



# Anesthesia Billing, Inc.

## HIPAA DEADLINE APPROACHING

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In 1996, the Health Insurance Portability and Accountability Act (HIPAA) became law. It will have a major impact on your day to day operations. This law requires the Department of Health and Human Services (HHS) to establish, monitor, and enforce new industry guidelines covering security and technology, working with business associates, internal policies and procedures, billing and coding, and communicating with patients.

The Department of Health and Human Services was charged with establishing national standards for electronic healthcare transaction and code sets.

October 16, 2002, was the original deadline for covered entities to comply with these new national standards. However, in December 2001, the Administrative Simplification Compliance Act (ASCA) extended the deadline for compliance with HIPAA electronic care transactions and code sets standards one year (October 16, 2003) for all covered entities other than small health plans; theirs is already set for October 16,

2003.

In order to qualify for this extension, covered entities must submit a compliance plan by October 15, 2002. You must file a compliance plan in order to obtain an extension. A covered entity is a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction for which the Secretary has adopted standards at 45 C.F.R Part 162.



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## NEW PRIVACY REGULATIONS RELEASED

BY MARK WILKERSON

On August 14, 2002, the Department of Health and Human Services issued its "Final Rule" for Standards for Privacy of Individually Identifiable Health Information, modifying the rule which had been in effect up to that time. These Standards span nearly 100 pages in the Federal Register and cover many areas important to healthcare providers. No matter what area of the health care industry an entity works in, there is something in these Standards that will apply to them.

The following highlights certain of the Rules applicable to the majority of providers: Incidental Uses and Disclosures, Use of Consent Forms, and Business Associate Contracts.

### Incidental Uses and Disclosures

Many healthcare providers complained the original privacy rules were so strict they would not permit incidental or unintentional

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Philip R. Blann  
President  
Anesthesia Billing, Inc.

"our compliance  
plan will never be  
a finished product  
... it is and will  
remain a work in  
progress..."

## PRESIDENT'S CORNER

It has been some time since our last newsletter. We are excited and proud to share with you this issue and the return of this service. With it brings a new look and a new name, one which matches more closely our purpose. We have undertaken a complete make-over, yet maintaining our goal—to provide insight and timely, useful knowledge you can use today. We will continue to recap the major issues impacting your practice.

Notice too, we are introducing new names. In this issue, Mark Wilkerson, a partner with Biggs Wilkerson, L.C., who concentrates much of his practice to healthcare and healthcare providers. He has agreed not only to be a contributing source but also to serve as Consulting Editor.

In future issues, other contributing experts will appear. Their expertise will add value and supporting views you can use each and every day.

For the next few issues, you will see an emphasis on Health Insurance Portability and Accountability Act, HIPAA, and protected health information, PHI.

Here at ABI, we have been working on our compliance plan for over a year. One thing I learned is this will never be a finished product, bound and placed proudly upon our library shelves. It is and will remain a work in progress, a working

model—evolving to keep up with the industry changes and protecting patients and providers alike.

Several items have already been identified. Many of you will see a new agreement, one which meets the current guidelines on billing contracts. Protected Health Information (PHI) is the second big issue causing much press.

We will be contacting the facilities where you provide services to request a copy of their patient privacy statement, their consent for treatment and authorizations on release of information as it pertains to referrals and payment of services.

If not already completed, each of you, or your group, will need to draft your own compliance plan. If you have not begun this process, we can help. Contact your insights editor.



## **abinsights** Contact Information

*abinsights* readers are invited to submit comments, questions, tips, and suggestions for articles on any subject related to billing, collections, coding, reimbursement, and compliance. Send to: Anesthesia Billing, Inc., 423 SE 10th Street, Newton, KS 67117-4409. Phone 316-282-4321 Fax 316-282-4322.

Our purpose is to help you meet inevitable challenges. We hope to deliver practical knowledge and solutions drawn from the best business publications in every issue, knowledge you can use today.

Reasonable attempts have been made to be accurate. However, medical billing, collections, coding and compliance are part science, part art, even experts sometimes differ. Neither Anesthesia Billing, Inc. the editors, publisher, contributors, nor consultants warrant or guarantee the information contained will be applicable or appropriate in all particular situations. For information specific to your practice, consult a qualified professional.

The information included in this publication is provided, among other things, to alert you to legal developments and should not be considered legal advice. Specific questions about how this information affects your particular situation should be addressed to your attorney.

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## NEW PRIVACY REGULATIONS RELEASED

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disclosures that occur as a result of engaging in certain common and essential health care communications and practices.

For example, there was concern conversations could not occur if there was a possibility of being overheard, providers would be prohibited from using sign-in sheets in waiting rooms or maintaining patient charts at bedside, x-ray light boards would require isolation, or empty prescription vials would need to be destroyed.

In the final rule, however, the Department permits certain incidental uses and disclosures that occur as a by-product of a use or disclosure otherwise permitted under the Privacy Rule. The key is for the provider to apply reasonable safeguards and implement the minimum necessary standard.

Accordingly, as long as a provider does not permit an employee unimpeded access to patients' medical records, where such access is not necessary for the employee to do his or her job, then a provider will be in compliance.

### The Use of Consent Forms

This change was perhaps the most significant from the original Privacy Rules. The new Rule now provides that instead of requiring an incoming patient to sign a consent form at the outset of his or her treatment, that patient only need acknowledge that he or she has received a copy of the Provider's Privacy Notice.

In other words, consent for routine health care

delivery (known as treatment, payment, and health care operations) is now optional. The new Rule requires instead that providers provide patients with a notice of their privacy rights and of the provider's privacy practices. Direct treatment providers are required to make a good faith effort to obtain the patient's written acknowledgement of the notice of privacy rights and practices.

This change promotes access to health care by removing mandatory consent requirements that might inhibit patient access. Of course, a direct care provider is still encouraged to obtain such a consent, but it is no longer required.

### Business Associates Contracts

The Privacy Rule permits providers to disclose protected health information to business associates where the function or service involves the creation, use or disclosure of such protected health information.

The final Rule, however, under certain circumstances, grants providers up to an additional year (until April 14, 2004) to change existing written contracts to comply with the business associate requirements. The Rule also includes sample contract provisions for the providers' use.

Of course, much more is included in the new Rule. If there is a topic of interest, feel free to contact the Insights Editors and analysis will be provided in a subsequent issue.



HIPAA: They have been busy in Washington...

"...there was concern ... providers would be prohibited from using sign-in sheets in waiting rooms or maintaining patient charts at bedside, x-ray light boards would require isolation, or empty prescription vials would need to be destroyed."

The Firm is pleased to have been selected to co-sponsor **abinsights**.

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## Pain Relief for Pain Relievers

### HIPAA DEADLINE (CONT.)

*(Continued from page 1)*

The term "healthcare provider" includes individuals, physicians, physician group practices, dentists, other health care practitioners, hospitals, nursing facilities, etc. If you are a member of a group practice, the extension will be granted to all physicians/practitioners who are members of that practice.

It is not necessary to file separate compliance plans for each physician in the practice if the practice files all claims on your behalf. However, if you submit claims for payment outside the group's claims processing system, you need to file your own

compliance plan.

We have filed this compliance plan and obtained the extension for all of our clients as of September 15, 2002.

Another date you may wish to record is April 14, 2003, which sets the Standards for Privacy & Individually Identifiable Health Information. This rule establishes regulations for the consent and notice, uses and disclosure for which authorizations are required, marketing and business associates, and other sections of the protected health information (PHI).

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## HIPAA CALENDAR

- |                         |                                                                                                                                                                                                                                                                                                                                 |
|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>October 14, 2002</b> | Last day to be "grandfathered" for certain " <b>business associate</b> " contracts (unless a "small plan"). If contract is on or before this date, not required to have HIPAA privacy provisions for contracts with "business associates" until April 14, 2004, or until contract is modified or renewed, whichever is earlier. |
| <b>April 14, 2003</b>   | <b>Effective Date for Privacy Rules.</b>                                                                                                                                                                                                                                                                                        |
| <b>April 14, 2004</b>   | Effective Date for Privacy Rules for " <b>small plans</b> ," defined as health plan with annual receipts of \$55 million or less                                                                                                                                                                                                |

