

Where We Are...
Where We Want to Go...

A Philosopher's Guide to the First Year
of the Health Insurance Portability and
Accountability Act (HIPAA)

Jason C. Goldwater, MA, MPA
Center for Medicaid and State Operations
Centers for Medicare & Medicaid Services

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Definition



phi•los•o•phy (fī-lŏs-e-fē) – *n., pl. –phies.* **1. a.** Love and pursuit of wisdom by intellectual investigation and moral self-discipline. **b.** Inquiry into laws and causes underlying reality. **c.** A system of philosophical investigation or exposition

(Taken from Webster's II New Riverside University Dictionary)

From A Philosophical Point of View (or, What a Year Has Taught Us)

- *Metaphysical* – The implementation of HIPAA represents a new reality for health care
- *Epistemological* – HIPAA provides an unlimited opportunity for knowledge
- *Logical* – HIPAA provides a standardized way of thinking about data
- *Ethical* – The implementation of HIPAA can (and will) profoundly change health care to benefit any and all individuals associated with health care

In the Beginning.....



What is HIPAA
(and why do I need to care??)

Baruch Spinoza



“Be not astonished at new ideas; for it is well known to you that a thing does not therefore cease to be true because it is not accepted by many.”

-Ethics (1677)

The Health Insurance Portability and Accountability Act of 1996

- Signed August 21, 1996
- Title II, *Preventing Health Care Fraud and Abuse*
- Subtitle F: *Administrative Simplification*

Contains Sections

**Section 262:
Transactions,
Codes,
and
Identifiers**

**Section 264
Privacy**



Purpose of HIPAA Provisions



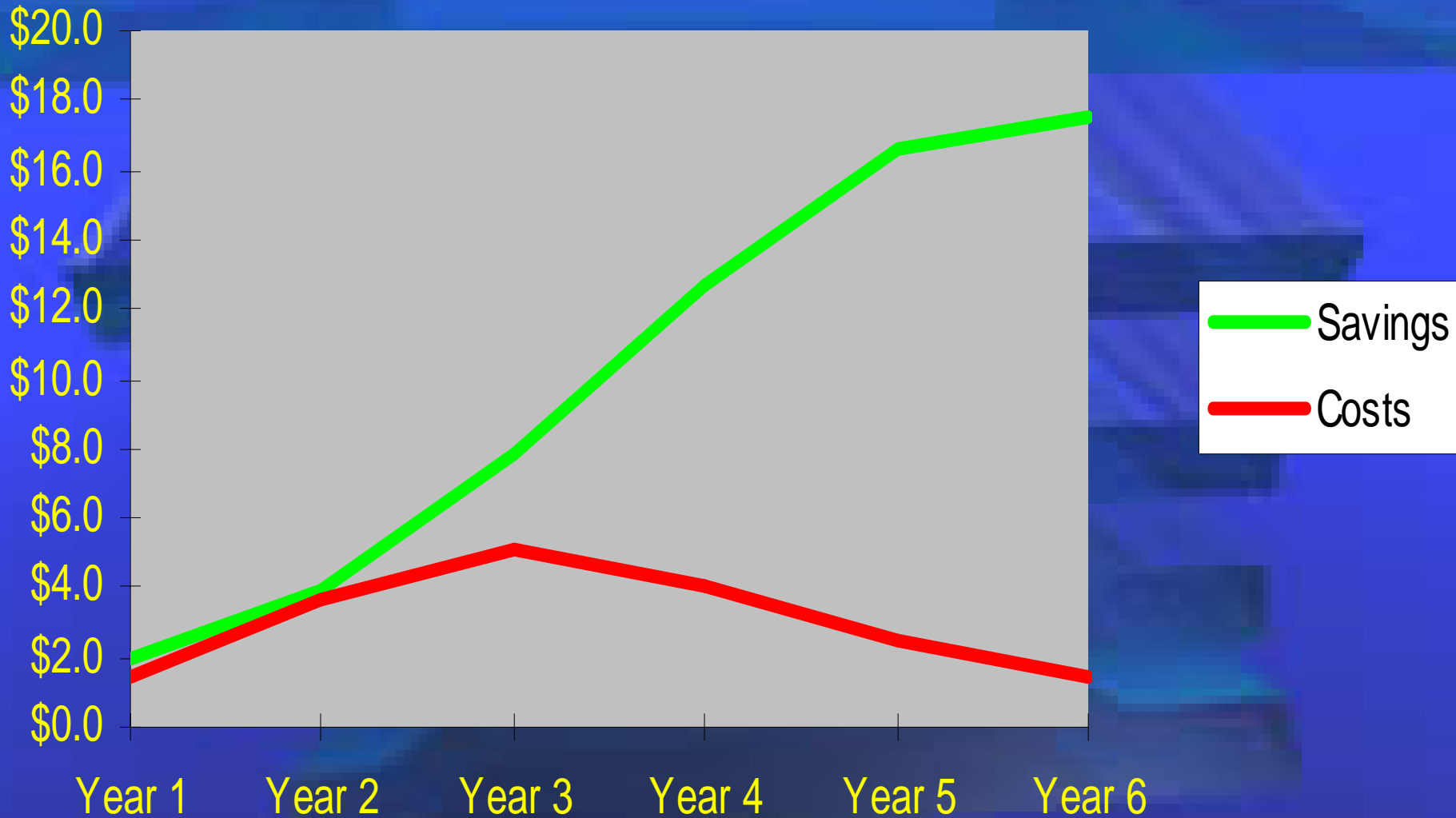
- Improve efficiency and effectiveness of health care system by standardizing the electronic exchange of administrative and financial data
- Protect security and privacy of transmitted information

Who created concept?
Industry initiated



1993 WEDI Report - Net Savings Potential (\$ Billions)

Cumulative Savings = \$42 Billion



Benefits of HIPAA Standards

- Lower cost of software development and maintenance
- Assure purchasers that software will work with all payers and plans
- Lower cost of administrative transactions by eliminating time and expense of handling paper
- Pave way for cost-effective, uniform, fair, and confidential health information practices
- Pave way for standards which can do the same for electronic medical records systems
- Pave the way for higher quality health care

An Unexamined Life....

What Were
the Industry
Concerns
Regarding
HIPAA?



Rene Descartes

“Each problem that I solved became a rule, which served afterwards to solve other problems.”

*First Meditations on
Philosophy (1641)*



Industry Timing Concerns

- Industry required more time to implement
- Result was the **Administrative Simplification Compliance Act (ASCA)**
- Signed into law by President Bush on December 27, 2001 (P.L. 107-105)
- All covered entities to request a one-year extension for transactions and code sets compliance
- Small health plans excluded from ASCA extension because of prior legislations



ASCA Provisions

- File extension by October 15, 2002
- Small health plans already have until October 2003 to be compliant
- Congress required submitting plans so covered entities would be prompted to think about HIPAA
- Covered entities must submit a compliance extension plan
- NCVHS will identify compliance barriers, public solutions

Extensions are Not Automatic

Other ASCA Provisions

The Secretary of HHS has discretion to exclude providers from Medicare if they don't file an extension by the October 15th deadline and are not compliant as of October 16, 2002

Effective October 2003, paper claims will not be paid by Medicare

- o exceptions for small providers, situations where electronic filing is not possible



Compliance Extension Plan

- ✓ Federal Register notice, including the model plan and instructions, published April 15, 2002
- ✓ The Secretary was required by ASCA to offer a model compliance extension plan by March 31, 2002
- ✓ Model compliance extension plan and instructions a went up on the cms.hhs.gov/hipaa website on March 29, 2002
- ✓ Secure/Non-Secure server option now available
- ✓ HHS strongly encourages electronic filing of plans because this is the only option for receiving a confirmation number
- ✓ Although, HHS will also accept paper model extension forms, and variations of it, as long as they contain the key elements

Key Elements of a Compliance Plan



- schedule for HIPAA implementation
- work plan and budget
- implementation strategy
- planned use of vendors
- timeframe for testing

Is Humankind Truly Free?



How much will compliance cost?

(Have we learned any more in a year?)

Sir Francis Bacon

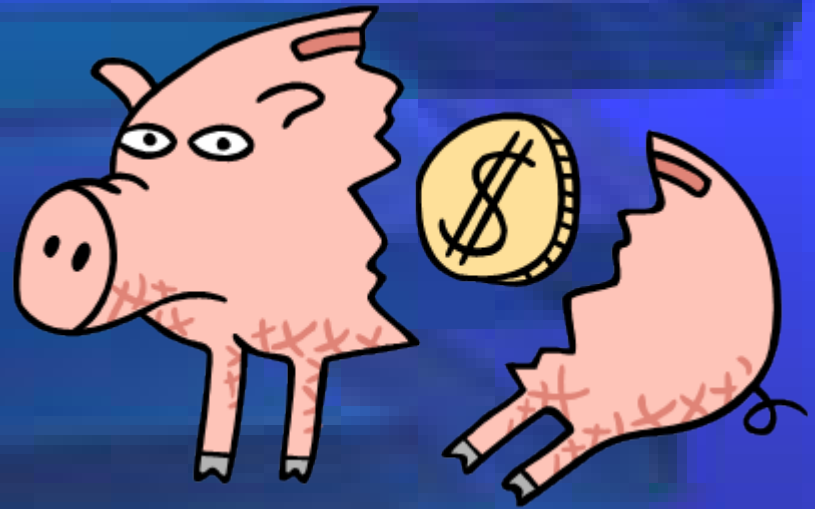
“There is no excellent beauty that hath not some strangeness in the proportion.”

Essays (1601)



Cost of Compliance

- A common question, with no definitive answer
- No true methodology for assessing total costs
- There are many variables to think about



Cost of Compliance



- Do you file electronically?
- Do you plan to expand in the future?
- Do you have hardware or are you starting from scratch?
- Can you upgrade existing software?

Cost of Compliance

- There are a few areas where costs might be incurred. They include:
 - Transactions – check with your practice management vendor
 - Transition from a paper form to the new 837
 - Staff training



Extremism in the Pursuit of Liberty....

What Has
Happened With
the Privacy
Rule?



David Hume



“It is seldom that liberty of any kind is lost all at once.”

*Essays Concerning
Human Understanding*
(1748)

Proposed Changes to the Privacy Rule

- Written consent not required to provide health care (e.g. schedule an appointment)
- Model business associate contract provisions
 - Extra year to renegotiate contracts
- Marketing requires specific authorization
 - but covered entities can communicate freely with patient about disease management programs
- Disclosures to minors governed by state law
- Calls for suggestions for data de-identification for research use
- Simplified authorization form requirements

Anything Else?



Charlie Brown

“That’s the secret
to life...replace
one worry with
another.”



Upcoming Rules

Rule

NPRM Published

- | | |
|-----------------------------|----------|
| ✱ Revisions to Privacy Rule | 03/27/02 |
| ✱ National Employer ID | 06/16/98 |
| ✱ National Provider ID | 05/07/98 |
| ✱ Security | 08/12/98 |

Proposed Identifiers

- Employer Identification Number (EIN)
 - Tax Identification Number (TIN) proposed
 - Administered by Internal Revenue Service
- Health Care Provider Identifier (NPI)
 - 8 position alphanumeric identifier proposed
 - Majority of commentors suggested 10 position numeric identifier



Security Rule - Philosophy



- Identify & assess risks/threats to:
 - Availability
 - Integrity
 - Confidentiality
- Take reasonable steps to reduce risk
- Standards are scalable and technology neutral

Security Requirements

- Covered Entities shall maintain reasonable and appropriate administrative, technical, and physical safeguards --
 - to ensure integrity and confidentiality
 - to protect against reasonably anticipated
 - threats or hazards to security or integrity
 - unauthorized uses or disclosures
 - to ensure compliance by officers and employees.

Security Requirements (con't)

- Take into account:
 - technical capabilities
 - costs
 - training
 - value of audit trails
 - needs of small providers
 - isolation of clearinghouses

Security Issues

- Different scope than other HIPAA regulations
- Covers data at rest as well as transmitted data
- Involves policies/procedures & contracts with business partners
- For most security technology to work, behavioral safeguards must also be established and enforced



Claims Attachments

- Joint development by HL7 and X12
- 1st six attachment types defined.
 - Ambulance
 - Emergency Department
 - Rehabilitation Services
 - Medications (dosage, how administered, etc.)
 - Lab Results
 - Clinical Notes (nurses, operative, etc.)

Changes to Initial Standards

- 2 NPRMs expected shortly
 - Adoption of Addenda to X12 Implementation Guides
 - Pharmacy changes (J codes, as well as NDC codes)
- Anticipated Proposed Rules
 - Doctor's First Report of Injury
 - X12 implementation guide required
 - Individual Identifier [not yet]
 - Patient Medical Record Information Exchange

And Now...For Something
Completely Different....



Consolidated Health Informatics

- One of OMB's Quicksilver Projects
- Managing Partner: HHS
- Lead Partners: VA, DoD, HHS and GSA
- Supporting Partners: USAid, DOJ, SSA, Education and State
- Members consist of physicians, clinicians, health administrators, managers and IT experts

Vision

- To enable the sharing of health information in a secure environment to improve health.



What is CHI Doing?

- Adopt government-wide health information interoperability standards (including vocabulary) enabling public and private sectors to refocus investments from standards to developing effective means of sharing medical data over a secure electronic interface.

What Steps are CHI Following?



- Identify and assess available standards
- Adopt a set of clinical vocabularies
- Include specific health data models and communication standards
- Lead and influence

Tie-In With HIPAA

- CHI will assure alignment with HIPAA transaction records and code sets
- Assure alignment with HIPAA security and privacy solutions
- Manage significant changes in the medical information sharing culture
- Will accrue many of the same advantages that HIPAA will have

In Closing....



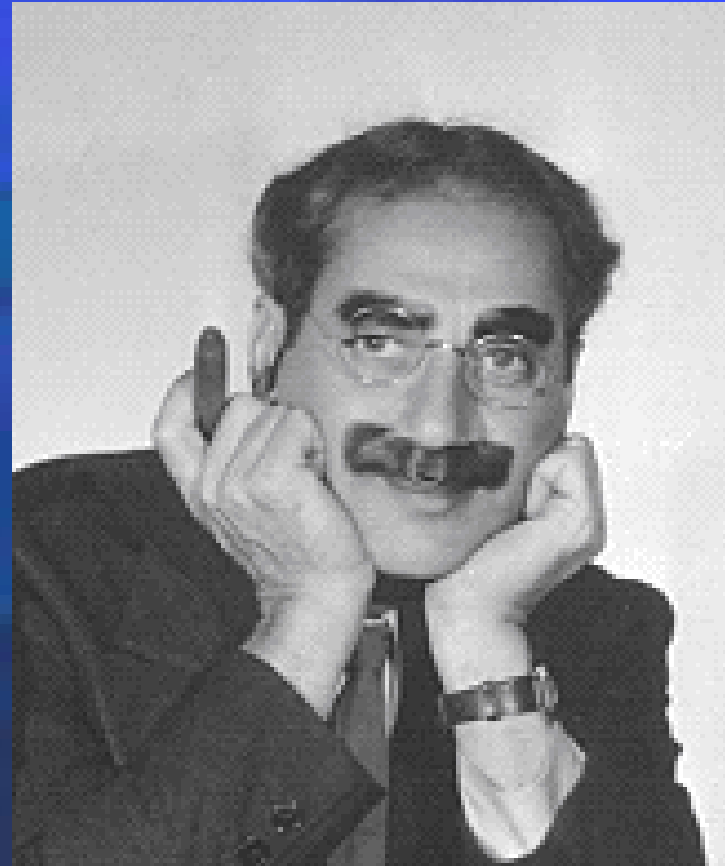
“Never discourage anyone...who continually makes progress, no matter how slow”

Plato
(427 – 327 B.C.)

And.....

“Those are my principles, and if you don't like them... well, I have others.”

-Groucho Marx
(1890-1977)



And The Word of the Day Is....



PREPARE

Questions or Comments?

Jason C. Goldwater, MA, MPA

Center For Medicaid and State Operations

Centers for Medicare & Medicaid Services

(410) 786-0476

Email: JGoldwater@cms.hhs.gov