

Keeping Current on Legislation Vital to HIM Professionals

Save to myBoK

by Dan Rode, MBA, FHFMA

The AHIMA Policy and Government Relations (P&GR) staff in Washington receives a number of questions concerning how a particular proposed law, legislation, or possible regulation will affect the management of an HIM department, coding section, or other functions that are typically performed by HIM professionals. We also often hear of concerns that federal rules, regulations, and legislation fail to mention the role of HIM professionals. This article addresses these two issues.

Managers: Know Your Legislation

Over the last several years, I have seen managers changing their operations based on a proposed law or an incomplete understanding of a current law. The P&GR staff monitors all laws introduced in Congress that could affect HIM functions, practices, and environment. This means that we not only look at the key issues of coding, infrastructure, privacy, and work force, but also any law that could affect information practices, healthcare providers, or plans.

Each year members of the House and Senate present more than 8,000 potential laws (bills). The US Congress runs on two-year sessions, which are concurrent with the elections for the US House of Representatives. When a bill is presented in the House or Senate, that particular body has until the end of that session of Congress to pass the bill, send it to the other body for passage, possibly discuss the bill in a conference committee, and present it to the president for signature, if he chooses to sign it.

If a bill does not make it through the process in the two-year cycle, then the whole process has to begin all over again. The patient's bill of rights, for example, has been discussed formally for six years and it appears that the whole issue will have to be reintroduced in the 108th Congress, providing a congressional member takes interest in the subject. The Medicare drug bill could suffer a similar fate.

With the introduction of a bill there is often considerable rhetoric by the member of Congress who entered the bill. This is often in the form of a "speech" to Congress, but you are more likely to hear of it through a press release or other public statements made by one or more members of Congress. Generally, such press releases or statements usually make the proposed bill sound as if it will pass without much difficulty, and there will be language addressing one or more constituencies.

But rhetoric does not ensure the passage of a law. This spring and summer there was quite a bit of attention given to members of Congress who were unhappy with the Department of Health and Human Services' (HHS) proposed regulations to modify the HIPAA privacy rule. Despite this, at press time, no legislation has been introduced. Given the number of items on Congress' plate, there is a very poor chance that a law to revise HIPAA's privacy rule can make its way through the process and into law before the end of 2002.

Regulations can also follow this path. Once a law is passed, the administration in most cases must issue regulations to enact the law. How this is done or at what speed will be governed by the administration's perspective of the law, other priorities, and other issues. HIPAA is a good example. It passed in 1996, was expected to take effect by 2000, and is only coming into fruition in 2002 or 2003, with some parts still not expected until 2005.

Most regulations come out in a much more timely fashion, but it is also not unusual to see a regulation take on a different image than that expected by the lawmakers that first introduced the legislation.

HIM in Legislation, Rules, and Regulations

We are often asked why we seldom see the HIM profession mentioned specifically and why the HIM credentials are not included in federal regulations or legislation. Specific roles or credentials are seldom mentioned in federal legislation or regulation, mainly because such credentialing or licensure is under state authority. That is the constitutional explanation. In reality, few laws are written with a complete understanding of how the details will be carried out.

While the bill sponsor's staff might have had a detailed conversation with members of the professions involved, by the time the legislation is written and makes it through the various steps, recognition of the specifics is gone. The one exception that we most often see is Medicare or Medicaid legislation, where reimbursement for professional services depends on mentioning a particular profession. Even here the state sets the definition of the profession.

In our conversations with regulators and legislative staff and members, we never fail to mention the role of HIM and the various functions that are or could be affected by a rule or law. This often plays out during the proposed regulation period, and AHIMA volunteers and staff are often contacted by HHS and others for input. HIM professionals individually also have to spread the word about the profession. Our team can help you by identifying the connection and keeping you posted on legislation or regulations that will affect your functions or your employer, but you have to take the lead to let your employer know of the impending requirements and how you might best carry these out.

Our combined efforts will give HIM an edge in the day-to-day workings of Congress. Along the way, don't forget to contact our team if you have any questions. Be sure to keep up to speed with changes as they occur. You can track bills of interest through AHIMA or Congress' Web site, Thomas, at <http://thomas.loc.gov>.

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Article citation:

Rode, Dan. "Keeping Current on Legislation Vital to HIM Professionals." *Journal of AHIMA* 73, no.9 (2002): 26, 28.

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