

Winding Road to the Privacy Rule

Save to myBok

by Dan Rode, MBA, FHFMA

We have a privacy rule. After years of effort from AHIMA members, the first national privacy standards were allowed to go into effect by Department of Health and Human Services (HHS) Secretary Tommy G. Thompson, with pressure from the White House.

It's time for HIM professionals to take action. Although many HIM professionals may have already implemented parts of the rule in the form of past practices, policies, and procedures, now is the time to review these actions and ensure that they are recognized in the implementation process. Thompson has indicated that there will be modifications to the rule and AHIMA will keep you informed of these modifications to assist your implementation efforts. We will be working with the federal agencies and advisory boards that will be reviewing these changes. Further, over the next several months, AHIMA will continue to provide tools to help organizations implement the privacy rule (some are already available). In the meantime, keep an eye on the basics: what policies and procedures make sense to you, the HIM professional, to implement?

Work with your CSA, state hospital, and medical associations in their efforts to define the rule's preemption issues. Don't immediately establish new forms for consent and authorization. Don't move forward on a final draft of the privacy notice, but get the components of these forms and documents together and the consensus you need to move forward when AHIMA can give you the word from Washington. We will keep you posted.

How It Happened

The months leading up to the HIPAA privacy rule going into effect on April 14, 2001, were chaotic and confusing to both Washington insiders and waiting HIM professionals. Here's a look back at the twists and turns on the road to the privacy rule taking effect:

- The privacy rule was unveiled on rule on December 22, 2000, by then- President Clinton and followed by its publication in the Federal Register six days later. The rule was supposed to go into effect on February 26, 2001
- Shortly after the Bush administration took office, industry observers questioned whether the new president would put a hold on the rule. Although there was no hold, on February 13 it was discovered that the previous administration and Congress had not completed all the paperwork required to make the rule effective. The effective date was pushed back to April 14, 2001
- With the entrance of new HHS secretary Thompson, many in the healthcare industry demanded a halt to the rule's implementation. Members of Congress argued on both sides of the issue, and the secretary implemented a new comment period, which created much confusion. Some members of the healthcare industry thought the comment period was just that—a time to collect new comments on the technical aspects of the rule that were not contained in the original draft. Other healthcare professionals thought that the comment period was a way to kill the rule
- A week before the effective date, observers were betting that Thompson would somehow cancel the rule. Thus, it was quite a surprise when he announced that the rule would become effective on April 14. The secretary's press release indicated that the decision was made at the White House and HHS would make some modifications to the rule, as permitted under HIPAA, and publish official interpretations
- The back-and-forth, up-and-down life of rules, regulations, and laws is not unique in Washington—and not without problems. Many of you in the front lines of HIM heard conflicting stories about whether to proceed implementing the rule. But now it's time to tackle the implementation process and take advantage of the leadership opportunities the implementation effort will provide.

Support at the Local Level

AHIMA's policy and government relations team has learned that many states are putting together provider-payer-insurer HIPAA implementation teams. Many of these teams are voluntary under the umbrella of the hospital association, some are being established under the state government, and some are payer-driven. HIM professionals need to get involved in these groups or at least stay abreast of their activities, because they can offer insight on the use of medical coding included in the HIPAA transactions and certainly on any privacy efforts. If you hear of an implementation effort, make sure your CSA is aware of it. We will have much more successful implementations when everyone is at the table.

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