

# Reaffirming Your HIPAA Compliance Efforts

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Two years after the HIPAA privacy compliance date, is it time for your organization to reassess your efforts and recommit to enforcing HIPAA?

## Revisiting HIPAA's Roots

The HIPAA privacy regulation was created in response to public healthcare concerns about the privacy of patients' health information. There since has been a broad range of comprehension, which is understandable given the volume of guidance, clarification, and interpretation that the law has generated. The true purpose of HIPAA can be found in the opening summary:

to protect the privacy of individually identifiable health information maintained or transmitted... The use of these standards will improve the efficiency and effectiveness of public and private health programs and health care services by providing enhanced protections for individually identifiable health information. These protections will begin to address growing public concerns that advances in electronic technology in the health care industry are resulting, or may result, in a substantial erosion of the privacy surrounding individually identifiable health information maintained by health care providers, health plans and their administrative contractors.

This sounds reasonable enough, given that privacy abuse concerns are real and advances in electronic technology increase the opportunity for "erosion of privacy" mentioned in the rule.

All of us—especially those in health information management—support the spirit of the regulation. However, some in the healthcare industry have not taken the responsibility for privacy as seriously as others. Perhaps as an industry we know what is right, but some may have become complacent in following through or have chosen to adopt questionable privacy practices in an effort to expedite business processes.

## The Case for Concern

As healthcare patients, we all share our most personal information with physicians. Free and open dialogue between patients and caregivers is the cornerstone of complete and thorough medical treatment. However, due to privacy concerns, many patients do not fully disclose all the necessary information related to their care.<sup>1</sup> Additionally, the Office for Civil Rights continues to report hundreds of complaints on wrongful access and disclosure of protected health information since April 2003. From these reports, it is clear there is a problem in understanding or applying the HIPAA privacy regulation either on the part of the patient, covered entity, or both.

Despite the concern, the positive aspects of HIPAA are clear: for the patient, HIPAA establishes new patient rights, greater awareness of the patient's rights to their information and to the privacy of their information; for covered entities, administrative simplification. Granted, realization of such efficiencies and overhead reduction may be slow in coming but real nonetheless.

## Getting Down to the Facts

Almost everyone you talk to now knows something about HIPAA. If you mention it to someone outside the healthcare profession, you may receive a pained response accompanied by a rolling of the eyes. And there are comments like "Now I get all that paperwork when I see the doctor. I don't really understand it even when I try to read through it. I just toss it," or "That's why I can't find out anything about my uncle. When I call the hospital, they tell me his information is private."

Lest the healthcare industry be accused of ultimate responsibility, the most common response given is "Sorry for all this extra work, but we have to follow the law." Our response to HIPAA should not be just an obligatory "We do it because it's the law"

but since the law came about as a result of privacy abuses and other administrative issues, our response should rightly be, “We are concerned about our patients’ privacy and want to do what we can to help protect it.” After all, the healthcare industry’s focus is to meet patients’ health needs—we are a service industry.

Organizations that have met the privacy regulation with appropriate concern and action are to be commended. However, organizations that have yet to take appropriate actions—we know they exist from the number of official complaints—could fuel continued public frustration with the industry and could even result in more legislation.

## Getting Revitalized

Where do we go from here? All covered entities should take the opportunity to reassess HIPAA compliance efforts and, if needed, make appropriate changes. Consider the following areas to reaffirm your compliance efforts.

### Re-examine the target

**Accountability is a primary target of HIPAA;** it is even found in the acronym. Covered entities are responsible for proving compliance with the standards. But at what level should the HIPAA compliance target be set? To meet the letter of the law? The spirit of the law? What about addressing consumer confidence? What about addressing industry efficiency and good faith efforts with business partners? Is HIPAA an organizational business driver? The answer to these questions will influence HIPAA compliance plans for each organization.

**Develop and work the plan**—without a plan, plan to fail. HIPAA is one project you cannot and should not try to accomplish by winging it. However, a detailed plan means nothing if it does not lead to change in your organization. If compliance is ever called into question, any misalignment between the plan and practice is sure to raise questions about the organization’s earnest effort to meet compliance. Develop or dust off those plans and revitalize HIPAA compliance efforts.

**Move in the right direction.** We often need to refocus on objectives in order to succeed. HIPAA efforts are no different. Some of us may have stalled or forgotten those important objectives, so we should make sure everything is working as expected. It is important to continually confirm that programs meet organizational target objectives and regulation standards. Success may be measured in inches rather than miles, but the most important thing is that your program moves in the right direction. The only way to confirm these results is to measure. Third-party or self-certification are two ways to ensure that you are meeting the standards. For those entities en route to total compliance, certification provides a great road map to your working plan.

**Identify and meet ongoing challenges.** Insanity has been defined as continually repeating the same action and expecting different results. If you are experiencing a rise in potential, reported, or confirmed incidents, then take additional and appropriate action to meet those challenges and be sure to document those efforts. Are appropriate, equitable sanctions and corrective actions considered a part of your compliance efforts? Or do you simply keep sending out the same tired messages hoping that people will change their actions? Communication on sanction activities can send a powerful message regarding the requirement of an individual’s participation in an organizational HIPAA compliance program.

Chances are that you have heard this before; it is process improvement 101—identify the end goal or target, provide organized planning, take action, and perform measurements and adjustments. But occasionally we all need to be reminded that HIPAA is the task at hand and that a job well done is a job worth doing. Aside from compliance with the law, are those we serve better off for doing business with us, or do they just endure our service? Let’s all revitalize our HIPAA efforts.

### Note

1. *Federal Register* 65, no. 250 (2000): 82468. Available online at <http://aspe.hhs.gov/admsimp/final/PvcFR01.pdf>.

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