

## **Health Insurance Portability and Accountability Act of 1996 (HIPAA) Administrative Simplification**

On August 21, 1996, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) was signed into law. One part of the law requires the adoption of uniform national standards for health information, establishing how information should be formatted, shared, and protected. This will affect every aspect of pediatric practice, and you should begin now to understand HIPAA. Over the next two years, the Academy will develop summaries and sample materials to help you incorporate these requirements into your practice.

### **Protecting Health Information**

Standardization of electronic transactions in health care will greatly facilitate the sharing of data, raising concerns about how the data will be protected. HIPAA required the first-ever national standards for privacy protections of health information. The privacy rule establishes significant restrictions on the use and release of medical records, describes privacy safeguard standards that must be met, gives patients several important rights, and provides for significant penalties for misuse of health information. In addition to concerns about privacy of health information, increased exchange and compilation of electronic health information raises concerns about physical and technical security. HIPAA requires the adoption of a national standard for security of electronic health information. The 1998 proposed rule describes minimum security requirements, and requires each health care organization covered by the rule to designate a security official.

### **Standards for Electronic Transmission**

The core element of administrative simplification is to require the use of a single standardized format for ten common health care transactions including health care claims, eligibility inquiries, referral certification and authorization, and payment. In these transactions the use of specific clinical code sets, including CPT and ICD-9, is required. The use of national standard identifiers for providers, health plans, and employers will also be required. The requirement for a national identifier for individuals has been extremely controversial, and in the fall of 1998, Congress prohibited the promulgation of a national patient identifier.

### **Who Is Covered by HIPAA?**

The Academy expects that most pediatricians will be covered by HIPAA because they submit electronic claims themselves and/or use a billing service or clearinghouse to convert paper claims to electronic format. The HIPAA Administrative Simplification provisions apply to certain covered entities:

- All health plans or payers
- All health care clearinghouses
- Health care providers who electronically conduct any of the ten HIPAA transactions or who use a clearinghouse to electronically conduct transactions on the providers' behalf

Final rules have been published on standards for electronic transactions and privacy of health information. Covered providers must comply with the transactions rule by October 16, 2002, and with the privacy rule by April 14, 2003. Proposed rules on security, national provider identifiers, and national employer identifiers were published in 1998. No other proposed or final rules have been published yet, and HHS has no expected date for publication.

### **Resources from the Academy**

The Academy will continue its efforts to educate pediatricians about HIPAA and to advocate for HIPAA implementation that works for children's health care. More information on HIPAA is available on the AAP Members Only Channel ([www.aap.org/moc](http://www.aap.org/moc)). In the future this Web site will contain pediatric-specific compliance guidance and model policies and procedures.

For more information about HIPAA and its effect on pediatricians, e-mail [HIPAA@aap.org](mailto:HIPAA@aap.org), or call the AAP Division of Health Care Finance and Practice at 800/433-9016 ext. 4089.



American Academy of Pediatrics  
Implementation Help on HIPAA

## **Privacy of Health Information**

On December 28, 2000, the Department of Health and Human Services (HHS) published a final rule on the privacy of health information under HIPAA, establishing the first national standards for the privacy of medical records. Covered providers, including most pediatricians, will have to comply with the privacy rule by April 14, 2003, as will all health care clearinghouses and large health plans. (Small plans have until April 14, 2004 to comply.) The rule applies to all individually identifiable health information held or disclosed by one of these covered entities in any form.

The privacy rule establishes significant restrictions on the use and release of medical records. Generally, patient information can only be used for purposes of treatment, payment, and health care operations, and providers must obtain general signed consent for disclosures for these purposes. Under specific guidelines established by the rule, health information can be used or disclosed without consent for purposes such as public health, health oversight, and research.

Health information cannot be used for purposes not described in the rule without explicit authorization from the individual. Disclosures of information must be limited to the minimum necessary for the purpose of the disclosure, except that the full record may be disclosed to health care providers for treatment purposes.

### **What Providers Must Do**

The rule describes privacy safeguard standards that covered entities must meet, but it leaves detailed policies and procedures for meeting these standards to the discretion of each covered entity. Health care providers and other covered entities must:

- Adopt written privacy procedures
- Take steps to ensure that their business associates protect the privacy of health information
- Train employees
- Designate a privacy officer
- Establish grievance processes

### **Rights Granted to Patients**

In addition to these restrictions and administrative requirements for covered entities, the privacy rule gives patients several important rights:

- Providers and health plans are required to give patients a clear written explanation of how they can use, keep, and disclose patient information.
- Patients must be able to see and get copies of their records and request amendments to their records.
- A history of most disclosures must be made accessible to patients.
- Providers and health plans generally cannot condition treatment or payment on a patient's agreement to disclose health information for non-routine uses.
- People have the right to complain to a covered entity, or to the Secretary of HHS, about privacy violations.

### **Penalties**

HIPAA provides for significant penalties for misuse of health information. Covered entities that violate the privacy rule would be subject to civil penalties of \$100 per incident, up to \$25,000 per person, per year, per standard; and federal criminal penalties of up to \$50,000 and one year in prison for obtaining or disclosing protected health information; up to \$100,000 and five years in prison for obtaining protected health information under "false pretenses;" and up to \$250,000 and 10 years in prison for obtaining or disclosing protected health information with the intent to sell, transfer or use it for commercial advantage, personal gain, or malicious harm.

### **How the Privacy Rule Applies to Children and Adolescents**

In general, the privacy rule allows parents to exercise privacy rights on behalf of their unemancipated minor children. If a particular health care service meets one of the following criteria, however, the health care provider is not allowed to share information concerning that service with the parent:

- The minor consents to the health care service; no other consent to that service is required by law, even if a parent's consent was obtained; and the minor has not requested that the parent be given the privacy rights for that service.
- The minor may lawfully obtain the health care service without the consent of a parent, and the minor, a court, or another person authorized by law consents to the service.
- The parent assents to an agreement of confidentiality between a provider and the minor with respect to the health care service.