

# The Privacy Balancing Act: Reflecting on a Decade of HIPAA

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THIS YEAR MARKS the 10th anniversary of the implementation of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule.

As I write, the industry is currently deciphering the implications of a new law-the changes to the rule wrought by the Health Information Technology for Economic and Clinical Health Act (HITECH), released in January.

## 1996: Privacy Gets a Foothold

AHIMA has had these regulations in its sights for far more than 10 years. It started in the mid-1990s with a healthcare reform bill co-sponsored by Senators Edward Kennedy and Nancy Kassebaum, which eventually became HIPAA and was signed into law in August 1996.

HIPAA's main thrust was group insurance portability, but the bill also contained language pertaining to healthcare privacy and administrative simplification. The privacy provisions represented "an enormous legislative victory for AHIMA," the *Journal of AHIMA* noted at the time. "This act will have significant impact on the nation's healthcare delivery system and on health information management professionals."<sup>1</sup>

In this issue, we see the industry grappling with the places where privacy intersects with health information exchange (HIE), new technology, and changing regulations. The cover story, "[HIPAA Turns 10](#)," by Daniel J. Solove, takes a look at the evolution of the privacy rule up to and including the latest regulations related to HITECH. It's a detailed look at one of the most influential regulations in recent memory and how it has impacted patients, the healthcare industry, and HIM.

Judi Hofman, CAP, CHP, CHSS, gives an overview of the HITECH changes to privacy rules related to accessing the health information of deceased individuals in "[Privacy After Death](#)."

While wider access has been granted by the new rule, there are still plenty of considerations for HIM related to this particular issue. HIE has opened up new challenges for behavioral health providers, who handle particularly sensitive information but are mostly excluded from the "meaningful use" EHR Incentive Program. Michael Lardiere, LCSW, covers efforts that have been made to close the gap, including industry collaboration and use of Direct secure messaging protocols, in "[Unlocking and Sharing Behavioral Health Records](#)."

## On the Privacy Tightrope

Today, HIM professionals find themselves doing a privacy-related balancing act. We continue to walk the tightrope between ensuring that information is available for patient care and making sure it is private and secure.

We've always done this, of course. When I started out in HIM, we weren't open to sharing with anyone. We sometimes even made patients work hard to get their own information.

So much has changed in recent years, including the fact that we're working with electronic records. The information is more complex; there's more data and many different kinds of media. Moreover, patients are now starting to become aware of their health information and seek the ability to access it. As HIM professionals we must keep up with these environmental changes and lead the way.

Where will the next 10 years take us? I can't wait to find out.

## Note

1. Frawley, Kathleen and Donald Asmonga. "President Signs Bipartisan Health Reform Bill." *Journal of AHIMA* 67, no. 9 (1996): 14-18.

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