

Health Information Compliance Alert

Health Information News: HEARINGS IN BOSTON YIELD HIPAA COMPLIANCE CONFUSION

Providers seeking the government's help with compliance with the Health Insurance Portability and Accountability Act testified Sept. 10-11 in a meeting held by the **National Committee on Vital and Health Statistics'** Subcommittee on Privacy and Confidentiality.

Several speakers representing small practices requested that the **Department of Health and Human Services** provide further and more readily comprehensible assistance with HIPAA compliance. Some of those who testified were concerned that HIPAA represented merely another one of the hurdles the government is forcing physicians to jump over, and they expressed dismay that the regulation appeared to have little to do with actual patient care.

Others asked for specific examples that would aid their practices with HIPAA compliance and noted that a 'plain English' approach with an organization's patients would be welcomed with open arms. **Ellen Janos**, manager of the Health Section at **Mintz Levin Cohn Ferris Glovsky and Popeo**, thought the notice of privacy practices should represent a tool used by a patient to determine how his or her personal information can be used or disclosed. Janos said that for a notice to comply with the regulation, it had to be several pages long, must "include information that is totally irrelevant to a particular provider, and be sufficiently dense so as not to be easily understood by the patient."

Editor's Note: To hear the testimony available by downloading RealPlayer go to www.va.gov/virtconf.htm.

1. A bill recently approved by a House subcommittee will encourage providers to use healthcare information technology to report medical errors.

Approved by the House Ways and Means Subcommittee on Health Sept. 12, the "Patient Safety Improvement Act of 2002" would use information technology to "maximize positive outcomes in clinical care, minimize medical errors, eliminate redundant paperwork, and ensure the most rapid dissemination of best practices," according to the **Healthcare Information and Management Systems Society**.

HIMSS says it was urged to submit comments on the legislation and to offer suggestions on several occasions. One of HIMSS' proposals involved the establishment of a Medical Information Technology Advisory Board, according to HIMSS President and CEO **H. Stephen Lieber**.

"We have encouraged the Ways and Mean Committee to expand the charter of this board to promote widespread adoption of a computer-based patient record as the foundation of a national health information infrastructure," Lieber noted in a HIMSS release. Lieber said the infrastructure would allow for "patient data, medical knowledge, and other information to be transmitted" wherever it was needed.

The bill is scheduled for review by the House Ways and Means Committee.

2. Patients' privacy rights in South Carolina were not violated even though state inspectors were permitted to access abortion clinic records, according to the **4th U.S. Circuit Court of Appeals**.

In a 2-to-1 decision, the 4th Circuit reversed a lower court ruling but upheld part of the lower court's ruling that found other elements of the clinic regulations to be constitutional, according to a report in the New York Times.

Two clinics had argued that patients' medical information should be kept private for fear that women who sought an abortion could face harassment, and also argued that a provision that required the clinics to make clergy members available for counseling violates the separation of church and state. The appeals court disagreed with both arguments, according to the Times.

"Though the abortion clinics can conceive of circumstances where patients' privacy rights could be violated, either deliberately or through negligence, we cannot assume that the confidentiality measures adopted by South Carolina to prevent such violations will be administered improperly," ruled judge **Paul Niemeyer**.

Judge **Robert King** delivered the dissenting opinion and wrote, "Insofar as the legislature in South Carolina wishes to limit the choices of its female citizens, it has been largely successful." "South Carolina is not, however, entitled to adopt and pursue an anti-abortion agenda at the expense of constitutional rights."