

Testimony of James Weintrub, M.D.

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Introduction

Good afternoon. I want to thank the committee for inviting me and giving me the opportunity to present our work.

A Different Perspective

My name is James Weintrub, and I am a practicing physician and software developer. Our company, Digital Physicians Network, develops healthcare solutions for consumers, patients, and physicians. We were invited because we are completing our latest project, which is an educational CD created to help Blue Cross & Blue Shield of Rhode Island educate their providers—specifically physician practices—about HIPAA.

You've heard already from legal, technical, policy, and organizational specialists on HIPAA. Our perspective is different: it centers on the practical problems of giving physicians and their office staff a simple, barebones explanation of HIPAA and the necessity of complying with it, and giving them easy access to the tools and materials they can use to meet its requirements and deadlines. For this presentation, I'm focusing on compliance with the Privacy Rule.

I'm a Plastic Surgeon serving as chief of the division at the Providence Veteran's Administration Hospital. One day a week, I attend patients and, as Clinical Assistant Professor of Surgery, supervise the Brown University trainees. The rest of my time I devote to running Digital Physicians Network.

An Observed Need

As a practicing physician, I have daily contact with doctors and the culture in which we work. I understand the pressures, time constraints, and conflicts involved in trying to balance the needs of patients, colleagues, staff, and legal, regulatory, and reimbursement requirements. The last thing doctors want to hear is that they have to comply with more cumbersome, complex, and confusing legislation.

Based on my interaction with physicians, here are some observations:

- They don't get it. Even after some years of publicity about HIPAA, many physicians are only casually aware of it, many think it's optional—like the physicians practice compliance—and most don't know there are penalties for non-compliance. There's a huge need to get physicians to buy in; compliance is a tough sell and obviously has not been successful to date.
- They haven't been given the tools. Government and industry resources are comprehensive, but they're scattered, not physician-oriented, and the material is difficult to locate and use.

My Focus Today

What I'd like to talk to you about today is the effort we've just gone through to help physicians understand and comply with HIPAA and the process of building a multimedia application to accomplish that goal.

The Project's Background

Our Approach—Hiding Complexity in Ease-of-Use Solutions

For background purposes, I will briefly explain some of our other Digital Physicians Network projects that are relevant and similar in nature to the HIPAA project, all of which illustrate our company's focus on giving users an easy-to-use way to access and understand information.

- Early on we developed a personal productivity tool—*Benefit Buddy*®—that lets consumers get information about their health insurance coverage, its benefit structure, and how to navigate their delivery system.
- We also developed *MSA Central*, a web-based application that explains Medical Savings Accounts, a confusing hybrid of health insurance and an investment vehicle with complex eligibility requirements.
- Another physician practice compliance application helps ensure the proper assignment of Evaluation and Management codes, a complex system with specific definitions, rules, and algorithms.

Blue Cross & Blue Shield of Rhode Island knew of our healthcare applications for physicians and consumers and, after we proposed a package of educational seminars and a multimedia CD-ROM, engaged us to work with them on the project.

Seminar Presentation

One component of the project was to hold four free Continuing Medical Education (CME) seminars for physicians, at central locations, convenient times, and with a faculty of national and regional specialists in various aspects of HIPAA. Audience response—measured on formal evaluation forms—was extremely positive in every category.

The information developed for and presented in the seminars was the basis for the content of the second component of the project—the multimedia CD.

CD Presentation

This component of the project was the development of a software application, presented on compact disk for both Windows and Macintosh personal computers and containing a narrative of the information presented in the seminars, screen displays emphasizing the main points of each section, and appropriate resources.

Before we could do anything, we took a long and hard look at what would be involved in doing this project and doing it well. The early stages of the development process are the same, regardless of the presentation medium you're using.

The Development Process

Identify the Need

Identifying the need is the first step in any development project, the equivalent of a novelist getting the germ of a plot. And nothing could be more exciting to developers than finding a complex system that needs simplification and lends itself to multimedia presentation on widely-available personal computers! What needs simplification more than HIPAA?

- The legislation is tremendously convoluted, long, and frequently-changing,
- the impact on the physician's daily work is undeniable,
- the penalties for non-compliance are severe,
- virtually all physician offices have personal computer systems in place,
- and, to date no vendor or government agency has adequately met the needs of physicians' practices by providing simple tools, customizable materials, and one-stop shopping for HIPAA compliance.

Define the Goals

We next had to decide our design goals. Because our company's dedicated to making life simpler for healthcare providers and consumers, some goals were obvious and consistent with our historical approach:

- make a complex set of concepts easy to understand;
- make an overwhelming amount of material digestible by breaking it into manageable pieces;
- make boring material interesting by presenting it a multi-media environment;
- make all the collateral material and actionable information easily available and in context;
- make the application itself easy to use (or in the case of the seminars, organize the content so it's easy to follow);
- make the physicians confident that they can manage the project and can access everything they need to accomplish it successfully.

Analyze the Problem

At a very early stage, we examined HIPAA itself to see what we would need to know in order to do our work. A few things immediately became crystal clear to us:

- HIPAA legislation, with its thousands of pages of legal and technical information, is outside the physicians' usual frame of reference.
- We could break HIPAA down into general components—Privacy, Security, and Transaction Standards, but each component is so complex in and of itself that explaining it properly requires even more specific levels and types of expertise. To adequately describe how to comply with the Privacy Rule, for instance, meant we had to involve specialists in healthcare law, healthcare policy development and implementation, practice management, training and education, and technology.
- We couldn't do it by ourselves. We realized that we needed more than one perspective to be able to translate HIPAA into terms, concepts, and practical tasks that physicians could manage.

That's why our presentations—and therefore the content of our CD application—necessitated the participation of consultant specialists in a number of fields.

We also realized that because the HIPAA legislation is so long, we couldn't tell it all. We had to present the audience with only the information that was most relevant and necessary for them to complete a compliance project successfully. Doctors and their office staffs do not have free time!

Consequently, the essential challenges of the project were to distill HIPAA, extract and repackage its key parts, locate and present in context the collateral materials such as the *Notice of Privacy Practices* and *Authorizations*, and suggest operational steps in the compliance project plan.

And put everything in proper perspective, sequence, and easy-to-grasp handfals.

Determine an Approach & Gather the Resources

We decided the seminar presentation would include a speaker on each of the main components, slides serving to backup their speeches, and handouts of sample wording, forms, and checklists. The software would present the same material in multi-media formats: voice narration, screen displays, and a resource section for collateral documents and information.

We assembled five experts from across the country: a healthcare attorney, a policy expert who had participated on a national level with HIPAA workgroups, a member of the National Committee on Health and Vital Statistics with expertise in employee training, a consultant/trainer from a nationally-recognized practice management firm, and a physician/solutions developer to cover transaction standards.

Gathering material was more difficult—and emphasized the need for the very product we were creating. Even when you know what you're looking for—and most physicians would not—it's extremely difficult, for example, to find the *Notice of Privacy Practices* on government websites. It's buried deep in a source document. As an aside, it would be ideal if the public sector would put all actionable HIPAA information and documents in a single web site. The federal site for copyright information is a great example—it's a really powerful resource that makes accessible and available all the information a user requires.

Beside the concerns with content were certain practical issues. The software to tell the story of HIPAA required some other expertise: a project manager to run the job, a writer to develop the script, a professional voice to narrate it, a programmer and graphic artist to put it all together so it worked properly and looked good, and, of course, an intellectual property attorney to bless it. We also needed a sound studio, a printing company, and a CD production house. In all, we needed over a dozen different talents to produce our HIPAA CD.

Do It!

The middle part—putting it all together and making it happen—is hard work, and I don't need to relate all the details.

Assess the Outcome

The best part of every party, of course, is talking about it afterwards. We discussed the positive reception our seminars received, and we're almost to that point with our CD. We haven't quite delivered it yet, but this is what we know we have accomplished:

- We've told the highlights of the HIPAA story in simple language and a logical sequence;
- We've tailored it to our target audience: physicians. We've created a Cliff Notes for doctors: *Getting Your Practice Ready for HIPAA*.
- We've gathered relevant source documents and pointed them to appropriate and helpful resources. For example, we explained that the *Model Compliance Plan* is really an extension for Transactions, provided both the web link and the PDF file, and told them how to complete and submit it.
- In short, we gave them actionable information in context and—of great importance when you're short of time—made it available in one place and in an attractive form.

That's the story of our HIPAA project, an interesting and challenging experience for all of us who worked on it. I thank you for the opportunity to be here today and would be happy to address your questions.