

LTC HIPAA Consortium Executive Summary

Overview

The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), also known as HIPAA, was enacted as part of a broad Congressional attempt at incremental healthcare reform. The "Administrative Simplification" aspect of that law requires the United States Department of Health and Human Services (DHHS) to develop standards and requirements for maintenance and transmission of health information that identifies individual patients.

These standards are designed to:

- Improve the efficiency and effectiveness of the healthcare system by standardizing the interchange of electronic data for specified administrative and financial transactions; and
- Protect the security and confidentiality of electronic health information.

The requirements outlined by the law and the regulations promulgated by DHHS are far-reaching--*all healthcare organizations that maintain or transmit electronic health information must comply.*

Penalties

General Penalty for Failure to Comply:

- \$100 penalty for each violation.
- The maximum penalty for all violations of an identical requirement may not exceed \$25,000.

Wrongful Disclosure of Individually Identifiable Health Information:

- Wrongful disclosure offense: \$50,000, imprisonment of not more than one year, or both.
- Offense under false pretenses: \$100,000, imprisonment of not more than 5 years, or both.
- Offense with intent to sell information: \$250,000, imprisonment of not more than 10 years, or both.

Impact

HIPAA is an enterprise-wide issue and compliance will require a substantial commitment of human and financial resources. There are legal, regulatory, process, security, and technology aspects to each proposed rule that must be carefully evaluated before an organization can begin its implementation plan.

- Implementation timeframes are short—organizations must be in compliance 24 months after the regulations become final.
- There are significant criminal and civil penalties for non-compliance, as well as serious liability risks for unauthorized disclosure.
- Implementation and compliance will cost the industry billions of dollars, some private sector estimates put privacy compliance costs alone at nearly \$40 billion.
- The government estimates that over \$30 billion will be saved by the industry over a 10 year period by complying with the transaction rule.
- Transactions will become more standardized, resulting in eventual savings for electronic data interchange.

Opportunities for Industry-wide Collaboration

In December 2000, several organizations in the long-term care industry met to discuss the possibility of collaboration to reduce the onerous nature of the requirements, establish professional standards for long-term care, and to reduce the costs of implementation and on-going compliance.

Possible areas for collaborative success:

- Develop project management process flow for implementation functions
 - Process mapping
 - Gap analyses
 - Coordinate shared resources
 - Identify possible outsourced resources (shared costs)
 - Metrics for evaluation
 - Implementation strategies
 - On-going evaluation
 - Training and orientation development

- Define Long-term care standards to be communicated via position paper
 - Standards for Transaction, Privacy, and Security Requirements
 - Payment, treatment, and operations
 - Minimum necessary provision
 - Patient consent and authorization

- Enhance Governmental Relations Opportunities
 - Lobby for legislative change
 - Lobby for reimbursement for HIPAA costs
 - Proactively influence HHS's interpretation and application of regulations
 - Establish positive lines for communication with HHS