

# Creating Privacy Rule Implementation Efficiency

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by Gwen Hughes, RHIA

Many HIM professionals will be called upon to perform an extraordinary feat during the next six months. They will be asked to bring one or more organizations into compliance with the HIPAA privacy rule by April 14, 2003. While this task is challenging in organizations that began such efforts a year ago, the task is Herculean for organizations who have yet to begin compliance efforts.

Yet, HIM professionals can accomplish this task. They will do so by developing a tight management plan, demonstrating effective leadership, and being focused, committed, and efficient.

This article will provide those HIM professionals who are getting a late start with a strategy to efficiently bring their organizations into compliance with the privacy rule.

## Four to Tackle

HIM professionals know that efficiencies are created when data is collected once and used for multiple purposes. This principle can be applied to the privacy rule as well.

There are four projects required by the privacy rule that require similar types of data. These projects are the notice of privacy practices, accounting of disclosures, minimum necessary standard, and work force training.

By evaluating the information needed to complete each of these tasks, HIM professionals can design an information capture method and collect the required data all at once.

## Notice of Privacy Practices

The privacy rule requires that healthcare providers and some healthcare plans create a notice of privacy practices. The rule provides specific instruction. HIM professionals charged with drafting the notice will want to have the privacy rule requirements readily available, as well as sample notices collected from other organizations. They will also want a list describing the uses and disclosures of protected health information (PHI) in their organization. (See the left column in "Drafting the Notice" below ). Once HIM professionals have these tools in hand, they will find drafting the notice fairly easy.

## Drafting the Notice

| Uses and Disclosures                                                        | Does HIPAA Require This Item in Notice?<br>*                                                    |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| <b>Pre-admission Clinic</b>                                                 |                                                                                                 |
| To the patient's third-party payer for obtaining pre-authorization          | Considered part of payment. Privacy rule requires one example of payment.                       |
| To the contract lab for securing admission lab work                         | Considered part of treatment. Privacy rule requires one example of treatment.                   |
| <b>Volunteers</b>                                                           |                                                                                                 |
| Directory information to individuals who ask for the patient by name.       | Privacy rule requires that individuals be told about the directory.                             |
| <b>Nursing</b>                                                              |                                                                                                 |
| Reporting infectious diseases to public health authority as required by law | Part of population-based healthcare operations. Privacy rule requires one example of healthcare |

|                                                                                                                     |             |
|---------------------------------------------------------------------------------------------------------------------|-------------|
|                                                                                                                     | operations. |
| Reporting gunshot wounds to appropriate government authority as required by law                                     | Yes         |
| *A field that could be added to the list of uses and disclosures in order to make development of the notice easier. |             |

## Accounting of Disclosures

In order to comply with the privacy rule, organizations must provide individuals who request it with an accounting of disclosures of their PHI. But the rule does not require that all types of disclosures be included in the accounting. Organizations must design an accounting of disclosure system that captures at least those disclosures that must be tracked according to the privacy rule and state regulation. A list of the types of disclosures made in the organization will make this task more manageable. (See "Developing Accounting of Disclosures Systems" below.)

## Developing Accounting of Disclosures Systems

| Disclosures                                                                                                    | Tracking Required by HIPAA?<br>* | Tracking Required by State? | Rationale for HIPAA Tracking Exception*    | Rationale for State Tracking Exception* |
|----------------------------------------------------------------------------------------------------------------|----------------------------------|-----------------------------|--------------------------------------------|-----------------------------------------|
| <b>Pre-admission Clinic</b>                                                                                    |                                  |                             |                                            |                                         |
| To patient's third party payer for obtaining pre-authorization                                                 | No                               | No                          | Payment                                    | Third- party payer                      |
| To the contract lab for securing admission lab work                                                            | No                               | No                          | Treatment                                  | Healthcare                              |
| <b>Volunteers</b>                                                                                              |                                  |                             |                                            |                                         |
| Directory information to individuals who ask for the patient by name                                           | No                               | No                          | Directory                                  | Directory                               |
| <b>Nursing</b>                                                                                                 |                                  |                             |                                            |                                         |
| Reporting infectious diseases to public health authority as required by law                                    | No                               | Yes                         | Healthcare operations --popula- tion-based |                                         |
| Reporting gunshot wounds to appropriate government authority as required by law                                | Yes                              | Yes                         |                                            |                                         |
| *Fields that can be added to the list of disclosures to assist in determining what disclosures must be tracked |                                  |                             |                                            |                                         |

## Minimum Necessary Standard

There are two parts to the minimum necessary standard. The first part of the standard requires that organizations develop policies and procedures and criteria to limit the information the organization requests and discloses to the extent necessary to perform the purpose of the request, use, or disclosure. A list of requests and disclosures may be helpful to identify policies and procedures that must be reviewed, updated, or developed to comply with the standard. (See "Minimum Necessary" below).

## Minimum Necessary

| Requests and Disclosures    | Does the Minimum Necessary Standard Apply? | Rationale for Minimum Necessary Exception* | If Standard Applies, What Steps Need to be Taken?* | Findings* |
|-----------------------------|--------------------------------------------|--------------------------------------------|----------------------------------------------------|-----------|
| <b>Pre-admission Clinic</b> |                                            |                                            |                                                    |           |

|                                                                                                                                           |    |                 |                                                                                                                                   |                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------|----|-----------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| To patient's third-party payer for obtaining pre-authorization                                                                            | No | Treatment       | Even though standard doesn't apply, talk to pre-admission clinic and utilization management staff. Check policies and procedures. | Pre-admission nurse and utilization managers ask only for pre-authorization information. Policies and procedures reflect that behavior as well. |
| <b>Nursing</b>                                                                                                                            |    |                 |                                                                                                                                   |                                                                                                                                                 |
| Reporting infectious diseases to public health authority as required by law                                                               | No | Required by law |                                                                                                                                   |                                                                                                                                                 |
| Obtaining additional information when it's determined surgeries, test results, and consultations exist elsewhere                          | No | Treatment       |                                                                                                                                   |                                                                                                                                                 |
| *A field that can be added to narrow the search and track follow-up on policies and procedures impacted by the minimum necessary standard |    |                 |                                                                                                                                   |                                                                                                                                                 |

The second part of the minimum necessary standard requires that organizations identify the people or classes of people in their work force who need access to PHI, the category or categories of PHI to which access is needed, and any conditions appropriate to access. Organizations must also make reasonable efforts to limit the work force's access to PHI to that which is needed to carry out their duties.

### Work Force Training

The privacy rule also requires that an organization train all the members of its work force on the privacy-related policies and procedures they will need to know in order to perform their jobs. A list indicating for what purpose work force members access PHI will be helpful.

### Collecting Information

The discussion of the notice, accounting of disclosures, minimum necessary standard, and work force training above reveals a need for the following data elements:

- department
- title, category, or class of individual
- requests for PHI
- uses of PHI
- disclosures of PHI
- type of information to which individual work force member has access
- purpose/conditions of work force member's access

Once the required data has been identified, the HIM professional can design a comprehensive data collection process that will capture all the information needed at once. Capture methods might include brainstorming, surveys, interviews, or other methods.

By entering the data collected in a database or spreadsheet program, the HIM professional can produce outputs similar to those illustrated in this article's figures.

Collecting data once and using it for multiple purposes makes processes more efficient. Developing a way to collect the information needed for privacy rule implementation once and using it for multiple purposes will make implementation more efficient. HIM professionals who use this technique, or who create other efficiencies, will be in a better position to bring their organization into compliance within the short time remaining to do so.

## Web Extras!

[\*Requests, Uses, and Disclosures for Evaluating Workforce Needs\*](#)

[\*Purposes of Access to Assist in Determining Needed Workforce Training\*](#)

[\*Request, Uses, and Disclosures Data Collection Form\*](#)

## References

"Standards for the Privacy of Individually Identifiable Health Information; Final Rule." 45 CFR Parts 160 through 164. *Federal Register* 65, no. 25 (December 28, 2003). Available at <http://aspe.hhs.gov/admsimp>.

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