HIPAA In Focus

CalOHII State of California Office of Health Information Integrity

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# CalOHII Starts Receiving Feedback on new State Health Information Policy Manual (SHIPM)

CalOHII is drafting a new State Health Information Policy Manual (SHIPM) which will apply to all state departments who are directly or indirectly impacted by HIPAA. When completed, the SHIPM will take the place of CalOHII's previously published policy memoranda.

Unlike the previous policy memoranda, direction will be based upon not only HIPAA, but upon other privacy laws as well such as the Confidentiality of Medical Information Act (CMIA) and the Information Practices Act (IPA).

CalOHII has the responsibility and authority to create statewide policy on compliance with these laws including which laws apply and when they apply.

CalOHII is currently conducting compliance reviews of state entities to evaluate the level of compliance with privacy, security, patients rights, and transaction and code set laws relating to HIPAA

To meet these responsibilities, CalOHII is creating a policy manual that can be easily understood by all staff, not just those with legal training, and provide, to the extent possible through policy, consistent and uniform interpretation and application of these laws including those relating to security, patients rights, and transactions and code sets.

These policies will be the foundational rules upon which CalOHII conducts future compliance reviews of affected state departments.

The guiding principles of the SHIPM project are threefold:

- To provide clear and unambiguous guidance to state departments on the use, disclosure, and protection of patient medical information; and ensure state departments are following all applicable state and federal privacy laws, not just HIPAA.
- To provide thorough and clear understanding of privacy law for state departments who have oversight of other state departments and outside entities, so enforcement is consistent and accurate.
- To create the SHIPM in a collaborative manner by soliciting input from affected state departments.

CalOHII realizes the SHIPM will not be helpful unless it is clear and can be operationalized by state departments; therefore, CalOHII began soliciting input from affected state departments on our first phase of draft policies.

We appreciate the comments and suggestions of all who reviewed them; we will continue to solicit input from affected state departments throughout the development of the SHIPM.

CalOHII is also soliciting input from the CalOHII Policy Steering Team (PoST), a group of healthcare experts representing government and private sectors who volunteer time to share their expertise.

Through this collaborative process, we hope to provide clear, workable direction to state departments on how best to protect their constituents' medical information.

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# Deputy Secretary Corner

**By Pam Lane**

Data Standards and The Triple Aim

This Summer we have watched a number of global health scenarios make headline news. From Ebola virus deaths in Africa and Europe to West Nile and whooping cough in our own backyard, the tracking of global health concerns is not something to be taken lightly. But how do we know these diseases are occurring? Through the reporting of diseases using standardized data sets.

The World Health Organization (WHO) developed the International Classification of Diseases (ICD) specifically for the reporting and capture of diseases globally. The monitoring of this reporting allows WHO to be aware and take action when there is need for issuing alerts—like the notification of "emergency" from last week regarding Ebola—heightening response.

One of the challenges that led to revision ten (ICD-10) was the limitation within version nine for expansion to accommodate additions of new codes in the appropriate divisions of the system.

We hear on a consistent basis of newly mutated strains of diseases such as avian flu. And as there are more specify strains identified, we need more specific codes for state, national and international reporting. The reporting, leads to monitoring which can lead to prevention and treatment.

That's one leg of the triple legged stool known as the Triple Aim. Triple Aim = lower cost, better healthcare and better health (for individuals and populations). Without knowing what is affecting health, we can't improve the outcomes.

Standards for data reporting lead to new standards in care—through reporting, monitoring and improvement in treatment. Knowledge really is powerful. Data standards: Another piece of the giant puzzle we call "HEALTH"

## *HIPAA In Focus*

is produced by CalOHII.

Check out our website at: **www.ohii.ca.gov**

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# CMS Provides Guidance On ICD-10 Delay

On July 31st, the US Department of Health and Human Services (HHS) announced the finalized compliance date for the ICD-10 code set. According to an HHS press release, the new implementation date for the transition to ICD-10 will be October 1, 2015.

This is not a proposed rule, but a final rule, which was published in the Federal Register on August 4th. The final rule changes the compliance date for ICD-10 from October 1, 2014 to October 1, 2015 and requires covered entities to continue using ICD-9-CM through September 30, 2015.

You can find the final rule at:
https://www.federalregister.gov/articles/2014/08/04/2014-18347/administrative-simplification-change-to-the-compliance-date-for-the-international-classification-of

CalOHII has been working with departments affected by ICD-10 to help ensure they are ready for the later implementation day.

We are grateful to staff in affected departments who have regularly provided us with updates on their progress as well as shared with us what, if any, additions or adjustments they plan to make in response to the delay in implementation.

The general consensus is that state departments are not slowing down. Many departments are using the extra time to provide additional training and/or testing.

At CalOHII, now that the final rule has been issued, we will use the additional time to meet with affected departments one-on-one to provide additional support as needed to ensure a successful transition on October 1, 2015.

# Report to Congress on 2011 and 2012 Breaches

*The following was excerpted from the June 26, 2014 article in "The Colefire Blog." You can find the article in its entirety at:* *http://www.coalfire.com/The-Coalfire-Blog/June-2014/What-you-need-to-know-from-the-OCRs-Report-to-Con#.U8QMV6Xz4n4.email*

We wanted to highlight this article to share national breach statistics and to serve as a resource for any state department looking for ways to protect patient medical information.

The article highlights a report to Congress given by the federal Health and Human Services Agency (HHS) in mid-June entitled, *Annual Report to Congress on Breaches of Unsecured Protected Health Information (PHI) for calendar years 2011 and 2012*.

The article summarizes the report findings, provides, background, and discusses lessons that organizations can learn about how to protect patient health information. The article restates the federal report findings as follows, "The OCR received 236 reports of breaches of over 500 records during the calendar year 2011, which affected approximately 11,415,185 individuals.

The OCR received 222 reports of breaches of over 500 records during the calendar year 2012, which affected approximately 3,273,735 individuals.

Cumulatively, from September 23, 2009, to December 31, 2012, the OCR received 710 reports affecting approximately 22.5 million individuals."

These statistics starkly highlight the enormity of the negative impact caused by breaches when one considers the number of individuals affected.

The good news is that this negative impact is largely preventable through the consistent application of best practices to protect patient information.

The most common breach causes in 2011 and 2012 according to the report, were, "...theft; loss; unauthorized access or disclosure; improper disposal; hacking or IT incident; and unknown or other."

To combat these causes, the article highlights the most common remediation actions taken for breaches affecting 500 or more people. They are: "

- "Revising policies and procedures;
- Improving physical security by installing new security systems or by relocating equipment or records to a more secure area;
- Training or retraining workforce members who handle PHI;
- Providing free credit monitoring to customers;
- Adopting encryption technologies;
- Imposing sanctions on workforce members who violated policies and procedures for removing PHI from facilities or who improperly accessed PHI, among other issues;
- Changing passwords;
- Performing a new risk assessment; and
- Revising business associate contracts to include more detailed provisions for the protection of health information."

These and other required preventative measures are already part of standard state practice. This article is just a good reminder of how important consistent application of these practices are to protect the privacy of our constituents and our departments from sanctions.

# ICD-10 Delay (continued from page 1)

CalOHII is also reviewing its recent statewide re-assessment results to ensure that there aren't any newly impacted departments, who may be potentially affected by ICD-10, and may need assistance.

We look forward to working closely with you as we come closer to the revised ICD-10 launch date.

For more information, please refer to an article published by AHIMA (American Health Information Management Association) in its newsletter .