

## **The Impact of HIPAA on Rural Healthcare: We Will Never Be The Same Again**

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Rural health care in the 21<sup>st</sup> century has become a challenge unlike any faced over the last 100 years. Everything from a decreased patient population to technological wizardry has placed a strain on the decision rural health care professionals make on a daily basis. The Health Insurance Accountability and Portability Act of 1996 is no exception. Now every rural health care delivery system must find unique and innovative ways to comply with regulations impose changes in every aspect of our industry.

HIPAA regulations recognize that patients who receive medical care expect and deserve privacy and each entity must find a way no matter the scope of their practice. Patients expect to be physically separated from strangers and employees when they consult or interact with their caregivers, and they expect that their private health information will not be shared with other parties. This feeling of privacy is essential to the healthcare provider's mission and hospitals and healthcare organizations have always upheld strict privacy and confidentiality policies. "...the tradeoffs between the control of information and the need for its dissemination into different arenas did not surface in 1995 or 1996. (Epstein, 2002)" However, the U.S. government has strengthened the laws protecting privacy and confidentiality in response to situations in which private medical information has ended in the wrong hands. According to Bottom, Gulliford, and

Porter the following high profile legal issues changed the way America looks at patient information.

- *In New York, a congresswoman who had battled depression found out her medical history was released to newspaper reporters.*
- *A California woman sued a pharmacy that released her medical information to her husband, who used it to damage her reputation in a divorce.*
- *In another divorce case, a woman threatened to use information about her husband's health status that she obtained from his health records in custody hearings, forcing him to settle in order to avoid public discussion of his health.*

As the number of cases of health information misuse rose, Congress took action to regulate hospitals and healthcare providers to protect health information privacy and confidentiality. With the enactment of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), a patient's right to have his or her health information kept private and confidential became more than just an ethical obligation of physicians and hospitals: it became the law.

Now a broad law dealing with a variety of issues, HIPAA's original goal was to make it easier for people to move from one health insurance plan to another as they changed jobs or became unemployed. This aspect of the legislation has created an impact on the Human Resources Departments of every facility. Now each organization must inform all employees of their rights and ensure adequate information has been provided if employment terminates. (Bakich, 2003) Furthermore, in an effort to simplify sharing of information across providers, the law requires that common transactions, such as submitting a claim on the patient's behalf, be in a standard format for ALL healthcare organizations and payers. Referred to as Electronic Data Interchange (EDI) Standards, they require that every health care organization in the country has

to be sure that their computer systems, technology vendors and billing departments are compliant with this new ruling. The impact of this aspect has yet to be fully realized. As of this writing the Centers for Medicare and Medicaid have implemented a contingency plan allowing facilities to remain in non-compliance and continue billing for Medicare services. This was done because the “Medicare fiscal intermediaries showed ‘unacceptably low numbers of compliant claims’.” (Morrissey, 2003) Compliance will be achieved eventually but obviously the cost is going to be incredible.

As records become easier for providers to share, it also becomes easier for information leaks and abuses to occur. Standardizing and computerizing patient health information has important benefits, but it also brings risks, therefore HIPAA was expanded to include Privacy and Security. The Privacy Regulations became effective April 14, 2003. The Security Regulations have been finalized and are currently scheduled for implementation by 2005. Under HIPAA’s privacy sections, it is illegal to release Protected Health Information (PHI) to inappropriate parties or to fail to adequately protect health information from release. PHI includes such things as patient identity, address, age, social security number, and any other personal information that patients are asked to provide. In addition, PHI includes why a person is sick or in the hospital, what treatments and medications he or she may receive, and other observations about his or her condition or past health conditions. “No longer can reporters call a hospital spokesperson and request a condition report on a 37-year-old male with a gunshot wound to the abdomen” (Smolken, 2003). The very basic information we have been accustomed to in our free society has changed with the advent of HIPAA. There is virtually no aspect of our daily life that will be untouched. The security portion of HIPAA will also have wide-reaching ramifications. HIPAA security will include numerous changes that include personal

identification codes, passwords, lock down security, and monitoring systems to ensure compliance. The expectations of HIPAA have created wholesale change across the entire corporate community of this Nation. From banking to sports to health care, in virtually every aspect of our workaday world, HIPAA has had a significant impact. The effect is incalculable and will range from the mundane action of turning a computer screen to the incredible renovation of an entire facility.

Because it's important that patients understand how they can protect their own health information and how providers protect their information, education has become an important component of HIPAA compliance. HIPAA rules require healthcare providers to post notices telling patients how their information will be used. This notice tells patients about the provider's privacy policies and practices. It also tells how the provider will use their information, and tells patients that they have the right to access their own records and request amendment to them. First-time patients have to receive the notice when they sign a consent form giving blanket permission for the use of their information for treatment, billing, or operations. In addition, there are complex processes that involve different levels of consent and authorization, depending on the patient's preferences. This involves time consuming paper trails and complicated monitoring of individual patient records. Because so much information can be accessed so quickly in electronic format, special attention must be paid to computerized PHI. Organizations must develop policies and action plans that define the use of electronic communication and information.

*“While the long term financial intent of the law is to reduce the cost of delivering health care through simplification and standardization of business processes, the short-term*

*financial cost to a healthcare organization could be substantial.”* (Coate and MacDonald, 2002)

Compliance with HIPAA is going to be expensive and time consuming and has already required significant provider investments into employee salaries, training, follow up, and materials to ensure compliance.

### Case Study

#### Seiling Municipal Hospital HIPAA Compliance

Seiling Municipal Hospital (SMH) is an 18 bed Sole Community Hospital facility in rural northwestern Oklahoma which is the heart of Red Carpet country. Originally established in 1966, SMH serves the rural population of three counties. These counties of Dewey, Major and Woodward are located in the beautiful Red Earth country of Northwestern Oklahoma in the Southwestern United States. Large areas of rolling hills interspersed with farm land make this one of the cleanest and safest places in the country. This facility provides acute care, swing bed, outpatient services, home health care, a physicians clinic and a comprehensive emergency services department all of which are vital to the health care needs of this area. Though small in size they provide full service capabilities for most medical needs. SMH has active family medicine physicians on staff. There is also onsite consulting by physicians in several other disciplines. The facility is operated as a community non-profit corporation which is governed by a local Board of Directors and the Town Trustees.

Implementing HIPAA in a rural health care facility such as SMH brings especially unique and demanding challenges. Though smaller and usually with less resources the rural facilities are still required to comply with the HIPAA mandates to achieve the laudable goals of privacy, security, portability, and uniformity. The challenge is how to do this without breaking

the bank or rebuilding the facility. At SMH several strategies were employed to achieve HIPAA Compliance cost effectively and without undue hardship on the facility. Portability was already in place and numerous policies regarding this were implemented in Human Resources. The EDI requirements were relegated to our strategic business partners such as the billing entity and our software vendors. One advantage in a rural or small facility is most of these functions are beyond internal capabilities. Therefore, most of this compliance fell on our strategic business partners with one notable exception. The implementation of EDI standards now required home health to abide by ICD-9-CM coding conventions. This was a departure from previous requirements and required changes and education in that department. Privacy and Security presented the most profound challenges. Creative and unique processes would have to be developed to ensure compliance.

The first step was to appoint a HIPAA officer whose role was to determine requirements and make recommendations on the most reasonable way to effectively comply. Due to staffing constraints the HIPAA officer was appointed from the senior management staff. One of the most endearing and frustrating aspects of rural or small health care facilities is the need for one person to function in more than one role. It is frequently referred to as 'wearing several hats' and most of the senior management and several department heads have numerous roles that are consolidated into one person's workload. This can be effective or not depending on the capabilities of the employee. Administratively, successful outcomes from this consolidation are more easily achieved when goal oriented multi-tasking individuals are selected and expectations are clearly communicated. Follow up by administration on achieved deadlines is a key factor in the success of consolidating numerous tasks to one person.

Once appointed education was the first agenda item for the HIPAA officer. This is probably the most important part of a successful and cost effective outcome and quite frankly should never be circumvented or limited. The more a HIPAA officer knows about the regulatory requirements the more likely he or she is to understand the regulations and how they apply to the system involved. There are many misconceptions in regard to the true requirements of HIPAA. If appropriately educated the HIPAA officer can help the facility avoid expensive pitfalls and achieve compliance without overhauling the building. Once a sufficient amount of knowledge was gained the next step was to evaluate the facility. There are numerous organizations in the marketplace willing and able to perform this task, however, most of them are cost prohibitive so it was decided to perform an in house evaluation. With the assistance of senior management the facility was evaluated and a plan of action was put in place that would ensure compliance. Initially the evaluation of relationships with strategic business partners was performed with the assistance of “Oklahoma Hospital Association HIPAA Compliance Policies and Procedures” documents. Most state hospital organizations and the American Hospital Association have compiled helpful and informative tools to assist facilities to achieve HIPAA compliance. The entire document was not adopted, however, since some of the information was not pertinent to the scope of services this facility provides. Rural or small facilities must tailor assistive tools to meet their own needs since utilizing these documents may commit the facility to policies that are inappropriate and needless. Once the policies and procedures were adapted a legal review was made utilizing a HIPAA law specialist. This becomes especially important for a rural facility whose resources do not include a staff lawyer. Money well spent, the legal evaluation of the policies and procedures ensures none of the finer points of HIPAA are lost in the adaptation process.

The next and perhaps most important aspect of HIPAA Compliance is staff education. Mandatory educational in-services were provided to all employees. A video tape of the in-service was prepared and made available to any employee who could not or did not attend the in-service. Competency tests were given and copies are kept by the HIPAA officer and Human Resources. HIPAA Compliance was also included in all new employee orientation. Once employee education was achieved then each department manager was individually approached by the HIPAA officer regarding compliance issues and questions. It was amazing to watch HIPAA being implemented bit by bit all over the facility. Most of the interventions focused on the privacy aspect however since privacy and security ultimately go hand in hand both factors were addressed.

Currently the facility is in a follow-up phase of compliance. This phase was performed over six months after the education and departmental meetings. The goal is to survey the facility and determine the level of compliance currently achieved. The survey was unannounced and was done by the HIPAA officer. Each department manager will be apprised of the findings and in collaboration with the HIPAA officer and administrator adjustments will be made. This is especially helpful because most department managers have a better understanding of how to make the needed changes than anyone else. Further follow-up surveys will be performed periodically to ensure compliance. With privacy essentially implemented it is now time to address the Security issues which are looming. For a small rural hospital this is frequently simple and involves policy changes and education. However it will be a challenge to address these issues while still keeping the homey and friendly atmosphere for which rural facilities are famous.

Though HIPAA has not heralded any substantially new philosophies about the confidentiality of patient information, it has changed the way all kinds of businesses conduct themselves with regard to PHI. Education, process change, physical plant adjustments and ongoing assessment of efficacy are all projected changes aimed at implementing these regulations. An entire industry has arisen from the foundation of HIPAA. Whether this industry remains self-sustaining or not is yet to be seen. Ultimately the result achieved will be optimal patient care and, therefore the results may well be worth the effort.

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## ***Ensuring HIPAA Compliance in a Small Facility***

- 1. Appoint HIPAA Officer***
- 2. Educate HIPAA Officer***
- 3. Facility Evaluation***
- 4. Develop a Plan of Action***
- 5. Evaluate Strategic Business Partner Relationships***
- 6. Adopt HIPAA Policies and Procedures***
- 7. Legal Evaluation of HIPAA Policies and Procedures***
- 8. Employee Education Program including Competency Testing***
- 9. Facility Survey Six Months after Implementation Deadline***
- 10. Administration, HIPAA Officer, and Departmental Manager Issue Resolution***

## ***Seiling Municipal Hospital's Cost Effective HIPAA Compliance Actions***

- 1. Appointed a HIPAA Office from within the facility***
- 2. Utilized State Hospital Association for development of Policies and Procedures***
- 3. Accessed Educational Opportunities wherever possible. State Association, Vendor Education, Internet Search, and Industry Journals.***
- 4. Internal HIPAA Evaluation***
- 5. Utilized Strategic Business Partner Relationships to ensure EDI Compliance***
- 6. Developed Educational Program with Video for Cost Effective Education***
- 7. Implemented Policies and Procedures:***  
  
***Semi-Private Rooms required designating a place for patient information to be gathered privately when necessary; staff education on keeping papers from accidental viewing; removed public patient directory; established guidelines for chart storage; placed ER charting in secure chart folders; placed Authorized Personnel Only signs on areas with HIPAA sensitive material; changed work stations to prevent disclosure of PHI; Public Education regarding change in information policies; and Implemented an internally produced handbook to explain HIPAA rules and regulations.***
- 8. Posted Reminder Signs Throughout the Facility***
- 9. Did Follow Up Survey with Internal Staff***
- 10. Encouraged Department Heads to Creatively Adjust Departments to Ensure Compliance***