

A major contamination of public water, either accidentally or deliberately, could cause widespread panic, disrupt the economy and lead to a loss of public confidence in water supply systems throughout the country. In 1996, the President's Commission on Critical Infrastructure Protection probed the security of the nation's critical infrastructures and determined that our water systems are highly vulnerable. In 1998, the President designated water systems as a critical infrastructure and assigned primary responsibility for this critical infrastructure.

H.R. 3178 authorizes \$12 million for each of fiscal years 2002 through 2006 for the EPA to provide grants and other assistance for research, development, and demonstration of innovations to strengthen the security of water infrastructure systems. This includes processes and procedures that can be used to protect water systems and technologies for early warning systems, real-time monitoring sensors, water and wastewater treatment technologies, backup systems, and improved computer controls. Cyber security also is addressed.

It is important that we not advertise our vulnerabilities and our response to them. I am pleased, therefore, that this legislation restricts access to the information developed under this program to those who need to know.

Mr. Speaker, the critical importance of water to our nation would make H.R. 3178 necessary even without the current war on terrorism. In the wake of September 11, this legislation takes on renewed urgency, and I want to thank the Gentleman from New York and Chairman of the Science Committee, Mr. BOEHLERT, for his work in bringing this bill to the floor.

I urge my colleagues to support this important bill.

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LEGISLATIVE HISTORY AND INTENT CONCERNING H.R. 3323, THE ADMINISTRATIVE SIMPLIFICATION COMPLIANCE ACT

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**HON. WILLIAM M. THOMAS**

OF CALIFORNIA

**HON. CHARLES B. RANGEL**

OF NEW YORK

**HON. NANCY L. JOHNSON**

OF CONNECTICUT

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

**HON. DAVID L. HOBSON**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 3, 2002*

BACKGROUND AND NEED FOR LEGISLATION

Mr. THOMAS. Mr. Speaker, the administrative simplification provisions of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 will improve administrative efficiencies in the health care market by facilitating electronic transactions between covered entities—health plans, clearing houses and health care providers. Indeed, the Department of Health and Human Services estimated that administrative simplification will save \$29.9 billion over 10 years as a result of increased efficiencies.

Many covered entities believed coming into compliance with the October 16, 2002 deadline set by the regulations implementing the transactions and code set standards required by HIPAA was an insurmountable hurdle. As such, they argued that a one-year delay in implementing the standards was necessary.

The Committee was concerned, however, that a one-year delay in the implementation of these standards had the potential to result in an indefinite delay, as advocates for the status quo would present more excuses next year in asking for an additional extension, which could lead to indefinite extensions. The Committee also believes entities should undertake actions to prepare to come into compliance.

However, a number of covered entities presented legitimate reasons why they could not come into compliance by the October 2002 deadline, and the Committee determined legislative action was necessary.

H.R. 3323

The House and Senate passed legislation, H.R. 3323, the Administrative Simplification Compliance Act, to address this issue and to provide a glide path for covered entities to come into compliance.

Specifically, the legislation requires that any entity that has not come into compliance by the October 2002 deadline may receive a year extension if they submit a compliance plan with the Secretary demonstrating how they will come into compliance within the next year. The compliance plan forces entities to think deliberatively through what it will take to come into compliance and to go on record with the Secretary that they intend to come into compliance. The bill also requires the Department of Health and Human Services to issue model compliance plans, which include critical benchmarks such as establishing a compliance budget, a work plan and an implementation strategy for coming into compliance. The Secretary is not required to approve the compliance plans (as this would compel a review and decision on millions of applications), yet is required to widely disseminate reports containing effective solutions to compliance problems identified in the compliance plans.

Finally, to provide a disincentive to going back to paper claims, the bill requires covered entities to submit electronic Medicare claims to the Centers of Medicare and Medicaid Services (CMS) as a condition of payment. The Committee does not foresee this requirement as being problematic in any way since 98 percent of Part A providers and 85 percent of part B providers already submit claims electronically. In addition, the legislation has exceptions from the electronic submission requirement for cases in which no method is available for the submission of claims other than in written form and for small providers (defined as having fewer than 25 full time equivalent employees for facilities or 10 for physician practices).

In submitting the Committee's legislative intent, the authors make the following specific observations.

ADDITIONAL TIME

The Committee encourages those entities that can reasonably become compliant with the original October 16, 2002 deadline for electronic transactions and code sets to continue their efforts. It is the clear intent of the Committee that the additional twelve-month extension not delay compliance efforts already underway.

The Committee also encourages the Department to not penalize a compliant entity that must send non-compliant transactions because their trading partners have filed for the extension. This should be considered "good cause" for non-compliance pursuant to Sec. 1176(3) of the HIPAA law.

SUMMARY COMPLIANCE PLANS

The Committee intends that the plan submitted to the Secretary under Section 2(a)(2) of the bill will be a minimal reporting requirement. The plan will provide summary information regarding the work to be completed for the covered entity to be compliant with the transactions and code set standards by October 2003. The Committee intends that submission of a compliance plan will force covered entities to analyze and consider the exact steps needed to ensure compliance with the regulation by the compliance date, and to achieve those steps.

In preparing the plan, it is important for the covered entity to generally indicate that it has or will begin, accomplish, or is working towards completing, a particular task, in addition to the summary information relating to the task itself.

MODEL FORM AND TIMING OF SUBMISSION

If a covered entity so chooses, it may use the model form promulgated by the Department of Health and Human Services (HHS), or it may provide the information in an alternative format at any time prior to October 16, 2002. Entities do not need to wait until HHS promulgates a model form in order to file a compliance plan. The model form promulgated by HHS should be concise, and the Committee encourages the Department to immediately post the mailing and electronic submission address for extension filings on their website.

The Committee recognizes that compliance with respect to long-term care insurers and providers has been delayed by the absence of standard code sets for long-term care services. The Committee also recognizes that long-term care covered entities have been working diligently with the Secretary to correct this problem. The Committee encourages the Secretary, when issuing the model form, to provide guidance regarding the form's submission that addresses the unique situation facing long-term care insurers and providers.

REPORT AND ANALYSIS

It is the Committee's intent in enacting this legislation that the National Committee on Vital and Health Statistics (NCVHS) will perform analysis of compliance extension plans, conduct hearings, and disseminate reports to HIPAA covered entities.

The Committee realizes that clearinghouses, the vendors of software programs and computer services, and the vendors of remediation services will play a role in helping providers and plans come into compliance with the transactions and code set standards as well as the other administrative simplification standards. The Committee expects the Secretary and the NCVHS to consult with all entities listed in the statute and the vendor community or their representatives directly.

The Committee intends that information provided in compliance plans will be redacted when provided to NCVHS so as to prevent the disclosure of trade secrets, commercial or financial information that is privileged or confidential. The Committee, however, believes that a covered entity that has submitted a

compliance plan should inform as many of its trading partners as possible of the anticipated timelines for its compliance activities, including its schedule for beginning testing, in order to avoid confusion.

#### SCOPE AND APPLICATION OF CONFIDENTIALITY RULE

In this legislation, the Committee has sought to ensure that entities become compliant with the April 14, 2003 HIPAA confidentiality requirements despite the fact that the final transaction standards will not be effective until six months later. With regard to clearinghouses, the Committee appreciates that there are healthcare information technology vendors, such as applications service providers (ASPs) that create, adjudicate and process claims in other ways than converting data into standard transactions formats other than HIPAA standardized formats. The Committee does not intend to create any new covered entities under any of the HIPAA rules during this time.

The Committee does not intend to modify the April 14, 2003 effective date of the confidentiality regulation in this legislation.

#### FILING OF PAPER CLAIMS

This legislation requires the electronic filing of claims with Medicare, with exceptions. It is not the intent of the Committee to preclude a Medicare beneficiary from submitting a paper claim for covered services. Although virtually all Medicare claims are filed on behalf of a beneficiary by the provider rendering services, there are situations where a beneficiary receives a covered service by a non-Medicare enrolled provider and would, therefore, be eligible for reimbursement. Such claims are likely to be filed on paper, and nothing in this legislation should be construed as preventing the filing of a paper claim Medicare claim directly by a beneficiary.

#### COMPLETION OF ADDITIONAL RULES

The Committee strongly encourages the Department of Health of Human Services to complete, in final form, the outstanding rules provided for in the original statute, namely the provider identifier, plan identifier, and employer identifier. Congress also strongly encourages the Department to issue the final security and electronic signatures regulation.

#### USE OF AUTHORIZATION

The Committee intends the authorization of funds included in Section 5 would be used to speed the issuance and final promulgation of all HIPAA administrative simplification rules. In addition, the authorization is not intended to be used for direct individual compliance activities of covered entities, but to broadly provide technical and educational assistance. Because the Committee expects timely compliance by the private sector with these standards, the Committee wants the Secretary to issue the model form in a timely manner. Failure to meet the deadline outlined in the legislation jeopardizes authorized funds.

#### TRIBUTE TO MR. LOUIS BALLOFF

**HON. JOHN J. DUNCAN, JR.**

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, January 3, 2002*

Mr. DUNCAN. Mr. Speaker, since September 11th there have been many acts of kindness that have gone a long way to bridge the gaps between all faiths, not just here in the United States, but around the world.

Many of these acts are done one at a time, noticed by few, but each having a significant impact on many individuals and communities.

Mr. Louis Balloff, immigrating to this country from the Ukraine during the late 1800s, was one who touched many lives. He came to this country with nothing, fleeing religious persecution, seeking a new start to a better life and participating in the American dream.

He eventually settled in LaFollette, Tennessee, and became a successful merchant. This community was good to him and he always felt a need to give back many of his financial successes to this town in rural Appalachia.

The following article is a typical way in which Louis felt obligated to help less fortunate members of his community, not knowing the impact it would have on so many others.

I have included an article from the Knoxville News Sentinel, which highlights one such act, that I would like to call to the attention of my fellow Members and other readers of the RECORD.

[From the Knoxville News-Sentinel]

MERCHANT GIVES LOVE

BOY TOOK GIANT STRIDES IN GIFT OF SHOES

(By Jacquelyn B. Dean)

A single act of kindness can sometimes have a tremendous impact on a person's life, with repercussions felt halfway around the world.

Such was the case of Louis Balloff and Roy Asbury of Campbell County.

"They were good friends," said Asbury's son, Campbell County Circuit Judge Lee Asbury, "but it was a strange partnership. Mr. Balloff was an older, real conservative merchant, and dad was a country lawyer and rabblerouser who dabbled in politics. They were not alike, but they were still close friends."

Both men are deceased.

Balloff, a Russian Jewish immigrant who moved from New York City to Campbell County and began his retail business as a peddler selling goods in the mining camps, died of a heart attack in 1964.

Roy Asbury was a well-known Campbell County lawyer who served one term as a state representative (in the 85th General Assembly in the mid-1960s). He died of a heart attack in 1970.

The story of their friendship, and how it began, is told over and over again by members of their families.

Asbury was a poor, teenaged boy who walked barefoot from Caryville to Jacksboro High School one September day in 1922.

Balloff was a merchant who called him into his store that "cold, frosty morning and encased his feet in a good pair of shoes with socks."

Their families later became friends, but at that time Asbury was so resentful and prejudiced against Jews that he left the store without saying thank you.

Forty years later, in a letter dated April 28, 1962, Asbury finally told Balloff "thank you" and recounted how that single incident caused him to reconsider and shed his prejudiced attitudes "against all 'furringers,' and especially Jews."

Asbury wrote:

"The years began to slip by, you and that boy was always and at all times friendly, but the shoes were never mentioned.

"The boy learned as he grew older to love and respect the Jews, and he developed a strong feeling of sympathy for all minority groups, oppressed groups, or individuals, and he never forgot that pair of shoes being put on his cold feet, by a Jew, and continually

promised himself that one day, he would do something for a Jew to repay for the shoes, and most of all for forever erasing from his mind prejudice against a race or member of a race by prejudgment without due examination."

Asbury found his opportunity in Paris in 1944, when he served in the U.S. Army during World War II.

He wrote that in September 1944 he found an orphanage housing about 300 children, mostly girls and virtually all of them Jewish. Their parents and relatives "had been taken to Germany and killed by that despot, Hitler."

Asbury wrote that the children were in the care of an old Catholic priest and four nuns, but they were suffering from extreme malnutrition. "The old priest could not speak much English, but he convinced that boy (Asbury) they needed sugar and sugar products."

That night, he couldn't sleep. He woke a fellow soldier who spoke French, and together they obtained a truck, went to a U.S. Army supply depot, and "appropriated 1,500 pounds of sugar and 500 pounds of candy bars, and drove to the orphanage, arriving just before daylight."

They unloaded the truck, awakened the priest and felt they could foresee better days for all the children, he wrote.

Before long, "the U.S. Army personnel was furnishing food, clothing, and medical supplies in abundance, and by the next spring, the children looked almost normal," Asbury wrote.

He said the old priest and nuns followed the truck and tearfully tried to thank them.

"The boy heard their expressions of thanks." Asbury wrote of his experience, "but he knew they were not talking to him but to a man who, on a cold frosty morning, put a pair of shoes on the cold feet of a boy who was barefoot; and that boy knew he was trying to do something for the Jewish race to repay him for that pair of shoes, worn out more than 20 years before."

Asbury concluded the letter by saying, "Lou, I don't know how to say it, but for erasing from my mind and heart all prejudice for any race, member of a race, or an individual because of his race, creed or color, MANY, MANY, MANY THANKS." He signed it, "Yours truly, Roy Asbury."

Judge Lee Asbury said, "I've heard dad tell that story as long as I can remember. It's part of the family lore."

He said he's also known about the letter a long time, and has a copy of it in his files. "Dad was inspired at least in part by Mr. Balloff's helping him out," he said.

Says Lee Asbury of the Balloffs, "I can't ever remember not having a deep affection for the whole family."

Ed Balloff, who, with his brother, Sam Balloff of Knoxville, operated a chain of Balloffs stores in LaFollette, Oak Ridge and Knoxville, said, "The letter meant a great deal to me, and I've kept it in my files."

When Ed Balloff sought Lee Asbury's advice about what to do following his retirement from the retail business, the judge suggested he volunteer with the public defender's office in Campbell County. He did.

A mutual friend, Jim Agee, a distant cousin to famed writer James Agee, suggested the letter might be especially significant in this 50th anniversary year of D-Day.

Asbury said there is a greater significance: "People are not any different. We all have the same desires. The quicker everybody comes to that conclusion, the better off we will all be."