



New Mexico HIPAA Conference, September 22, 23, 2001

Session Results

Session Name: HIPAA Overview: Communication with Legislators, State Government, the Media and the General Public

Session Number: 221

TOPIC	DISCUSSION	SUGGESTED ACTION
<p>1. Preemption NM laws and regulations</p>	<ul style="list-style-type: none"> • HIPAA regulations preempt most state laws unless state law is more inclusive than the federal law. State law must go beyond the federal law. • Federal law is the floor – if state law is more stringent, it supercedes state law. • Are there plans to make laws more stringent? Not at this time, but there have been in the past. • DOH is conducting an assessment of NM laws and regulations, behavioral health, AIDS, etc. may be more stringent as they relate to DOH. • HPC and CHILE doing comparisons as well, perhaps all should work together. DOH does not want to miss anything. 	<ul style="list-style-type: none"> • Research state law and regulations - What already exists – legislation, privacy laws, agency regulations, etc.
<p>2. Funding state agencies to become HIPAA compliant.</p>	<ul style="list-style-type: none"> • Standardization of claims is not a new issue under HIPAA. HCFA began to standardize the claims process 20 years ago with forms and later with standard electronic claims processing in Medicare. • National conference of State Legislatures does not know why Medicaid was not waived under the Unfunded Mandates Reform Act when costs of HIPAA compliance are upward of \$45 billion. • HIPAA will be expensive for state agencies including DOH, HSD, CYFD and perhaps others not yet considered. • Cost will include software, data storage, transmission problems, hackers and lawsuits over privacy and cost. 	<ul style="list-style-type: none"> • Legislators must be more creative with the budget. • LFC budget hearings and communication with the Governors office is critical. • LFC hopes to look at HIPAA costs to each agency budget. • Check the website for interim committees and agendas and show up for public comment where relevant. • Keep the issue viable – 112 letters, contact every legislator with your issue or concern. •

	<ul style="list-style-type: none"> • Compliance penalties for codes and transactions – HHS will be able to sanction payors, but the details are unclear. • The penalty for violation is assessed from the bottom up with larger sanctions the further the chain of responsibility to the legislature for not funding the mandate. • HSD and others are in the process of developing public/employer/ individual health plan – The State Coverage Initiative – to determine actual cost of providing health care. • Where are the dollars to fund health care? Funds are more limited now than last year. State lost \$64 million in one day after September 11 in investments from the permanent fund. • The issue is new to many legislators, but they know that it must be done and that the price is high. • Legislators are aware that there are public payors other than Medicaid obligated under HIPAA - DOH, CYFD, etc. • With privacy and electronic health care data there are many more agencies involved and legislators need to understand this now, before there are lawsuits. • Gaming tax funds are not available this year – in escrow – maybe later. • 	
<p>3. Talking HIPAA to Legislators</p>	<ul style="list-style-type: none"> • Legislators have strong public interest because they are elected officials. • Arguments must be made in a context that will get their attention. • What is the significance to lobbyists and constituents? • Future benefits: <ul style="list-style-type: none"> ○ Software is available if the funding is there. ○ A better understanding of the benefits is the end result of a major public goal. • What is the level of awareness among legislators? 	<p>Issues that will interest legislators:</p> <ul style="list-style-type: none"> • Having comparable health data, systems that talk to each other • Public Sector issues of health – Software, billing systems, claims filing and reimbursement • High rates of uninsured, underinsured. • Impact on the economy. • Internet – e-claims and business transactions that

	<ul style="list-style-type: none"> ○ They have preliminary information that HIPAA is expensive. ○ HIPAA may help but what about small providers? There is concern over loosing the small provider. 	<p>result in public concerns over unauthorized use of health information.</p> <ul style="list-style-type: none"> ● Costs of lack of standardizing systems ● Inability to get information and difficulty with claims. <p>Be honest with legislators, HIPAA compliance is expensive, burdensome and complex and has not been tested in court.</p> <p>Keep the issue on the table – Press, budget hearings, lobbying, technical assistance to legislators, lobbyists, and state agencies.</p> <p>Don't wait until the legislative session to approach legislators, it is too late at that point. Start now, legislators finish meetings by the end of November.</p>
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