

Legal Health Record: a Component of Overall EHR Strategy

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by Carlton M. Cottrell

By now, most people working in healthcare are familiar with the term *electronic health record*, or EHR, as well as the various forms that it might take. The *legal* EHR is not as well understood, particularly outside the HIM department, because many are unfamiliar with the term legal health record.

The legal health record is the complete, unalterable, and reproducible record of each patient's unique medical care experience that supports the core work of the hospital's administrative and research functions. The hospital depends on it for normal business operations.

This definition and the associated standards are for a paper-based legal record and have yet to be adapted to the EHR environment. New standards are needed, because technology dramatically changes the face of clinical documentation. How these standards are incorporated into the EHR varies due to the development path of a given vendor or internal IT department. To further complicate matters, what constitutes the legal record varies from state to state and institution to institution.

As healthcare organizations move to adopt EHRs, it is critical that their new systems are capable of producing information that meets the requirements of a legal health record. According to AHIMA, the legal health record is

generated at or for a healthcare organization as its business record and is the record that will be released upon request. It does not affect the discoverability of other information held by the organization. The custodian of the legal record is the health information manager in collaboration with information technology personnel. HIM professionals oversee the operational functions related to collecting, protecting, and archiving the legal health record, while information technology staff manage the technical infrastructure of the electronic health record.¹

AHIMA states that the legal health record has three primary functions: to support the decisions made in a patient's care, to support the revenue sought from third-party payers, and to document the services provided as legal testimony regarding a patient's illness or injury, response to treatment, and caregiver decisions. As organizations move to EHRs, these critical functions must be top priorities to ensure that clinical and administrative functions are equally balanced in the EHR strategy.

The Benefits of a Legal EHR

The legal EHR delivers several benefits, some more tangible than others. One obvious benefit is that the legal EHR can help organizations get paid in as timely a fashion as possible.

The legal record is the foundation for all coding activity, providing the clinical content that will be represented in billing codes and must be supplied to substantiate coding. An electronic format eliminates contention for the record while it supports coder workflows. With a legal EHR, in-house and remote coders can be managed with equal aplomb, coding backlogs can be reduced or eliminated, and coding compliance and accuracy can improve significantly.

Additional benefits accrue when the record is available for simultaneous, secure access by authenticated users regardless of their location. With charts available on demand, HIM functions such as completion and physician sign-off become more efficient, and the ability to quickly and completely satisfy the requirements of third-party payers reduces denied and delayed claims for the business office.

A legal EHR can also improve chart security and risk management. Without a legal EHR, hospitals may have trouble substantiating sources and identifying the complete set of documents required if subpoenaed. A legal EHR can ensure that records are admissible under Federal Rules of Evidence by providing documents that are date- and time-stamped and have a

clear source of substantiation for all business processes. The legal EHR creates a system of detailed accountability (e.g., audit logs, digital signatures, data encryption) that cannot be efficiently matched in the paper world.

The Burden of the Hybrid Medical Record			
System Need	Hybrid (Paper/Electronic) Record	All Paper	Legal EHR
Ensure compliance with federal and state regulations	Dual systems can provide contradictory data and can't ensure compliance.	Compliance is more time-consuming because all tasks must be performed manually.	Compliance is ensured through automatic audit logs (e.g., digital signatures, date and time stamping).
Operate cost effectively	Hybrid approaches can be the most costly because workflows become more complicated.	Paper systems incur high space and labor costs.	A legal EHR removes space and labor costs while improving record access and streamlining workflow.
Expedite payment and ensure its accuracy	Hybrid systems are perhaps the most inefficient in terms of supporting billing activities because information exists in multiple locations.	Paper systems make it a challenge to complete records, perform off-site coding, and reallocate resources at peak times, increasing backlogs.	With all documents needed to support payment available electronically, the legal EHR creates the most efficient and accurate payment support system.
Streamline work processes	Overlapping systems increase the number of processes required to complete each HIM task.	Manual processes and the need to wait for one person to be done with his or her task before the next one can begin slows the entire cycle.	Tasks can be performed simultaneously, and all charts are available to authorized users.
Ensure chart accuracy	The problems of paper influence accuracy.	Misfiled, lost, or damaged records are a constant concern.	An EHR with proper legal functionality is the most accurate tool because it is complete, authenticated, and unalterable.
Reduce paper	Some paper reduction occurs, although organizations still need to store and produce paper portions of the record, and tying paper and electronic pieces together is challenging.	No paper reduction occurs.	A legal EHR is paperless, eliminating paper storage and maintenance concerns.
Ensure record privacy	Ensuring the security of paper records is difficult, if not impossible.	Ensuring the security of paper records is difficult, if not impossible.	Organizations achieve secure access to the legal EHR (e.g., digital signatures, encrypted data, audit logs) through proven technology.

Hybrid medical records can present an even bigger burden than all-paper records. This table breaks down the difficulties of paper and hybrid records by system need and highlights the benefits of a solely electronic, legal record.

Gaining Organizational Support

Usual EHR planning rightly focuses on clinical workflows, patient care, and patient safety, but often missing from the discussion is the equally important concept of the legal record as a defined and accessible entity.

For HIM leaders looking to ensure that legal and clinical aspects are given equal weight, the following strategies will help gain support for legal EHR initiatives:

- Explain that the clinical record cycle isn't designed to support the needs of the business office. The clinical world is problem-focused: problems are identified, assessed, and treated. The clinical record is a continuum of orders, results, interpretations, and actions. There is no concept of record completion—precisely what is needed to expedite the revenue cycle and comply with regulations and precisely what the legal EHR delivers.
- Tie the legal EHR to your organization's most urgent needs (e.g., high denial rates, lack of filing space, or concerns about security lapses). Identify how the legal EHR can address several of these issues and thus pay for itself in the near term.
- If your organization doesn't already have electronic access to medical records (e.g., if the EHR is being rolled out in phases), communicate that implementing a legal EHR—whether through imaging, document repository, managed portal, data repository, or a combination of these approaches—is a relatively simple way to begin granting electronic access, with benefits accruing almost immediately. Organizations can be up and running in months, with security and record safeguards but little or no capital investment.
- Demonstrate how a hybrid medical record (part paper, part electronic) can present a bigger burden than an all-paper record. In pursuit of a clinical EHR, many hospitals end up with a hybrid, which is likely to remain in place as long as systems and processes are both paper and electronic. Although they are often viewed as a necessary evil, hybrid records present significant problems because they are harder to maintain and authenticate than even an all-paper record (see the table [above](#) for a summary of these burdens).
- Involve other stakeholders in championing the legal EHR, such as physicians. The legal EHR has both administrative and clinical benefits for physicians. It can address a quality-of-life issue for them, freeing them from the administrative hassle of spending hours in the HIM department completing and signing off on records, because a legal EHR system gives them access to records electronically when and where it is most convenient for them. From a clinical standpoint, the legal EHR provides physicians with immediate access to patient histories, which means they can begin treatment or care planning immediately, rather than having to wait for paper records to be delivered to them or sent to the floor.

A Significant Step down the EHR Path

The legal EHR is critical to supporting the business of healthcare by helping organizations get paid more quickly and accurately, enhancing operational performance with better record access, and improving chart security and risk management. Planning carefully for a legal EHR as part of the broader EHR strategy will help organizations ensure that they meet both clinical and administrative goals with their EHR initiatives. In addition, organizations should consider that beginning EHR implementations with a legal EHR can start off such projects on a strong, positive footing, ultimately paving the way for a complete EHR initiative.

Note

1. AHIMA. "Update: Guidelines for Defining the Legal Health Record for Disclosure Purposes." *Journal of AHIMA* 76, no. 8 (September 2005): 64A–G.

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