

HIPAA BASIC TRAINING

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Legal Issues with the EMR-- Inception of HIPAA

- Security
- Privacy
- Others: Electronic Transactions and National Identifiers

Federal Legislation

- HIPAA (Health Insurance Portability and Accountability Act)
- April 14, 2003
- First ever federal privacy standards to protect patients' medical records and personal medical information and secure networks for the transfer of healthcare data.

A Healthcare provider may not disclose information about a patient to anyone without prior consent from the patient

HIPAA

- Requirements for Providers
- Written Privacy and Security Procedures
- Employee Training

Steps for HIPAA Analysis

Is an entity a “covered entity” or a provider of medical or other health services and any other person that furnishes, bills or is paid for health care in the normal course of business?

- If a covered entity, what standards apply? (provider, clearinghouse, health plan)
- Examples: One physician office, hospitals, pharmacies

Departments Affected

- Registration
- Emergency Room
- Outpatient
- Medical Records
- Patient Accounting
- Clinical Staff
- Information Technology

Departments Affected (ctd)

- Labs
- Radiology
- Volunteers
- Medical Research
- Marketing
- Fundraising
- Human Resources
- Training

Is the entity a “business associate” or one who performs a function or activity on behalf of a covered entity?

Examples: attorneys, clergy, vendors, waste plans, transcriptionists

Implementation

- For covered entities, appoint a compliance officer
- Confidentiality and Security Policies
- Be aware of security issues such as locks, files not in public view, etc.

Implementation (ctd)

- Make sure staff from top to bottom is educated on basics – Awareness and Need to Know
- Encourage education of staff
- Joint Commission is arm of enforcement, civil to criminal penalties, HHS and Office of Civil Rights

Six Steps to Implementation

1. Awareness
2. Assessment
3. Planning
4. Implementation
5. Training
6. Ongoing Compliance

Security Measures

- Encryption
- Authentication
- Access Control
 - Limit
 - Audit
- Physical Security
- Administrative Control

Security Issues

A provider using EMR should install “reasonable and appropriate security measures” to ensure that patient data is available only to the desired recipients and that any form of misuse is minimized.

Confidentiality Policies

- Access
 - Limit
 - Audit
- Release of Information
- Disciplinary Measures

HIPAA Resource

US Dept of Health and Human Services
<http://aspe.hhs.gov>

Privacy Issues

- Federal Law HIPAA
- State Law
- Tort Law

State Regulations

- Retention of Electronic Records (175/135)
- Super-Protected Records
 - Psychiatric/Mental Health
 - Substance Abuse
 - Domestic Violence
 - AIDS and HIV
 - Communicable Diseases
- Inspection of Records

Tort Law Principles

- Breach of implied contract and confidentiality
- Negligent infliction of emotional distress

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