NCVHS Groups Explore CPR, Privacy Rule Possibilities

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by Dan Rode, MBA, FHFMA

HIPAA's fifth anniversary was marked by meetings of two key subcommittees of the National Committee on Vital and Health Statistics (NCVHS): the standards (transactions) and security subcommittee and the privacy and confidentiality subcommittee. At the security subcommittee, experts from the US and Australia provided a look at the future of the electronic medical record with an update on:

- the US Health Information Knowledgebase (USHIK) generally known as the Meta-data Registry
- the Health Level Seven (HL7) version 3 development and HL7's Reference Information Model (RIM)
- the SNOMED reference terminology project and its potential use as
- a data dictionary for electronic
- health records
- the Good Electronic Health Record (GEHR), Australia's electronic record program and process
- the National Library of Medicine's UMLS project, a meta-thesaurus of terminologies
- the CPT-5 project and how it fits into the discussion of integrated terminologies
- a report on the subcommittee's own PRMI survey of messaging standards

The subcommittee's objective in holding these meetings is the pursuit of national standards for health records and health data. Given the subcommittee's time limitations, we should expect to see a status report on this project potentially as early as February 2002, though the final standards appear to be several months away and will require considerable work on the part of the subcommittee.

The NCVHS Standards and Security subcommittee did not address the HIPAA transactions. Neither did the HHS secretary's staff present in the meeting. An effort led by the Blue Cross and Blue Shield Association (BCBSA) has asked key members of Congress to delay the implementation of HIPAA from two years to indefinitely, which is unusual given that many of the individual BCBSA plans were actively involved in the construction of the HIPAA transactions, and many report that they are ready to begin testing or using these transactions with providers. AHIMA is working with the Coalition for Health Information Policy (CHIP) and members of Congress to ensure that HIPAA goals are not distorted and implementation is not delayed continues.

Privacy Rule Hotly Debated

The NCVHS privacy and confidentiality subcommittee met with many groups about the privacy rule, including those that are opposed to the electronic transmission of health information through the healthcare community and beyond. The privacy subcommittee's goal was to obtain ideas that would assist the secretary in providing additional guidance and possibly modifications to the privacy rule to continue with the planned April 2003 implementation. However, the committee found the industry felt considerable confusion about the rule's requirements and standards and still has major disagreements on how protected health information (PHI) should flow between provider and payers/plans. Already, several trade groups have petitioned the secretary to move quickly on clarification and modifications so that the industry could begin implementation in earnest. Several testifiers also suggested that if such changes could not be finalized expediently, the implementation date should be pushed back.

In its testimony, AHIMA reiterated its support of the privacy rule and its goals. AHIMA noted that many of the standards and regulations were already part of HIM practice and that HIM professionals had the training and background to effectively manage any additional implementation needed in their facilities. AHIMA noted that smaller providers should have a much easier task of implementing the privacy rule than some had been led to believe. AHIMA also volunteered to work with the secretary and the industry to educate and train the industry on privacy and implementation issues.

Further, AHIMA reiterated its earlier recommendations to the secretary regarding modifications or guidance related to the privacy rule, including:

- modification of Section 164.522, the Right to Request Privacy Protection for PHI. AHIMA argues that especially in a paper-oriented environment, the ability of a covered entity to offer this right (the rule makes it optional) is almost universally impossible and leaves the entity in the position of constantly refusing what appears on the surface to be a reasonable right. If AHIMA's recommendation is accepted, entities could raise the issue of the right on an optional basis in their privacy notice
- modification or clarification that a covered entity should be permitted to use its professionals' judgment and request additional justification for the amount of PHI requested by another entity. This recommendation was opposed by several testifiers from the health plan industry who argued that the rule was already being interpreted too narrowly by providers when it came to data outside of the claims form
- requiring that a requestor of PHI present or sign a statement stipulating that the requested information be limited to the minimum necessary for the stated purpose
- that a statement accompany the released PHI indicating that use of the information for other that the stated purpose was not permitted and that the information would be destroyed after the stated need had been fulfilled, unless otherwise required by law
- that the responsibility for disclosure of PHI should be centralized under the direction of the HIM professional or function to ensure compliance

There were significant debates surrounding the minimum necessary standard. It was clear from the overall testimony that the healthcare industry needs to address the nature and use of data exchanged between healthcare plans and providers, not only to determine how the industry will abide by the privacy rule, but also to gain control of the significant costs of data exchange currently going on within the industry.

We should soon see the results of the privacy subcommittee's deliberations and those of the secretary's staff, as any notice of proposed rule making should be presented to the industry by December 1. It appears that the healthcare industry is looking to see most of the privacy rule in place before 2003.

Status Quo or Better

Many of the privacy rule's requirements and standards are already in place in facilities with strong HIM ethics. The details that remain will, at worst, keep health information privacy at the status quo, and at their best should achieve many of AHIMA's goals for privacy. We must remember that the privacy rule within HIPAA is only a beginning and is far from perfect. Congress must still address many of the issues it has ignored or avoided in the past four years.

The transactions and most of the code sets in the HIPAA transactions have also been in place for several years. The data issues should be addressed this fall, but they will not change how these transactions work. While there may be some political debates, payers and plans have invested in moving to electronic data interchange and will begin to seek provider partners to take advantage of these investments even if the implementation date has not been achieved. u

For more information about the subcommittee meetings, go to www.ahima.org or visit the NCVHS Web site at www.ncvhs.hhs.gov/.

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