

**New Mexico HIPAA Conference
Session 152P**

Privacy and Security:

Education Outreach on Privacy and Security Issues through NM CHILI

Panelists:

Jim Paulsel, New Mexico Health Policy Commission

Ralph Whiteaker, St. Joseph Healthcare System, NM CHILI Transaction and Code Sets
Workgroup Chairman

Gil Kehati, New Mexico Primary Care Association

Rena DiGregorio, New Mexico Hospitals & Health Systems Association

Moderator:

Kay Strong, Los Alamos National Laboratory

Scribe:

Leslie Shainline, New Mexico Medical Review Association

A. Introduction of the panelist's programs addressing HIPAA:

1. Jim Paulsel:

The NM Health Policy Commission (HPC) is a state agency that collects and analyzes health data for NM. HPC is developing a HIPAA Awareness & Preparedness Program for NM health care providers, focusing on smaller providers in the state. Keys points about this program include:

- Half-day sessions presented across NM that tie into the NM CHILI program
- Guidelines for HIPAA compliance
- A computer demonstration model that will illustrate HIPAA requirements
- Roles of providers (doctor, nurse, midlevel) and patients
- Program will be marketed via health organizations, state agencies and the media
- Program work will be done by contractors with HPC providing oversight
- HPC will test the effectiveness of the program with focus groups

2. Ralph Whiteaker:

Mr. Whiteaker was speaking on behalf of the NM CHILI Transactions and Code Sets Workgroup.

Fourteen months ago a group started working collaboratively on HIPAA issues and the group expanded after last years HIPAA conference. The purpose of the workgroup and NM CHILI is to share with organizations across the state information that impacts everyone. They are assessing the needs of organizations to determine where they can provide the most consistency and standardization for the state. They have developed a web site to post information such as guidelines, sample project plans for EDI, and links to national resources. The web site is: www.healthlinknm.org/nmchili Video conferencing is available through the Department of Health in many NM Cities. Call DOH for details.

3. Gil Kehati:

The NM Primary Care Association (PCA) includes 18 community health centers which encompass 115 primary care clinics across the state. They serve a large proportion of Medicaid and uninsured. PCA is involved with training the front line staff (receptionists, billing clerks etc). They are focusing on 4 issues:

1. Inadequate staff training: They need appropriate information about what can be released. They need to be trained on department policy and procedures. There is a high turn over rate among this staff.
2. Inadequate disclosure of policies and procedures: There needs to be clear definitions regarding what they can access and what they can disseminate. They need to understand the consequences of noncompliance. There needs to be termination policies in place to deal with security issues when employees leave.
3. Inadequate information systems security: Who has access to patient medical records? What kind of user account security is in place for computer access that contains patient information?
4. Inadequate physical environment: They need to assess the locations of printers or fax machines. Where are patient medical records housed? Is that a secure location? Is there privacy for patients discussing their bills with a clerk?

All these issues are being addressed by the PCA as they train the front line staff about HIPAA.

4. Rena DiGregorio:

The New Mexico Hospitals & Health Systems Association (H&HSA) includes 58 acute care, behavioral health and specialty facilities. Most are rural hospitals and the H&HSA helps these facilities obtain financing. They are a membership organization that focuses on the three “C”; coordinate, collaborate and communicate. They recognize the need to create a communication network among their members. This becomes difficult due to staff turn over and identifying the most appropriate contact person. NM has the added burden of being a large state with many rural hospitals that don’t have resources readily available. Funding is an issue for these facilities, particularly since HIPAA is a non-funded mandate. H&HSA is assisting these facilities with funding and resource issues.

B. Topic Areas for Discussion:

1. Why is collaboration so important? Ralph Whiteaker

- There is room for interpretation with HIPAA guidelines. Therefore collaboration will help with providing consistency of the interpretation throughout the state.
- Want to try to make privacy and security regulations consistent between organizations to avoid confusion to employees as they move between organizations.
- Consistency demonstrates to patients that their privacy is being protected from one site to the next. This will help gain patient trust.
- Regarding security; How do employees access computers for patient information? Aiming for as much consistency as possible.

- The NM CHILI workgroups are first identifying areas for collaboration and then deciding how to work together to benefit the most providers possible.

2. How do you get this information to the front line staff? Gil Kehati

- Invest in front line staff training.
- Include privacy and security regulations into their general orientation sessions as an introduction to the issues.
- Focus on explicit procedures. Be clear what they are or are not to do.
- Make them aware of their environment. Where are the fax machines located? Are their computer screens hidden from other's view?
- Allow for some level of human error when programming information systems, such as including prompts or installing automatic log off on the computers.

3. What are the issues found in rural areas? Rena DiGregorio

- Financing to implement HIPAA is a huge challenge.
- Many rural facilities are very old requiring upgrades in their physical plant before they could reach compliance with HIPAA regulations.
- Many have limited or out dated computer systems.
- Lack of local experts. Networking is more difficult.
- NM CHILI sponsored scholarships for eleven people to attend this conference.

4. How will the HIPAA Awareness and Preparedness Program meet the needs of those in the communities it is trying to serve? Jim Paulsel

HPC is asking for input from providers in the communities in order to meet their needs. They are specifically asking for input from focus groups on the following:

- What should be presented in the ½ day seminar?
- What time of day and what day of the week is best for providers to attend?
- How can they promote the program? Are there local marketing opportunities?
- Who are the local influential people that would help draw together the target audience?

C. Questions and Answers:

Q: What will patients be able to amend in their medical records? Can they erase the past documentation of health care providers?

A: Mr. Whiteaker. Patients can write a rebuttal to what is currently stated but can not erase past documentation. However there is not currently a definitive ruling on this and further understanding or interpretation of the rule needs to be understood.

Comment: Indian Health Services has been dealing with the issue of patient rights to amend medical records since 1976. Patients can tell their story in the record, but can not erase the provider's documentation.

Q: At what point do you foresee a patient requesting their record for review?

A: Mr. Whiteaker. As patients become more aware of this right we will start to see more demand for record review.

Q: Patients are uneasy about using their SS# as identifiers. Do you foresee using SS# as the unique patient identifier?

A: Ms. DeGrigorio. Patient identifiers are very controversial to the point where talks in Congress have been suspended for now. The regulations do not currently provide direction on how to deal with this issue.

Mr. Whiteaker. Whether the patient identifier is their SS# or some other unique #, patients have an issue with this concept.

Q: What does HIPAA say about the automated phone systems that leave reminders on patient's home answering machines about appointments?

A: Mr. Whiteaker. They breach confidentiality much the same way as postcard reminder notices. Should not use these systems unless you have a policy to obtain patient's written consent to leave such messages.

Q: Laboratory regulatory agencies require labs to notify patients of their results. Most commonly postcards are used for this purpose. How do we comply with both the laboratory regulations and HIPAA regulations?

A: Ms. DiGregorio. Change your policy so the results are mailed in an envelope and not on a postcard.

Mr. Whiteaker. Keep in mind the concept of reasonableness. We need to strike a balance regarding what is reasonable.

Q: When is the HIPAA Awareness and Preparedness Program going to be available? Can we modify the materials for our own training purposes?

A: Jim Paulsel. The program will begin rollout in June 2002 and we are planning on finishing by September 2002. The materials will have a HPC copyright, however, it will probably be okay to modify them as long as credit is given to HPC.

Comment: Non physician providers are very prevalent in NM so be careful how you define provider. It will be important to involve both physicians and non physicians in the educational efforts.

Q: Many health care organizations use a team approach to care. How is this methodology for care going to be impacted by HIPAA privacy rules?

A: Mr. Whiteaker. This falls under normal health care operations so it will be fine to continue using the team approach to care.

Ms. DiGregorio. It also may fall under "treatment" and therefore the "reasonable and need to know" criteria is considered.

Q: In Dona Ana County the county government pays for indigent care. They request patient identifying information for their audit trail. How can we be compliant with HIPAA and meet the requirements of the county?

A: Holt Anderson. This is an example of a contract between health care provider and payer. The confidentiality issues would need to be written into the contract.

Q: Patients commonly bring family members into the exam room to help interpret the information. Is HIPAA addressing this? Will patients have to sign a release form?

A: Mr. Whiteaker. There is not a specific answer. Must go back to reasonableness and the ability to provide health care. Example: During labor and delivery there are often others in the room who can see the monitoring equipment and are privy to confidential patient information. HIPAA is not likely to stop this practice, but the workgroups need to address these issues to provide consistency across organizations.