Review Committee Charter

(Established under Section 1104(i) of the Affordable Care Act)

National Committee on Vital and Health Statistics
September, 2014

Statutory Background *(See Attachment)*

Section 1104(i) of the Affordable Care Act stipulates that the Secretary establish a Review Committee to:

1) Conduct hearings not less than biennially to evaluate and review the adopted standards and operating rules.
2) Provide recommendations not less than biennially for updating and improving such standards and operating rules.
3) Recommend a single set of operating rules per transaction standard and maintain the goal of creating as much uniformity as possible in the implementation of the electronic standards.
4) Ensure coordination, as appropriate in developing recommendations, with the standards that support the certified electronic health record technology approved by the Office of the National Coordinator for Health Information Technology.

Charge of the Review Committee

Consistent with Section 1104(i) of the Affordable Care Act (ACA), the purpose of the Review Committee is to review existing health care administrative transactions for which standards, code sets, identifiers, or operating rules (heretofore collectively referred as "standards or operating rules") have already been adopted and are currently in use.

For these existing health care administrative transactions for which standards or operating rules have been adopted, the Review Committee review process will determine if the existing adopted standard(s) or operating rule(s) 1) continue(s) to meet current industry business needs and therefore no change is necessary; 2) does not meet current industry business needs and therefore there is a need to move to a new version of the standard or operating rule; or 3) does not meet current industry business needs and therefore there is a need to adopt a different standard or operating rule for the transaction.

The following are not included in the scope of work of the Review Committee:

- New health care administrative transactions for which standards or operating rules have not yet been adopted.
- Standards or operating rules adopted under other programs outside of HIPAA, for example, Meaningful Use, including clinical data standards under the purview of ONC.
- Privacy, security and transport standards.

Consistent with the statute, the Review Committee will coordinate its recommendations with the standards adopted by the Office of the National Coordinator for Health Information for certified electronic health record systems.

Designation of the National Committee on Vital and Health Statistics (NCVHS) as the Review Committee

NCVHS has been designated as the Review Committee by the Secretary of the Department of Health and Human Services (DHHS). NCVHS is the statutory advisory committee with responsibility for providing recommendations on health information policy and standards to the HHS Secretary. The NCVHS has delegated the responsibility of the Review Committee to the NCVHS Standards Sub-Committee. General organizational roles and responsibilities for development, maintenance, and adoption/implementation oversight of standards, code sets, identifiers, and operating rules are described in attachment 2.

The current role of the NCVHS Standards Sub-Committee encompasses three primary areas:

1. New health care administrative transactions not yet named in regulations as HIPAA transactions, and for which standards, code sets, identifiers, or operating rule have not yet been adopted (i.e., attachments, acknowledgments, first report of injury, others);
2. Existing health care administrative transactions named in regulations as HIPAA transactions, and for which standards, code sets, identifiers, or operating rule have been adopted (i.e., claims, claims payment, ICD-10, CPT, National Provider Identifier); and
3. All other topics that are within the scope of responsibilities of the Sub-Committee (i.e. public health informatics standards, eHealth roadmap, simplification of other administrative processes such as provider enrollment, other).

The Review Committee will closely coordinate the scope of their required activities with the statutory role and activities of the NCVHS Standards Subcommittee.

Review Committee Membership

All members of the Standards Sub-Committee will be considered members of the Review Committee. The co-chairs of the Standards Sub-Committee will act as Review Committee co-chairs. The lead staff of the Standards Sub-Committee will act as lead staff for the Review Committee. Any other members of the full NCVHS can also participate in the Review Committee by joining the Standards Sub-committee.

When additional expertise is needed, content experts may be invited by the Review Committee co-chairs to address specific issues. Additional expertise would be accomplished either through limited participation at Review Committee meetings or in the formation of time-limited, purpose-focused Review Committee task groups, at the discretion of the Review Committee co-chairs. Technical support will be provided by the Standard Sub-Committee lead staff and other existing Standards Sub-Committee staff and resources.

Review Committee Process and Deliverables

- The Review Committee will:
  - Convene a hearing not less than biennially to review the status of adopted standards, code sets, identifiers and operating rules.
  - Convene additional hearings, as necessary.

- Conduct periodic working meetings.
- Engage content experts when necessary to provide advice to the Review Committee on specific areas in question.
- Convene time-limited, purpose-focused task groups to address specific areas in question.
- Provide recommendations to the Secretary of DHHS.

- The Review Committee work will be accomplished primarily via virtual meetings, email communications, and scheduled hearings. On-site meetings may be held during scheduled NCVHS full committee and Standards Sub-Committee meetings, as necessary.
- Review Committee hearings:
  - At least biennially, NCVHS, through the Standards Sub-Committee acting as the Review Committee, will convene a Review Committee hearing to review the status of existing transactions and their adopted standards, code sets, identifiers, and operating rules.
  - The Review Committee hearing will generally be held during the second-quarter (Q2) meeting of NCVHS (usually in the month of June) and at other times if needed.
  - Additional Review Committee hearings may be scheduled, at the discretion of the Standards Sub-Committee, to fulfill Review Committee functions.
- All hearings will be conducted in accordance with FACA policies and NCVHS practices, including: (1) issuing early public announcement, (2) developing an agenda and topics to be covered, (3) establishing a set of questions to be addressed by testifiers, (4) identifying and inviting industry representatives to provide oral testimony, (5) inviting the health care industry[1] and the public at large to provide written testimony, and (6) allowing for public input during the hearing. All hearings are public, and will be made accessible remotely through voice/webcast.
- Purpose and Content of the Review Committee Hearing(s):
  - At Review Committee hearings, testifiers will be asked to address a set of specific predefined questions concerning:
    - The current status of implementation of all HIPAA-named transactions and their corresponding standards and operating rules.
    - The degree to which current standards, code sets, identifiers, and operating rules continue to fulfill the business needs of the health care industry.
    - The degree to which the use of the standard or operating rule results in discrepancies, ineffectiveness or inefficiencies in the implementation of a transaction, which causes conflicting or unanticipated negative impact to transaction implementers and the industry as a whole.
    - Any inability or limitation of the standard or operating rule to meet new and emerging business needs of the industry.
    - Whether changes in current standards and operating rules for any particular transaction are needed.
  - The DSMO, SDOs, DCCs and ORAEs will be invited to testify and address these questions for each of the existing named HIPAA transactions. In addition, the groups will be asked to review key maintenance changes made to existing

standards or operating rules since the last report to the Review Committee, including a description of the business case and technical solution/approach used.
    - Representatives from various segments of the health care industry (i.e., providers, payers, clearinghouses, public programs, vendors, and others) will be also invited to testify.
    - The health care industry at large will be invited to submit written testimony.
    - All testifiers will be requested to provide objective data to support their testimony. This may include analytical data, market research, cost-benefit analysis and other forms of objective analysis.
- Consistent with the ACA Statute, the Review Committee subsequent to each hearing will provide recommendations to the HHS Secretary on the need to update specific standards, code sets, identifiers or operating rules for specific transactions. The Review Committee will prepare a Letter of Recommendations to the HHS Secretary, to be presented to the full NCVHS for action/approval at a subsequent NCVHS meeting.
    - The findings, themes, observations and recommendations included in the Letter to the HHS Secretary will incorporate findings from the written and oral testimony received by the Review Committee for the hearing, as well as any input received from subject matter experts or time-limited, purpose-focused task forces engaged/created by the Review Committee.
    - The Review Committee will also ensure that any changes in standards or operating rules recommended to the HHS Secretary will be coordinated with the standard adopted by the Office of the National Coordinator for Health Information Technology for certified electronic health record systems.
    - Subsequent to the full NCVHS decision, the Letter of Recommendations will be sent to the HHS Secretary.

[1] Note: The terms "industry" and "health care industry" refers to any stakeholder within the health care sector that is affected by, or involved in health care administrative transaction standards, code sets, identifiers, or operating rules. This includes, but is not limited to, consumers, providers, employers, health plans, vendors, government programs, researchers, and others.

ATTACHMENT 1 – REVIEW COMMITTEE STATUTORY REFERENCE

42 U.S.C. 1320d-2 - Sec. 1173

(i) Review and Amendment of Standards and Operating Rules.—

(1) Establishment. — Not later than January 1, 2014, the Secretary shall establish a review committee (as described under paragraph (4)).

(2) Evaluations and reports.—

(A) Hearings. — Not later than April 1, 2014, and not less than biennially thereafter, the Secretary, acting through the review committee, shall conduct hearings to evaluate and review the adopted standards and operating rules established under this section.

(B) Report. — Not later than July 1, 2014, and not less than biennially thereafter, the review committee shall provide recommendations for updating and improving such standards and operating rules. The review committee shall recommend a single set of operating rules per transaction standard and maintain the goal of creating as much uniformity as possible in the implementation of the electronic standards.

(3) Interim final rulemaking.—

(A) In general.— Any recommendations to amend adopted standards and operating rules that have been approved by the review committee and reported to the Secretary under paragraph (2)(B) shall be adopted by the Secretary through promulgation of an interim final rule not later than 90 days after receipt of the committee's report.

(B) Public comment.—

(i) Public comment period.—The Secretary shall accept and consider public comments on any interim final rule published under this paragraph for 60 days after the date of such publication.

(ii) Effective date.—The effective date of any amendment to existing standards or operating rules that is adopted through an interim final rule published under this paragraph shall be 25 months following the close of such public comment period.

(4) Review committee.—

(A) Definition. — for the purpose of this subsection, the term "review committee" means a committee chartered by or within the Department of Health and Human Services that has been designated by the Secretary to carry out this subsection, including—

(i) The National Committee on Vital and Health Statistics; or

(ii) Any appropriate committee as determined by the Secretary.

(B) Coordination of hit standards. — In developing recommendations under this subsection, the review committee shall ensure coordination, as appropriate, with the standards that support the certified electronic health record technology approved by the Office of the National Coordinator for Health Information Technology.

(5) Operating rules for other standards adopted by the secretary.—The Secretary shall adopt a single set of operating rules (pursuant to the process described under subsection (g)) for any transaction for which a standard had been adopted pursuant to subsection (a)(1)(B).

Attachment 2: General Organizational Roles and Responsibilities for Standards, Code Sets, Identifiers, and Operating Rules

- Standards development and maintenance: DSMO (Designated Standards Maintenance Organizations) and SDOs (Standards Development Organizations).
- Code sets development and maintenance: DCCs (Data Content Committees).
- Operating Rules development and maintenance: ORAEs (Operating Rules Authoring Entities).
- Standards/Operating Rules rulemaking and mandate: CMS (Office of eHealth Standards and Services – OESS).
- Standards/Operating Rules oversight and recommendation: NCVHS Standards Sub-Committee:
    - Standards/Operating Rules review process (for new transactions): NCVHS Standards Sub-Committee.
    - Standards/Operating Rules review process (for existing transactions): New Review Committee.