

FEATURE STORY

G. Michael Bellenghi
Bonnie Coffey
Joseph E. Fournier
Jan P. McDavid



healthcare financial management association www.hfma.org

release of information are hospitals taking a hit?

Attempts by state legislatures to reduce fees for release-of-information requests could make it unprofitable for outsourcing companies to provide this service, potentially leaving hospitals to bear the expense.

AT A GLANCE

- > Outsourcing release-of-information requests helps hospitals alleviate administrative and compliance burdens and expense.
- > Recently, state lawmakers have begun to draft legislation reducing the maximum fee that may be charged for copies of electronically stored records. The reduced fees may not cover expenses.
- > If such legislation makes it difficult for outsourcing companies to make a profit from this service, hospitals ultimately could bear the expense and risk.

For most businesses, “ROI” stands for “return on investment.” In health-care, ROI also refers to “release of information,” the complicated, risk-prone, and often misunderstood process of releasing protected health information.

Release of information is the fulfillment of medical records requests from attorneys, patients, insurance companies, government agencies, other providers, and more, and is traditionally a function of a hospital’s health information management department. The process of fulfilling medical records requests involves:

- > Logging the request
- > Verifying that the request is valid, according to Health Insurance Portability and Accountability Act (HIPAA) guidelines
- > Searching for and obtaining the medical record number
- > Determining the format of the record (paper, microfilm, electronic)
- > Retrieving the records, which may exist in multiple forms and in multiple places (onsite, offsite, and electronic)
- > Creating an invoice for the service, when applicable
- > Verifying that the information matches the request
- > Sending the information to the requestor
- > Tracking and crediting payment
- > Returning the original records to the appropriate locations

Today, many hospitals—nearly 80 percent, according to the Association for Health Information Outsourcing Services (AHIOS)—have outsourced release of information to specialized service providers to relieve the administrative burden of fulfilling medical records requests and reduce their HIPAA liability exposure. The release-of-information outsourcing industry arose to help hospitals minimize the costs and risks associated with release of information through the application of focused knowledge and expertise.

But today's release-of-information outsourcing industry is under siege from legislation governing the fees that can be charged for copies of medical records. State regulations limit the amount that can be charged for release-of-information services (typically \$30 or less per invoice). Some requests are not billable, such as requests from a hospital's internal departments, requests related to patient transfers, continuing care requests, and some nonstaff physician and military requests. Recently, state lawmakers have begun to draft legislation reducing the maximum fee that may be charged for release-of-information services because of the perception that the transition to electronic health records (EHRs) enhances the efficiency of locating records; however, the cost of finding, printing, and delivering the information can be significant, and the legislative fees may not cover the expenses for paper, postage, supplies, and/or labor.

The release-of-information outsourcing industry has lobbied at state and federal levels to address the issue. The issue is critical not only for release-of-information outsourcing companies, but also for hospitals: If release-of-information service providers are unable to make a profit off this service in states with unfavorable legislation, hospitals in those states ultimately will face having to hire, train, and maintain their own release-of-information workforce—and bear the expenses that accompany this service.

A Process to Avoid Risk

Release-of-information service providers began operating in the mid-1970s, when hospitals were experiencing backlogs of requests for medical records at a time when providers grappled with the demands of diagnosis-related groups and changes in payments from Medicare, insurers, and others. Today, most healthcare organizations choose to outsource this process to ensure quicker turnaround of requests for confidential patient records and, in turn, prompt payment by insurers for medical care rendered.

Providing copies of medical records is a complicated process controlled by regulations covering

everything from how fast a request must be completed to who may have access to protected health information without an authorization and the rates that can be charged. Every request is unique, and demand is high: The U.S. Department of Health & Human Services estimates about 55 million requests for information are made per year.

Complexity Added by the EHR

As health care begins to adjust to the changes wrought by EHRs, the industry finds itself on the brink of a new round of release-of-information issues. Although the perception may be that fulfilling release-of-information requests will be significantly easier in an EHR environment, the reality is that the addition of EHRs often renders the release-of-information process more complex. Most hospitals are working with hybrid—part electronic, part paper—records, a situation that escalates risk and cost.

Consider, for example, that hospital information systems are typically designed to give different levels of access to different types of users. Lab technicians may not need to see a full record, but release-of-information specialists need to access all components of the record, including authorizations specifying what information can be released and to whom. The release-of-information specialists therefore must access a variety of systems to collect the correct records.

These information systems also are often designed for viewing, not printing. Because requestors may want paper copies, records should be produced in a way that will be useful to the requestor.

Moreover, wide gaps in service dates, even for one request, may require the release-of-information specialist to review both electronic and paper records. Charts may also be stored in microfilm and microfiche or kept off site.

Even when hybrid records are not an issue, most of the steps in the release-of-information process exist regardless of document source.

The Battle Over Fees

In the late 1980s, hospitals and their release-of-information service providers became the target of lawsuits over release-of-information fees.

Because they often do not understand the complexities underlying the ROI process, record requestors may feel that any fees higher than straightforward commercial “photocopying charges” are excessive and unreasonable.

Typically, these “fees” lawsuits are purported class actions in which an attorney will sue for damages on behalf of a group of requestors over a period of years. With the average case taking several years to litigate, defense costs pose a substantial burden to both hospitals and release-of-information outsourcing companies.

Also, statutes addressing “nonpaper” records were typically drafted before the advent of EHRs and designed to address microfilm, X-rays, and other records that cannot be reproduced on a standard photocopier. State lawmakers and requestors realize that existing laws fail to adequately cover the reproduction and release of EHRs. But confusing language and a failure to fully comprehend the release-of-information process have again exposed hospitals and their service providers to lawsuits and inadequate payment.

Illinois, for example, has become the first state to mandate electronic delivery of EHRs under certain conditions—at half the fee allowed for paper records. Although the state set out to clarify ambiguity in its original release-of-information fee statute, the result is a legal minefield. Despite opposition from AHIOS and the Illinois Health Information Management Association, the new statute fails to address several important issues and remains open to significant interpretation. Additionally, the fees do not adequately cover the costs of supplying the information.

The statute, which became effective Jan. 1, 2008, has already affected Illinois hospitals and their release-of-information service providers. Hospitals now have a disincentive to “go electronic” because their conversion and e-release costs cannot be reimbursed.

Financial Impact on Hospitals

Illinois is not unique in the problems associated with state legislation concerning EHR release of medical records requests. The challenges facing hospitals and outsourcing companies in regard to release of information may worsen, increasing both expenses and risks for hospitals.

First, compliance will come at an increased cost. Hospitals and release-of-information outsourcing companies already incur legal expenses to review existing and pending laws and seek implementation advice. Increased expenses combined with lower release-of-information rates mean that hospitals are likely to lose money on the process. This problem will be exacerbated if service providers cannot make a profit and cease doing business in states with unfavorable legislation, requiring hospitals to hire, train, and maintain their own release-of-information workforce.

When contemplating whether to outsource the release-of-information function, hospitals should consider that an FTE dedicated to this task will cost an average of \$43,704 (if fully burdened), or approximately \$21 per hour, plus recruitment, training, and supervision costs; capital investment for the copying equipment; ongoing copying and mailing expenses, such as paper, toner, and postage; and ongoing administrative expenses, such as legal, compliance, and customer service. Hospitals can typically expect that one FTE is required for every 100 beds in their facilities. Additionally, typically only 40 percent of release-of-information requests are billable (i.e., generate revenue), and of those, only about 80 percent are ever paid.

Outsourcing the release-of-information function can help a hospital alleviate the burden of supervisory and compliance responsibility while acquiring enhanced resources in staff, quality control, technology, and overall expertise. These are resources that can be leveraged to help advance overall organization initiatives.

Second, hospitals can expect their risks to increase as well. For example, given the ambiguity in

Illinois' statutory language—and the fact that even the prior, relatively straightforward statute resulted in litigation—noncompliance will undoubtedly occur with greater frequency, adding to hospitals' litigation expenses and opening the door to government fines and negative publicity.

Third, without access to services from specialized outsourcing companies that are highly motivated to achieve the most efficient release-of-information process possible and continuously reinvent themselves to this end, the average turnaround time on a request may lengthen. If this happens, hospitals can expect that their revenue cycles will slow as well, because insurers depend on medical record copies to process claims and payments.

The Importance of Education

For today's hospital, there is a real danger in turning a blind eye to the legislative activities that have an impact on the release-of-information process. Governed by state and HIPAA regulations that carry heavy fines for violation, release of information is a time-consuming and sensitive function. Failure to fulfill requests on time and accurately can have painful ramifications, from irate calls to hospital administrators to legal action.

Education about these issues is the first step toward a more equitable solution for the industry. Hospitals should become involved with their state health information management associations to ensure that regulatory activities proceed to a conclusion that recognizes the complexities of this process. ●

About the authors



G. Michael Bellenghi, CPA, is executive vice president, Association for Health Information Outsourcing Services (AHIOS), Media, Pa. (gmbells@aol.com).



Bonnie Coffey is president, AHIOS, and president and CEO, CM Information Specialists and Attain Document Services, Fridley, Minn. (bcoffey@cminfospec.com).



Joseph E. Fournier, JD, CPA, is vice president for legal affairs and administration, ChartOne, Inc., Alpharetta, Ga. (jfournier@chartone.com).



Jan P. McDavid, JD, is general counsel and compliance officer, HealthPort Technologies, Burlington, Mass. (jan.mcdavid@healthport.com).