the new privacy environment. Yes, the press was filled with stories of glitches in the rule, but most glitches came from either a misunderstanding of the rule by one party or another, state preemption, or just lack of acceptance of change itself. Given that the HIPAA privacy rule affected essentially all health-care entities, their staff, volunteers, business associates, and patients, the number of problems that surfaced in the first year was rather small.

Another Look at Privacy

In November the privacy and confidentiality subcommittee of the National Committee on Vital and Health Statistics (NCVHS) began to evaluate the status of privacy in the healthcare system with the HIPAA privacy rule in place. The subcommittee began its review with a general view presented by healthcare industry groups (including AHIMA) as well as an evaluation of the rule's specific impact on public health and research. Hearings covering banking, schools, and law enforcement continued in February.

It is expected that the NCVHS will make recommendations for changes, explanations, and other activities that should resolve the true problems that surfaced early on in the implementation process. One of the principal modifications may be in the rule's accounting requirements, which many have cited as causing the most difficulties for providers and health plans. Other issues of concern include the preemption window created by the original HIPAA legislation and the establishment of a floor of protections rather than a ceiling.

It should be noted that the Office of Civil Rights (OCR) has not waited for NCVHS recommendations but has tried to educate various audiences about misunderstandings of the rule. In some cases, OCR has mediated complaints. OCR staff, as well as other Department of Health and Human Services experts, are doing their best to make the privacy rule work. To follow the OCR's work, visit its privacy Web site at www.hhs.gov/ocr/hipaa.

Privacy across the Healthcare Continuum: A Matter of Trust

As the healthcare community and the government turn their attention from the original HIPAA transactions to the concept of a national health information infrastructure (NHII), the need for greater preemption and national uniformity becomes apparent.

Also apparent is the need for actions that will convince the general public that the healthcare industry can be trusted to maintain effective confidentiality and security of health information without standing in the way of medical practice and appropriate confidential sharing of information even at a personal level. Such trust has always been key to HIM professionals working with information in paper or electronic form. Our success in maintaining that trust could make or break public confidence in a community or national information infrastructure.

Information Is Key

As the healthcare industry takes its next major step toward adoption of an electronic health record (EHR) uniform standard, policy makers and thought leaders are also beginning to consider the need for uniform, consistent information.

Sometimes it has been assumed that all that is needed for an EHR or NHII is information technology and data exchange standards. Actions like the current HL7 development of a draft standard (reviewed by HIM professionals), the active promotion of an NHII, and the HHS announcement of SNOMEDCT availability via the National Library of Medicine have brought to light additional vital issues such as classification and coding requirements.

The recognition that an information infrastructure is more than moving healthcare claims and claims-related data has brought to the forefront the HIM profession's concerns over consistency of coding and the need for adoption of modern, 21st-century classification systems like ICD-10-CM and ICD-10-PCS.

Much education on these requirements is needed across the industry and the nation. But we have a start. In his January state of the union address, President Bush made a one-line announcement that the nation should have an electronic medical record, and the needed wheels began to turn.

Almost simultaneously the President's Information Technology Advisory Committee announced that it would be conducting town hall meetings to gather input on this issue. The president's budget, released two weeks later, carried additional funds to cover projects and programs that could move the nation toward an EHR. Similar conversations and activities have begun to take place in Congress, with Senator Hillary Clinton's proposal for a national electronic health record system getting the most press attention. Never before has national policy so closely aligned with the HIM professional vision.

AHIMA gathered its technical and advocacy expertise to discuss the ins and outs of the EHR and NHII. While AHIMA has led in developing the technical components of the EHR, individual HIM professionals are beginning to get involved in a number of community demonstration projects testing parts of local infrastructure possibilities as well.

The more projects spread across the country with HIM involvement, the better. Look for opportunities to join in this effort in your community. Grant money is in the president's budget, and other funds are becoming available from a variety of foundations as well. Those in rural communities should also be aware that the president's budget called for significant rural involvement.

Time for the Industry to Speak Up

Moving from where we are to where we want to be will still take considerable work. AHIMA has joined with several alliances to promote a number of national projects that advance the uniform standards needed for information, identifiers, and other components necessary for the appropriate and secure exchange of clinical information and data. Similarly, a national effort of individual healthcare providers, payers, and vendors is needed to secure the investment of individual entities and the community.

Members of Congress will be the decision makers who write the laws enforcing the standards and who appropriate the money for significant investment in technology and human capital. They need to hear the interest, desires, and needs of healthcare providers and entities back home. A few demonstrations of community exchange and the latest in information technology alone will not convince lawmakers in this time of deficits and multiple needs that they should make such an investment in an information infrastructure with a standardized EHR at its core. We must speak up.

AHIMA and other groups have kept the healthcare industry up to date on the advances we have made and the challenges we face in our progress toward an EHR and NHII. More information will be posted as this campaign continues. Your commitment to sharing this information and its current and future impact will become key as legislators, regulators, foundations, and others search to see if now is the time to give up the proprietary barriers, develop the necessary information and technology standards, and invest in the future of our healthcare system's adoption of a 21st-century way of doing business.

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Article citation:
Rode, Dan. "HIPAA Privacy Turns One: Time to Assess." *Journal of AHIMA* 75, no.4 (April 2004): 16-17.
