

Health Insurance Portability & Accountability Act (HIPAA)

Indian Health Service



DOES HIPAA APPLY TO ME?

If you answer yes to the following questions, then your organization is directly covered by HIPAA:

1. Is your organization one of the following?
 - A health plan (an organization that provides or pays for the cost of medical care) – IHS is specified in HIPAA as a covered health plan
 - A health care clearinghouse (an organization that processes nonstandard data elements of health information into standard data elements or the reverse)
 - A health care provider (specific entities defined in the Social Security Act and other entities that furnish, or bill and are paid for, health care services in the normal course of business)
2. If you are a health care provider, does your organization transmit health information in electronic form to carry out financial or administrative activities related to health care?

OVERVIEW

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) was enacted as part of a broad Congressional attempt at incremental health care 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 health care 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 – see "Does HIPAA Apply to Me?" above.

CIVIL & CRIMINAL PENALTIES

In HIPAA, Congress provided penalties for covered entities that misuse personal health information. Covered entities that violate these standards will be subject to civil liability. Civil penalties are \$100 per violation, up to \$25,000 per person, per year for each requirement or prohibition violated. Criminal penalties are up to \$50,000 and one year in prison for obtaining or disclosing protected health information; up to \$100,000 and up to five years in prison for obtaining protected health information under "false pretenses"; and up to \$250,000 and up to 10 years in prison for obtaining or disclosing protected health information with the intent to sell, transfer or use it for commercial advantage, personal gain or malicious harm.

IMPACT

HIPAA is an **enterprise-wide issue** – not just an information technology issue. 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. HIPAA is rapidly becoming a major issue in health care because:

- Implementation timeframes are short – organizations must be in compliance by:
 - Transactions – October 16, 2002
 - Privacy – April 14, 2003
 - Security – 24 months after the rule is final
- Failure to comply with HIPAA will result in loss of third party billing revenue.
- Senior health care executives are clearly responsible for the security and confidentiality of patient health information, yet little has been done in most organizations to protect it.
- There are significant civil penalties for non-compliance, as well as criminal penalties and serious liability risks for unauthorized disclosure.
- There is no quick fix or easy solution to meet HIPAA requirements.

COMPLIANCE

What are the key steps to be taken to achieve compliance with HIPAA?

Step 1 – Education and Awareness

- *What is the impact?*

Step 2 – Assessment and Planning

- *What do we need to do?*
- *How will we do it?*

Step 3 – Compliance

- *Carrying out action steps for implementation.*

Step 4 – Assurance

- *Are our compliance efforts successful?*

Step 5 – Periodic Follow-up Audit & Assessment

- *How will we maintain compliance?*

IHS HIPAA NATIONAL & AREA COMPLIANCE TEAM LEADS

HIPAA PROJECT TEAM

In early March 2001, Dr. Michael Trujillo appointed Dr. Robert Harry, of his staff, to coordinate the national IHS HIPAA effort. To carry out his responsibilities, Dr. Harry has formed a multidisciplinary Team. This team will work with Dr. Harry to provide leadership and coordination of all efforts as IHS health care programs work to become HIPAA compliant. The strategic plan developed by the headquarters HIPAA team calls for them to interpret the regulations and develop national policies needed to comply with them. The team will cooperate with health care programs and provide them with related information and materials as they are developed for HIPAA compliance. Through the HQ HIPAA Team, Dr. Harry will monitor the progress of the HIPAA compliance effort.

It is expected that the IHS Area Offices will develop Area HIPAA compliance plans that will include policy development needed to achieve HIPAA compliance at the Area level. Also, the Area Offices will work with the local health care programs in helping them become HIPAA compliant.

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IHS HIPAA Web Site

For additional detailed information on HIPAA, please visit the IHS HIPAA Web Site. Information available at the site includes frequently asked questions, electronic reading room, links to other HIPAA sites, HIPAA presentations, and HIPAA-related events.

www.hipaa.ihs.gov