

HIPAA and HITECH

The Health Insurance Portability and Accountability Act (HIPAA) was passed in 1996. At the time, this was one of the largest pieces of health care legislation since the passage of the Social Security Act of 1965 that created Medicare and Medicaid. HIPAA training for professionals is provided by the federal [Health and Human Services department](#).

HIPAA is also known as the Kassebaum-Kennedy Act. This act was actually an amendment to the Internal Revenue code of 1986. It was designed to improve the portability and continuity of health insurance coverage in group and individual market; to combat waste, fraud, and abuse in health insurance and health care; tried to promote the idea of medical savings accounts; sought to improve access to long term care services; and was used to simplify the administration of health insurance.

Prior to HIPAA legislation, each health plan had its own set of diagnostic codes and billing codes. Plans had their own billing requirements and even own forms. Most of the billing was done manually. Health care facilities were complaining loudly about the unfairness of having to bill each organization differently and about picky rules that were different from one plan to the next.

At the same time, consumer advocacy groups were hearing calls for more action about privacy and confidentiality. Paper records had made many people's medical records very accessible. There was no method for tracking who read what patient's record. It was the belief that anyone could access a medical record. Consumers howled for change. Legislators heard this howl and set about creating a health care law that included standardization for billing, standard codes, better safeguards for patient privacy, and added penalties for violation of any of these pieces of legislation.

HIPAA is separated into four different parts called titles. The HITECH legislation is actually part of HIPAA.

- **Title I:** deals with health care access and portability and renewability of health plan coverage. Health care managers welcomed this piece of the bill as it opened up the door for more people to access varying services. Parts of this title helped to negate the need for a patient to have a referral to see a specialist. In addition, clinicians could refer patients to other clinicians and did not have to stay within their own network or own organization. Compliance officers began to have to deal with providers who had set up systems that were not favorable to patient choice.
- **Title II:** addresses health care fraud; simplification of billing; created medical liability reform. Prior to this legislation, most health plans had their own codes and their own ways that organizations would bill. It was convoluted and confusing. Title 1 remedied these issues with all health care organizations now all using the exact same diagnostic and billing codes. A health plan cannot create a higher standard to meet than what the Medicare program requires. Compliance officers are required to make sure that their own organizations stay up-to-date with billing codes and simplification of billing. The move to ICD-10 codes was a large process that was lead, in part, by compliance departments in organizations.

Title II is also known for the creation of the HITECH Act. HITECH focused on privacy requirements. This helped create "teeth" to find professionals for sharing private health information with those who did not have a need to know. HITECH also required organizations to begin to move to electronic billing and claims; and then further start moving to electronic medical records. HITECH is seen as a constant force that helped bring better technology to health care organizations. Compliance officers have had to create auditing methods and formal compliance audits for billing, claims, coding, and meeting the requirements for electronic submissions.

- The Privacy Rule and the creation of private health information (PHI) is all part of Title II for HIPAA. You have likely covered this in other classes. Any violation of the Privacy Rule is handled by the compliance department and their work with regulators.
- **Title III:** is less well known as this piece of the legislation created tax related provisions for medical savings accounts. This was the precursor to Healthcare Spending Accounts (HSAs).
- **Title IV:** another lesser-known piece that deals with application and enforcement of group health insurance requirements. This title was modified and reformed with the Accountable Care Act of 2010. Compliance officers are often involved with ensuring the employer choice for health plan benefits meets at least the minimum standards set out by law.
- **Title V:** for employers. This piece of the act addresses revenue offsets for taxes for employers.

HIPAA is a very large piece of legislation passed by President Bill Clinton. HIPAA, HITECH, and HMO legislation could all be credited to Hillary Clinton's efforts to reform and improve the health care system.

Case Studies Related to HIPAA and HITECH

One of the first cases prosecuted for HIPAA violations that resulted in fines was Blue Cross Blue Shield of

Tennessee. Here are the highlights for this case:

[Health and Human Services settles HIPAA case with BCBST for \\$1.5 million](#)

On March 9, 2012, Blue Cross Blue Shield of Tennessee (BCBST) agreed to pay \$1,500,000 to settle potential violations of the HIPAA Privacy and Security Rules. BCBST also agreed to a corrective action plan which includes: reviewing, revising, and maintaining its Privacy and Security policies and procedures; conducting regular and robust trainings for all BCBST employees covering employee responsibilities under HIPAA; and performing monitor reviews to ensure BCBST compliance with the plan. The investigation followed a notice submitted by BCBST to HHS in which it was reported that 57 unencrypted computer hard drives containing PHI of over 1 million individuals had been stolen from a leased facility in Tennessee. The enforcement action is the first resulting from a breach report required by the Health Information Technology for Economic and Clinical Health (HITECH) Act Breach Notification Rule.

The second largest HIPAA violations case involved a management corporation. Here are the highlights of this case:

[Triple-S Management Corporation Settles HHS Charges by Agreeing to \\$3.5 Million HIPAA Settlement](#)

Triple-S Management Corporation, on behalf of its wholly owned subsidiaries, Triple-S Salud, Inc., Triple-C, Inc., and Triple-S Advantage, Inc., formerly known as American Health Medicare, Inc., has agreed to settle potential violations of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules with the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR). TRIPLE-S will pay \$3.5 Million and will adopt a robust corrective action plan to correct deficiencies in its HIPAA compliance program, an effort it has already begun.

When HIPAA was first passed, there was a great deal of concern about the numbers of clinicians who could be charged and fined large dollar amounts for violating patient confidentiality. There were many claims for overhearing patient information; or the ways that receptionists performed intake of patients or the way patients were called to be roomed. However, most of these cases did not result in fines. Some did result in people losing their jobs. Most organizations stepped forward to provide proper training along with internal mechanisms to strength confidentiality and ensure patient privacy.

The legislation changed the dynamic of many things in health care organizations. No longer can the surgical list for the next day be provided to all departments as a hand-out. Most had no need to know who was having surgery and why. Yet, this was common practice prior to HIPAA. Scheduling boards can no longer be public. Prior to HIPAA, scheduling boards with patient names were routinely seen in therapy departments, x-ray departments, and labs. Patient names would be posted in front lobbies for anyone to peruse and determine who they wished to visit for the day. At times, charts were even color coded with the payer with Medicaid or patients who were indigent marked with red files to alert everyone that this person was not well covered for health care payment.

HIPAA legislation helped to improve health care in many ways. It is arguably one of the largest health care legislative reforms for the past 20 years. The advent of HIPAA also brought about the first ideas of health care organizations needing to have formalized compliance departments and trained compliance officers.