

# Suiting Up for Summer: Push and Pull Legislation Promises a Busy Season on 'the Hill'

Save to myBoK

By Dan Rode, MBA, CHPS, FHFMA

The spring season in 2013 saw continued developments on Capitol Hill concerning issues of interest to the health information management profession, including support for ICD-10-CM/PCS, better regulation of the RAC Audit program, and a renewed effort to move forward patient identifiers.

## New Anti-ICD-10 Legislation

Ted Poe (R-TX-2nd) introduced HR 1701-"Cutting Costly Codes Act of 2013"-in late April. Poe's bill calls for the secretary of the US Department of Health and Human Services (HHS) to "not implement, administer, or enforce" the initial ICD-10-CM/PCS regulations issued in January 2009, the extension of the ICD-10-CM/PCS compliance date issued in September 2012, or any other such regulation that provides for the replacement of ICD-9 with ICD-10-CM/PCS as a code set standard under HIPAA. The Poe legislation goes on to ask the Government Accountability Office (GAO) to consult with stakeholders in the medical community to conduct a study to "identify steps that can be taken to mitigate the disruption on the health care providers resulting from a replacement of ICD-9 as such a standard." The GAO report would be due back to the US House of Representatives within six months from the date of enactment.

AHIMA, along with a number of organizations representing providers, health plans, and payers, sent a coalition letter to leaders in the US House and Senate, emphasizing the importance of moving forward with the ICD-10-CM/PCS implementation. In addition, the Texas Health Information Management Association began a letter writing campaign to its entire Texas congressional delegation, asking for their support to not pass HR 1701. During this time, *Modern Healthcare* reported that the American Medical Association (AMA) Board of Trustees had completed a white paper for its House of Delegates noting, essentially, that ICD-10-CM was a necessary replacement for ICD-9-CM and implementation should proceed.

A few weeks later, Senator Tom Coburn (R-OK) introduced similar legislation. Coburn went on to add this legislation as an amendment to the Senate Agriculture Bill, making this one of the few times that AHIMA staff have had to monitor the Agriculture Committee.

In spite of Poe's and Coburn's actions, AHIMA remains optimistic regarding the stability of the October 1, 2014 compliance date for ICD-10-CM/PCS. Replacing ICD-9 with the updated ICD-10-CM/PCS systems is an important step for the US to reach goals related to the improvement of health information and care quality, and a reduction of the cost of care.

Senator Coburn has cited the need for improved interoperability. Providers, health plans, clearinghouses, and other stakeholders throughout the US have spent the last four and a half years implementing ICD-10-CM/PCS. Once these stakeholders have stated their case, members of Congress will have a much better perspective on the potential impact of halting the process to replace ICD-9-CM. The Centers for Medicare and Medicaid Services (CMS) has also recently published a paper discussing the reasons for and use of extraneous codes that, while making good press stories, are not the codes normally used by healthcare providers.

A lack of understanding of the purpose of the coding systems-to facilitate knowledge transfer in a contemporary health information system-continues to pose a challenge to progress on adopting ICD-10. Significant losses with no attained benefit would result if the legislation proposed by Poe or Coburn was approved.

AHIMA has continued its call for HIPAA-covered entities to maintain efforts on implementation, testing, training, and other activities necessary to meet the October 1, 2014 deadline-now a mere 15 months away. A number of other professional groups

are also stepping forward and urging their members not to delay any further. AHIMA and its component state associations continue to reach out a hand to any who need assistance in implementing ICD-10-CM or ICD-10-PCS. Nonetheless, members can expect to see challenges such as those posed by Poe and Coburn up until the compliance date arrives.

AHIMA is keeping a close eye on the activities in Congress to ensure that legislation similar to that of Poe and Coburn is not entered as amendments to other bills not directly related to healthcare. AHIMA will continue to update members in the weekly *e-Alert* newsletter.

## Co-Sponsors Grow for RAC Bill

Efforts by AHIMA members and staff, as well as those of other healthcare associations, continue to add co-sponsors to HR 1250, the Medicare Audit Improvement Act of 2013, that was introduced by US Representatives Sam Graves (R-MO-6th) and Adam Schiff (D-CA-28th) in the House of Representatives during AHIMA's Hill Day.

The AHIMA Advocacy Assistant, which can be reached through one's member login on the [ahima.org](https://ahima.org) website, can be used to contact members of Congress and encourage them to become a co-sponsor of the bill. AHIMA members can also track whether or not a member of Congress has signed on as a co-sponsor in the Advocacy Assistant. Members are encouraged to thank those members of Congress that have signed on to HR 1250.

A companion bill to HR 1250, S 1012, has now been introduced by Senators Mark Pryor (D-AR) and Roy Blunt (R-MO). AHIMA will be looking for co-sponsors for the Senate bill as well. Again, monitor the weekly e-Alert for updates and information on how to assist in these advocacy efforts.

## Steps Taken Toward Patient Identifiers

Another advocacy effort begun at Hill Day sought members of Congress to petition the Appropriations committees to remove revolving language from the Labor-Health and Human Services-Education appropriations bills that has prohibited HHS from seeking strategic solutions to ensure the proper alignment of an individual's information through a uniform identification process. While the exact mechanism that might be used has not been identified, AHIMA and other organizations across the healthcare spectrum are looking for the ability to move investigation, discussion, and a solution forward. AHIMA expects to see more movement across the industry on this issue soon.

## Rules and Regulations in the Works

AHIMA has sent its annual comments related to a number of the Medicare Prospective Payment Systems (PPS), including comments directed at very limited coding changes as well as a vast number of quality measurement value sets. Similar requests for proposals related to the Medicare program will come out shortly, and the final rules for programs such as the inpatient Medicare PPS program should be out in August.

In late April, the HHS Office for Civil Rights (OCR) issued an advanced notice of proposed rulemaking entitled "HIPAA Privacy Rule and the National Instant Criminal Background Check System" (NICS). This action was a result of a January 16, 2013 presidential executive order related to gun violence. The rulemaking reflects an effort by OCR to include individuals in the NICS system that have been subject to a court-ordered behavioral health program or a state agency action for involuntary behavioral health program. This action comes in response to a concern that NICS does not currently include individuals who may pose a threat to society as evidenced by their involvement in a behavioral health program.

The ONC request sets up a potential recommendation that the court system, or the state government associated with involuntary behavior health programs, be charged with entering the information into NICS. In making this suggestion, OCR desired to know how state laws and HIPAA requirements may or may not facilitate such a reporting requirement. While privacy officers have expressed concern that the federal government might require a behavioral health provider to enter such information, it appears that OCR is not seeking such a requirement.

AHIMA's comment letter was not available at press time, but all of AHIMA's public comments can be found at [ahima.org/advocacy](https://ahima.org/advocacy). Since this was an advanced request, it is expected that OCR will issue a notice of proposed rulemaking on this subject in the future.

Another request for information is expected from OCR on accounting of disclosures. The HITECH legislation required such an accounting regulation, but the requirement was not included in the omnibus privacy and security regulations that were issued earlier this year.

This summer promises to be a busy season for advocacy, policy, and compliance. Testing for ICD-10-CM/PCS systems should begin shortly, and HIM professionals will also be gearing up for new privacy and security rule readiness and preparations for the FY 2014 requirements in stage 2 of the Centers for Medicare and Medicaid Services' "meaningful use" EHR Incentive Program, which begins for hospitals in October. It is time for HIM to professionally suit up for the summer.

Watch for the latest updates on developments in e-Alert, AHIMA's weekly e-newsletter.

Dan Rode ([dan.rode@ahima.org](mailto:dan.rode@ahima.org)) is AHIMA's vice president of advocacy and policy.

---

**Article citation:**

Rode, Dan. "Suiting Up for Summer: Push and Pull Legislation Promises a Busy Season on 'the Hill'" *Journal of AHIMA* 84, no.7 (July 2013): 18-20.

---

Driving the Power of Knowledge

Copyright 2022 by The American Health Information Management Association. All Rights Reserved.