

Insert. Strategies for Coping with the Privacy Rule

Implementation of the Privacy Rule will change the way America's health care providers do business. The following strategies will help EDs make the smoothest transition possible:

1. KNOW THE RULE.

EDs cannot comply with the Privacy Rule unless their administrators and personnel understand the rule's requirements. This article highlights only those provisions most relevant to ED practice. ED administrators and practitioners should consult with their attorney before the compliance date to discuss all of the ways in which their ED practices will be affected.

2. ADOPT APPROPRIATE POLICIES.

Do not assume that the personnel in your ED understand their responsibilities with regard to health information, or even that they have heard of HIPAA. Guide them with appropriate policies.

3. PROVIDE ADEQUATE TRAINING.

ED personnel do not always devote sufficient attention to hospital policies and memos, no matter how well these documents have been drafted. Reinforce these measures with face-to-face training sessions. In fact, the Privacy Rule mandates such training.

4. DESIGNATE AN ED COMPLIANCE OFFICER AND A CONTACT PERSON FOR PRIVACY-RELATED ISSUES.

The Privacy Rule requires these appointments, but they also make sense. EDs can no longer police themselves on privacy matters. The regulations are too complicated, and the potential for liability is too great. This is an area that deserves expert oversight.

5. TAKE STEPS TO COMPLY NOW.

Privacy Rule compliance will require the implementation of training programs, adoption of new policies, renegotiation of contracts, and the drafting

of authorization and notice forms. These activities cannot occur overnight, and last-minute decision making will lead to mistakes and liability. Begin the compliance process now.

6. SEEK CONSENT.

The Privacy Rule does not require health care providers to obtain consent for uses and disclosures of protected health information. Doing so may prove useful in avoiding legal problems, however.

7. RESPECT STATE LAW.

Remember that state privacy laws may impose duties beyond those created by the Privacy Rule. Make sure that your ED policies reflect this fact.

8. UTILIZE HHS RESOURCES.

HHS's Office for Civil Rights (OCR) provides guidance in complying with the Privacy Rule. Contact OCR directly with questions, or visit the OCR website at <http://www.hhs.gov/ocr/hipaa>.

9. WATCH FOR CHANGES.

The final version of the Privacy Rule may not be final after all. The chairman of the Senate Health Committee, Sen. Edward Kennedy (D-Mass), announced in August that he would seek additional Privacy Rule changes through the legislative process.¹ Medical and civil rights groups are considering a lawsuit to modify some of the rule's provisions.² ED administrators should remain alert for changes in the Privacy Rule's status, and be prepared to respond appropriately.

Endnotes

1. Amy Goldstein, *HHS Issues Privacy Rules for Use of Health Records*, Washington Post, Aug. 10, 2002, at A1. See 67 Fed. Reg. 53,185-90 (2002).
2. See *id.*