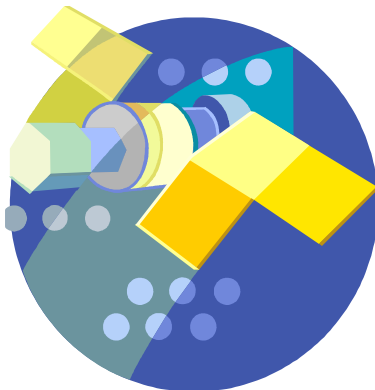


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It is a Repeat Performance!

**Mission Impossible? HIPAA
and Release of Patient
Health Information
Workshop
August 14, 2003
Wintergreen Resort
Wisconsin Dells**

HIPAA & Privacy: Where Should it Be?

Nancy Davis, MS, RHIA

While the Health Insurance Portability & Accountability Act of 1996 (HIPAA) has actually been around since 1996, many healthcare organizations delayed implementation efforts until recently. For some time, there was an uncertainty as to whether or not HIPAA would ever be passed as a federal regulation. In December of 2000, the final rule for "Standards of Privacy of Individually Identifiable Health Information" was published in the Federal Register and became known as the "Privacy Rule." Even with this official publication, there was belief that the regulation would still be overturned. However, by early 2001 it finally looked like HIPAA was here to stay and it was time for healthcare organizations to prepare for its impact on organizational operations.

With an implementation date of April 14, 2003 it seemed that healthcare organizations would have an adequate amount of time to develop strategies to ensure compliance. For a variety of reasons, both external and internal, organizations struggled with compliance efforts. Ranking high on the list of reasons for delay was the confusing language of the Privacy Rule as well as the varying interpretations of what the language actually meant. While there were many expansive recommendations for HIPAA implementation, many organizations continue to struggle to comply with the very most basic requirements.

What Absolutely, Positively Required Completion by April 14, 2003

Healthcare organizations, at a minimum, should have completed the following HIPAA compliance tasks by the April 14, 2003 implementation date:

- ✓ Appointment of an organizational "Privacy Officer"
- ✓ Determination of the organization's covered entity status
- ✓ Publication and distribution of the organization's Notice of Privacy Practices
- ✓ Development of policies and practices covering the new patient rights
- ✓ Staff education and training on HIPAA/Privacy and the supporting organizational policies
- ✓ Development of a HIPAA business associate agreement/addendum document

Each organization has a responsibility to identify one individual to serve as the "Privacy Officer." Hopefully this position has been assigned to an individual with a strong background in managing patient information with an awareness of legal and regulatory practices. Ideally, this individual has also been provided with the resources needed to be successful in this role.

(Continued on page 6)

About WHIMA

The Wisconsin Health Information Management Association [WHIMA] is a component state association of the American Health Information Management Association [AHIMA]. WHIMA is the leadership organization and premier resource for the management of health records in Wisconsin. WHIMA has regional associations and more than 1200 members working in hospitals, physician practice groups, nursing homes, vendor organizations, consulting firms, and government agencies.

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From the Editor

Hello and Happy Spring!

One of the first things I notice when Spring arrives is the freshness of the air. It's inspiring. As I breathe in the wonderful air on this breezy day it reminds me of a recent stress management technique---that works! It is a simple technique for improving personal well-being and health through the use of breathing.

If traffic problems cause you to be stressed try this:

Breathe in calm; Breathe out tension.....

Troubled by information (HIPAA) overload:

Breathe in order; Breathe out chaos.....

Not feeling well:

Breathe in healing; Breathe out disease....

Now that your tension has all disappeared, you can sit back and enjoy this issue of the *Link*.

In this issue you will find more about HIPAA, to see if you have touched all the bases, a legislative news update along with an update about copy fees, the leadership award winners, and our president's message.

Spring, also means "it's TIME for the ANNUAL CONFERENCE! Hope many of you enjoyed "Sailing the High Seas and Discovering the Treasures in Health Information Management."

Vicky Wolf, RHIT, CPHQ

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Health Information Link is published four times each year by the Wisconsin Health Information Management Association (WHIMA), a membership organization dedicated to inform and educate on issues relating to health information management and to promote the professional growth of WHIMA members. The *Link* is published on the WHIMA website. Naming of products or services in the *Link* does not constitute an endorsement by WHIMA. Send address changes to: Health Information Link, 2350 South Avenue, Suite 107, LaCrosse, WI 54601, Phone: 608/787-0168, Fax: 608/787-0169, e-mail whima@execpc.com. **Visit our web site at www.whima.org**

President's Message

By Marilyn Toninato, RHIA

*April, the angel of the months
-Vita Sackville-West*



In my last message, I gave a status report of WHIMA activities according to our 2002-3 strategic plan. In February, WHIMA held it's strategic planning session for our next association year. We had great participation from some of our members, team leaders, several past WHIMA Presidents, and Board members.

In mid-March, Cathy Hansen, President-Elect, and myself attended AHIMA's 2003 Winter Team Talks. The majority of this month's message will be devoted to conveying the information we "gleaned" from this all-day event.

It should be reassuring to all of us to know that AHIMA is striving to develop a vision for the profession 10-30 years in the future as well as short-term strategic goals. The 2003 AHIMA goals are (1) Workforce, (2) Membership, (3) e-HIM, and (4) Academic HIM education. Here's a short synopsis of each of them:

Workforce: The workforce research that has been conducted the past several years will be analyzed and publicized. Consumer groups will continue to be targeted to raise HIM awareness. A workshop with AARP was held in Washington, D.C. March 25th. Specialty advancement and continuing education (especially in E-HIM) will continue to be emphasized. Collaboration with other allied health organizations, particularly to influence legislation to get more money (grants) for professions other than nursing, will be key. Career recruitment will continue. Ten thousand CD's were sent to school counselors last year. This year recruitment materials focusing on the returning adult student will be completed.

Membership: 2002 was a banner year for AHIMA membership. There was a 5.1% increase in active members, 48% increase in associate members, and student members were 2,070 over budget.! AHIMA will continue the member-get-a member program. Focus will be given, however, in retaining our members, assessing member needs, and connecting with students. Students now have a national quarterly newsletter on the student CoP that is written by the students themselves.

E-HIM: On March 10th, AHIMA brought together in one room a group of industrial engineers. Change management, project management, and data analysts were major

roles the group determined would continue to surface for HIM professionals. AHIMA will continue to develop the vision and strategies for e-HIM. Before the end of the year, look for e-HIM best practices to be showcased online and on-demand on AHIMA's website.

Academic Education: An Education Strategy Workgroup is strategizing and discussing HIM career laddering. Curricular design, faculty development, accreditation excellence, and informatics bridges will be topics investigated by the workgroup. The results of this workgroup will be shared at AHIMA's June Assembly on Education. Another initiative is the Distance Education Consortium on AHIMA's website.

Strategic questions for 2004-6 are also being discussed at the AHIMA level. The state associations are being asked to determine how they might help and how these goals can fit into our CSA goals. WHIMA will be challenged again to determine what AHIMA goals will fit with the issues identified from our February Strategic Planning Session. We are also challenged to scale our goals back to three or four realistic areas that a busy membership and leadership can take on.

The rest of our Team Talk day was spent reviewing a summary of the workforce data, discussing how AHIMA and the states can work cooperatively and consistently together, discussing a proposed bylaw amendment to allow AHIMA's board to authorize a cost of living adjustment to membership dues if the economy and economic situation warrant it (limited to 8% maximum adjustment without House of Delegate approval), and sharing CSA best practices. There will be more to come regarding all of these issues.

This was the fourth or fifth Team Talk I have attended. I have found them to be extremely vital and helpful in keeping the communications flowing between the state association and AHIMA. ♦

From the Capitol...

By Cathy Hansen, RHIA

WHIMA had the opportunity to review the final draft of the Social Security Administration's disability consent form. Kathleen Lane from the SSA reports the form is nearing implementation, though no specific date has been set for use.

The Department of Health and Family Services has formed the advisory committee for prescribing copy fees. Please refer to the article written by Chrisann Lemery elsewhere in this issue of "The Link" for a summary of this committee's activities to date.

In February, Representative Wasserman introduced Assembly Bill 36. Under current law, treatment records relating to whether an individual who is treated for mental illness, developmental disabilities, alcoholism or drug addiction (of a patient at an inpatient treatment center) may be released without the patient's written consent to the patient's parents, children, spouse, or law enforcement officer or mental health professionals who are providing treatment to the person. This bill changes that exception to a requirement. Under AB 36, notice must be provided as to whether or not an individual is a patient at an inpatient facility, and, if no longer a patient, the facility to which the individual was transferred, etc. In addition, siblings were added to the list of individuals who are to be notified. It does, however, prohibit release to any of the above named persons if the individual receiving treatment has specifically named the person and requested that no information be shared with him or her.

AB 36 was referred to the Assembly Committee on Health with no hearing set as of this time. The Policy and Legislative Team is composing a response to this committee on behalf of WHIMA.

Language is still being drafted for the HFS 124 revision. Of more immediate concern, however, are the Omnibus HFS 124 Proposed Amendments. These proposed amendments are "emergency rules" designed to bring the regulations in line with the Bureau of Quality Assurance's (BQA) interpretation of the rules. Verbal orders currently must be signed within 72 hours or a "reasonable" timeframe. The BQA's interpretation was that "reasonable" could be followed if facilities could identify, implement, and evaluate quality improvement strategies that reduced medical errors. The proposed amendment eliminates all references to "reasonable" and states that verbal orders must be signed within 72 hours. Since this is in direct conflict with the BQA's interpretation, WHIMA will be writing a letter to the Department of Health and Family Services.

Cindy Chicker, RHIA, WHIMA's liaison with the Bureau of Health Information (BHI) reported that BHI staff have received many calls after recent news articles were published about Governor Doyle's wishes to remove physician office visit data collection from the budget. However, until anything is finalized, it is still in the budget and facilities have been advised by the Bureau to

continue with current plans. (There is some measure of support for continuing with the effort, especially in light of the fact that considerable health care dollars are spent on primary care in physician offices and both the health care and insurance worlds are interested in any data for comparing quality across the board.) The Quality Indicators work group is getting closer to a proposed list of procedures and format for the mandated quality reporting.

The internet is a good place to find information on industry-related legislation and regulations. Some web sites to bookmark include:

Bureau of Health Information: www.bhci.state.wi.us

State Legislature information (including Wisconsin State Statutes): www.legis.state.wi.us

Wisconsin State Medical Society: <http://www.wismed.org>

Wisconsin Health and Hospital Association: <http://www.wha.org>

Wisconsin Department of Regulations and Licensing: <http://badger.state.wi.us/agencies/drl>

Skilled Nursing Facility Prospective Payment System – Refinements and Consolidated Billing Quick Reference Guide: <http://www.hcfa.gov/medlearn/refsnf.htm>

The Office of the Inspector General (OIG): <http://oig.hhs.gov/publications/workplan.html> The OIG's Work Plan for 2003 should be available on the DHHS web site. This site lists the areas the OIG is targeting for review in the coming year.

Federal Register 2003 Daily Index: http://www.access.gpo.gov/su_docs/fedreg/frcont03.html

JCAHO: http://www.jcaho.org/standard/stds2003_idx.html
Lists standard revisions for 2003, including long term care and home health care.

Bureau of Quality Assurance (BQA memos): www.dhfs.state.wi.us

Fees for Health Care Provider Records To Be Set

By Chrisann Lemery, RHIA

In Mid February, the Department of Health and Family Services formed a 14-member advisory committee equally representing those that request and those that maintain records. I am representing WHIMA on the advisory committee. Other WHIMA members sitting on the advisory committee include Lynn Olson and Meg McElroy.

The Department is directed to prescribe fees that are the maximum amount a health care provider may charge for duplicate copies based on an approximation of providers' actual costs of reproducing those records. The Department will determine the fees for copies of records for individuals as well as any other requests for patient health care records. The prescribed fee will not affect Worker's Compensation requests.

In order for the department to proceed in determining the costs, advisory committee members were requested to submit documents addressing whether the medical record medium affects the time of reproduction, whether the medical provider setting or the patient group affects the time and efforts of reproduction, and the steps involved in reproduction and whether those steps are different for different mediums and provider settings. WHIMA responded to this request by submitting a document outlining the steps as well as responding to the other issues.

The Department, using the information received from WHIMA and others, prepared a document outlining the steps, time, and cost to reproduce copies of records. Areas of particular interest in the report for WHIMA members include the Department is inclined not to distinguish among record mediums for the purpose of specifying fee limits and expects that providers increasingly will be maintaining and storing electronic records which should be somewhat less costly to reproduce. Once electronic records constitute a greater portion of total records the department will examine the effect on the fee. The fee will be reviewed and revised, as appropriate, every three years pursuant to s.146.83(3m)(b), Stats. The Department has not reflected off site storage costs in the proposed fee due to speculation that fees for retrieval may occur only in limited number of cases.

The proposed fee limit for requests by individuals and individuals' personal representative is estimated at \$3.20

For more details:

The report and other documents are available at www.dhfs.state.wi.us/News/Rules.

per request plus \$0.04 per page. As HIPAA outlines, the fee for individuals and individuals' personal representative must be a cost-based fee, which includes the cost of copying but not retrieval costs.

The proposed fee limit for requests for all record requests from others range \$13.99 to \$20.99 plus \$0.28 to \$0.42 per page. The minimum total cost is \$13.99 plus \$0.28 per page, which does not take into account a profit. If a 10% profit is included the cost will be \$15.38 plus \$0.31 per page. The all-inclusive fee includes the 10% profit plus 40% average revenue shortfall resulting from the fact that providers supply record reproductions to a variety of requesters who reimburse for less than the cost. The all-inclusive proposed fee is \$20.99 plus \$0.42 per page.

The proposed language of HFS 117 includes two definitions: "Health care provider records" means all records related to the health of a patient prepared by or under the supervision of a health care provider, including any billing statements. "Personal Representative" means a person who has authority under state laws to act on behalf of the patient and qualifies as a "personal representative" under 45 CFR 164.502(g).

The advisory committee will be meeting the end of April to discuss the report and determine a fee. The Department hopes to complete the rule and submit it to the Legislative Council Rules Clearinghouse by May. ♦

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associations!

(Continued from page 1)



It would be very difficult for a healthcare organization to approach HIPAA compliance without first determining how it should organize as a covered entity. If the organization wanted to maximize privacy compliance efforts with the members of its medical staff, an organized health care arrangement (OHCA) might be in order. If

the organization is part of a complex network of other organizations, then an affiliated covered entity status (ACE) might be desirable. Based on the covered entity status, organizations are able to best design policies and practices that support the covered entity status.

The Notice of Privacy Practices (NPP) is the key piece of documentation that allows the organization to communicate to its patients its privacy practices, patient privacy rights, and examples of how patient information is used and disclosed by the organization.

Regardless of what type of privacy policies and practices the organization had in place prior to HIPAA, there is a need to either fine-tune these policies or start from the beginning and develop new policies to cover the patient privacy rights granted by HIPAA. Again, it is important to understand the organization's covered entity status prior to developing these policies, as well as the need to link the policies back to those elements communicated in the NPP.

HIPAA requires staff education and training on HIPAA/Privacy and the supporting policies and practices. While HIPAA does not define how this education and training should be carried out, it is clear that this is an expectation and organizations must track and document compliance efforts in this area.

Finally, HIPAA requires organizations to enter into business associate agreements with those external businesses with which they may share protected health information. In order to do so, the organization must develop the document, identify the business associates, and work

toward acquiring signed agreements outlining the privacy requirements of the business relationship.

If organizations choose to expand their HIPAA compliance and privacy commitment efforts beyond the "absolutely, positively" required elements, that the following additional efforts should be considered.

What Ideally Should be Considered as Additional HIPAA Compliance Efforts

- √ Establishment of an internal oversight structure to ensure ongoing HIPAA compliance
 - √ Performance of a privacy risk assessment to determine areas of concern
 - √ Development of a HIPAA implementation/ongoing monitoring plan
 - √ Mapping of the flow of patient protected health information throughout the organization

“Regardless of what type of privacy policies and practices the organization had in place prior to HIPAA, there is a need to either fine-tune these policies or start from the beginning and develop new policies to cover the patient privacy rights granted by HIPAA.”

Realistically, healthcare organizations work under tremendous constraints with limited resources. Compliance efforts pose a challenge. Fortunately, there is a wealth of information and assistance through a variety of professional organizations. Wisconsin is truly unique in that early on there was a commitment to bring HIPAA-impacted organizations together to work on compliance efforts. This was accomplished through the HIPAA Collaborative of Wisconsin (HIPAA COW). WHIMA has strong representation on HIPAA COW and this has been mutually beneficial to

both organizations. HIPAA COW has developed a variety of deliverables including policies, forms, educational presentations, etc. that are available at no cost on the HIPAA COW website. Additionally, AHIMA and WHIMA have brought individuals together to develop resources to help members with the role in HIPAA compliance within their organizations. With a wealth of resources available, no one has to approach HIPAA Compliance alone. ♦

Nancy Davis, RHIA is Past President of WHIMA and the Director of Privacy for Ministry Health Care, Sturgeon Bay, WI

Leadership Awards

WHIMA is proud to announce the 2003 Leadership Awards. Each year WHIMA members have the opportunity to recognize their colleagues for achievements in and contributions to the health information management profession. The Spirit Team selects recipients from nominations received from the membership. *Citations for the awards can be found on the WHIMA Community of Practice.*



Distinguished Member
Nancy Davis, RHIA



Educator Award
Minnette Terlep, RHIT



Rising Star Award
Jennifer Laughlin, RHIA



Motivator Award
Sheila Goethel, RHIT



Motivator Award
William French, RHIA



Motivator Award
Marianne Baumgarten, RHIT



Motivator Award
Cyndi Randall, RHIA

Practice Solution Award Winners

AHIMA's Foundation of Research and Education (FORE) is pleased to congratulate Chrisann Lemery, RHIA, Nancy Davis, RHIA, Reesa Gottschalk, RHIA, and Sheila Zweifel, RHIT, of the Wisconsin HIMA for their award-winning practice solution, HIPAA Collaborative of Wisconsin. The HIPAA Collaborative of Wisconsin (HIPAA-COW) presents an efficient solution to HIPAA implementation through information sharing and learning, the reduction of duplicate efforts among participants, and opportunities to partner in implementation efforts. It also provides educational sessions, sample privacy policies, and forms to facilitate HIPAA implementation. Practice solutions are programs making a positive impact on the daily practice of HIM, leading to quality or process improvements, improving efficiency, lowering costs, or otherwise addressing a particular problem in the HIM work place.

Scholarships

Scholarship award winners are selected by members of the Board of Directors and the Executive Director from applications received from students in the HIT programs in Wisconsin. The scholarships are made possible with the generous support of Source Corp, HDI, Transcom, Chrisann Lemery, Reesa Gottschalk, Nancy Davis, Sheila Zweifel and contributors and purchasers of the Not So Silent auction items and the drawing held at the Fall Conference. Winners of the 2003 scholarship awards are: Kris Borne, Melanie Ross, Bobbi Schulz, and Susan Stelter .

Calendar of Events

2003

June

June 20, 2003
WHIMA Board of Directors Meeting and Leadership Orientation
Wintergreen Resort
Wisconsin Dells, WI

August

August 14, 2003
Mission Impossible? HIPAA and Release of Patient Health Information
An Advanced ROI Program
Wintergreen Resort
Wisconsin Dells, WI
For more information, call Joan Campbell at 608-787-0168

September

September 11 and 12, 2003
WHIMA Fall Conference
"HIM on the Front Lines of Change"
Olympia Resort & Conference Center
Oconomowoc, WI
For more information, call Joan Campbell at 608-787-0168

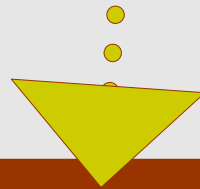
2004

April

April 28-30, 2004
WHIMA Annual Conference
Radisson Paper Valley Hotel
Appleton, WI
For More Information, call
Joan Campbell at 608-787-0168

October

October 9-14, 2004
14th International Health Records Congress
"Sharing Solutions in the Global Community"
Washington, DC
For details see ifhrocongress@ahima.org



HIM Marketplace
To advertise your job opening in the next issue of the Health Information Link or on the WHIMA web site call 608-787-0168 or go to the WHIMA web site and "click" on Job Bank.

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