



FOR IMMEDIATE RELEASE

HBMA Recommends Modifications to Accounting of Disclosures NPRM

Association states concern for lack of technical capabilities to meet proposed rules

LAGUNA BEACH, Calif. — August 3, 2011 — The Healthcare Billing & Management Association ([HBMA](#)), a non-profit educational resource and advocacy group representing third-party medical billers and billing professionals, recently submitted detailed comments to the United States Department of Health and Human Services (HHS) Office of Civil Rights (OCR) on the [Notice of Proposed Rulemaking \(NPRM\) entitled HIPAA Privacy Rule Accounting of Disclosures under the Health Information Technology Economic and Clinical Health Act \(HITECH\)](#) as published in the May 31, 2011 *Federal Register*.

According to the NPRM, OCR proposes to oblige providers, their trading partners and business associates to be able to, upon request, supply a patient with information about their Protected Health Information (PHI) that includes the reason why it was accessed.

In comments submitted by HBMA President Jackie Davis-Willett, CHBME, dated August 1, 2011, HBMA expressed concerns that the software industry has not yet developed and offered capabilities that meet existing HIPAA expectations, nor the far more sophisticated requirements assumed under this proposed rule.

[The letter](#) states: "In reviewing the NPRM, it appears that one of the underlying assumptions is that existing software is already able to identify when PHI has been accessed, and by whom. In addition, it appears that HHS assumes that HIPAA 'minimum necessary' rules have been incorporated into existing software. While both capabilities exist within many established hospital software products, less than half of all medical practice products possess either or both of these capabilities."

The association's comments also outlined the concern that if software systems cannot fulfill all of the proposed access and reporting requirements, healthcare providers and their vendors might be obliged to perform these functions manually. This will cause either universal non-compliance or will bring workflow and productivity to a near standstill; the latter brings enormous new costs to providers.

HBMA members, despite processing millions of claims annually, report a scant number of requests per year, with many reporting none at all. Several members have observed that this NPRM represents a "solution in search of a problem."

HBMA encourages HHS to see that the proposed additional administrative responsibilities will be a distraction to billing and compliance professionals at a time of increased enforcement activity associated with the identification of fraud, waste and abuse in healthcare.

Outlined recommendations for the Office of Civil Rights include:

- a. The proposed rules should be withdrawn entirely and revisited once practice management and EMR systems have evolved further;
- b. If OCR remains interested in assuring access to this additional data surrounding patients' PHI, an initiative to develop a classification/coding



- protocol for 'reasons' of PHI access should be created in conjunction with an existing standards organization; or
- c. If these regulations are to be implemented in their current state, the implementation should be deferred until at least 2015 in an effort to allow time for the complex and negative economic impacts the transition to 5010 and ICD-10 CM may present.

HBMA remains interested and available to work with HHS and/or OCR should they seek to modify or further research the practicality of the proposed rules or substitute rules.

About HBMA

A non-profit, member-led trade association, the Healthcare Billing & Management Association (HBMA) represents more than 30,000 employees in more than 750 third-party medical billing firms. Annually, HBMA companies submit more than 350 million initial claims on behalf of hospital-based physicians, office-based physicians and other allied healthcare providers. Founded in 1993, HBMA and its members foster personal development, advocate on the behalf of the profession and promote cooperation through a wide range of business resources, educational events, networking opportunities, certification programs and adherence to the Medical Biller's Code of Ethics. HBMA works with federal agencies, legislation and healthcare industry stakeholders to improve the business of medical billing and the delivery of healthcare. Learn more about how HBMA is elevating the medical billing profession at www.hbma.org.

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