

HIPAA – Part 1 Introduction

Corporate Compliance Program Requirement

Remember the “Clinton Healthcare Reform” initiative in 1996?

Think nothing came of it?

Wrong!

HIPAA Happened!

HIPAA = Health Insurance Portability and Accountability Act

- Also known as Kennedy – Kassebaum Act of 1996
- Goals:
 - Cut healthcare costs
 - Provide healthcare coverage for more people
 - Reform how health information is used

First Goal – Prevent Medicare bankruptcy!

Heard that you shouldn't count on Medicare benefits when you retire?

Heard that Medicare is going bankrupt?

Not anymore!

The first part of HIPAA was creation and funding of Corporate Compliance Programs

Be sure that Medicare is only paying “proper” bills

Fine providers who bill too much

- Medicare is only supposed to pay for care which is “medically necessary”
 - No preventative care or screening
 - No experimental procedures or medications
- Billing regulations are confusing and complex
 - About ½ Million pages

Stakes are high

“Operation Restore Trust”

- Audit claims for payment (bills) submitted to Medicare
- Investigate other issues
 - Patients sent for treatment to facility where physician has ownership
 - Enrollment into research study
 - Etc.
- Started in 5 states as pilot program (1996)
 - \$188 Million collected from overpayments and fines
 - 74 Criminal convictions
 - 218 barred from Medicare / Medicaid participation
 - Medicare funded through 2028 at least!
- Expanded to all states
 - Currently over \$70 Billion back into Medicare fund from overpayments and fines
- During 2000
 - \$15 Billion collected from overpayments and fines
 - 414 Criminal convictions
 - 3,350 barred from Medicare / Medicaid participation (permanent or temporary)

Not just about billing!

- Compliance initiative expanded to cover all “Federal, State and Local laws, rules and regulations”
- Model plans / guidance for compliance created
 - Hospitals 1998
 - Laboratories 1998
 - Home Health 1998
 - Billing Companies 1998
 - Medicare+Choice (HMO) 1999
 - Durable Medical Equipment providers 1999
 - Individual and Small group practices 2000
 - Nursing homes 2000
 - Pharmaceutical companies 2002
 - Ambulance companies 2002

What makes a compliance program effective?

Policies / Procedures

- Guide correct choices and actions
- Updated as rules and regulations change
- Accessible to staff, clearly understood
- Employees have multiple ways to report issues / concerns
- Talk with your supervisor / manager
- Contact the Compliance Officer
- Call the Hotline (419-521-1399)

The main thing is to use some appropriate way to report – so that the issue can be resolved.

Training and education for all staff

- What is “the right thing” to do
- Which laws / rules apply
 - Billing
 - Safety
 - Licensure
 - Employment laws (harassment, discrimination)
 - Etc.
- How to report something which might not be right
- Open lines of communication
- No fear of retaliation

Monitoring and auditing

- Check to see that procedures are being followed
- Check to see that policies and procedures are correct (follow laws, rules and regulations)
- Identify opportunities for improvement
- Facilitate change for the better
- Disciplinary action when indicated
- Be sure that everyone knows the right thing to do
- Be sure that everyone does the right thing

Response and prevention

- Keep up with new rules and regulations
- Change policies and procedures as necessary

Denise Haynes
Corporate Compliance Officer
MedCentral Health System
dhaynes@medcentral.org

Error or Fraud?

- Regulations are often confusing and complex
- Regulations change often – difficult to keep up
- Compliance program goal – everyone’s eyes and ears open

We find an issue

Notify government of the error – make corrections, repay money which was collected in error

They find an issue . . .

- We “should have known better”
- Fraud
 - Restitution (repayment)
 - Three times the amount taken as fines
 - \$5,000 - \$10,000 taken as penalty

Help us to find our issues!

- Use appropriate way to report
 - Contact supervisor
 - Contact Compliance officer
 - Call Hotline
- All issues are investigated
- No retribution for reporting

What makes a compliance program effective?

YOU!

- Be aware of the rules and regulations related to what you do
- Make suggestions for improvements
- Report anything that you feel is “not right”

- Help MedCentral be the best that we can be.

Denise Haynes
Corporate Compliance Officer
MedCentral Health System
dhaynes@medcentral.org

HIPAA – Part 2
Portability
Administrative Simplification

Portability

- The portability provision of HIPAA was designed to overcome “job lock”
 - “I have to stay in this job because of the insurance coverage. If I change jobs, they’ll say I have a pre-existing condition they won’t cover”

Coverage is portable if

- Had “creditable coverage” for the condition previously
- No longer than 60 day gap in coverage

- Physician statement that condition was not pre-existing

Got a portability question?

- Contact Human Resources to find out more about your benefits eligibility

Administrative Simplification

- This part of HIPAA is designed to get all healthcare providers “on the same page”
 - Compatible computer systems
 - Use standardized codes to send information back and forth

Compatible computer systems

- By October, 2003 – every healthcare provider MUST submit claims to Medicare electronically
 - Hospitals
 - Clinics
 - Physicians
 - Dentists
 - Therapists
 - Etc.

Standardization is the key!

- Same computer format + Same codes = Faster payment!
 - Fewer interfaces
 - Less error due to incompatible data
 - Faster “turn-around time”

Which transactions are electronic?

- Determine Employee Eligibility for Health Plan
- Employee Enrollment into Health Plan
- Health Plan Premium Payment by employer
- Obtain Referral / Authorization for services
- Health Claim Filing (send the bill to insurance)
- Health Claim Status Inquiry & Response
- Electronic Payment of claim / bill

What “Code Sets” are used?

- Diagnosis codes
 - Assigned by Medical Records
 - A heart attack may now be “410.41”
- Procedure codes
 - Assigned by department or Medical Records
 - “Are you here for your 71010”? (Chest x-ray)
- Equipment / Supplies / Medications
 - Assigned when the item is added to stock
 - “Quick – hand me that E0220 (hot water bottle) – I’m getting a headache from all of this!”
Crack the code yet?
- There are also codes to:
 - Identify the type of provider (physician, nurse, dentist, etc.)
 - Communicate problems / issues with the transmission
 - Send comments back and forth

What does this mean to ME?

- Updates to McKesson (HIS) system to comply with new regulations
 - Ability to transmit in new format
 - Capture all required data
 - Proper code tables in place
- May need some additional data to be entered / gathered

HIPAA – Part 3 Privacy

Very Important Note!!!

This information is intended to be general ~ as with every rule, there are many exceptions and special circumstances.

Please contact Corporate Compliance (8776) if you have specific questions or concerns.

With increased information on computer comes increased concern about privacy!

- Who “owns” my information?
- Who can see my information?
- Who decides how it gets used and by whom?
- Can someone “hack” into the system?
- Can my information be sent out without my knowledge?
- Could my identity be stolen?

Who “owns” patient information anyway?

- The information belongs to the patient, but the records belong to the hospital
 - The patient has a right to determine how the information is used and shared

Who has the right to see a patient’s record?

- Only someone with a “need to know” should access the patient’s record
 - Examples:
 - **Someone directly involved in the person’s care**
 - **Someone who will be involved in the patient’s care**
 - **Someone reviewing the chart for quality improvement or business reasons**

The concept of T.P.O.

- Treatment
 - Payment
 - Operations

Treatment

- Providing care or treatment to the patient
 - Directly (face to face contact)
 - **Physicians, nurses, therapists,**
 - Indirectly (contact with records, orders or specimens only)
 - **Pharmacy staff, laboratory technicians, purchasing**

Have access to all information needed to perform their work on behalf of the patient – no authorization needed from the patient

To do less would interfere with care

Payment

- People involved with obtaining payment for services provided
 - Medical Records / Coding, Business Office staff, etc.
 - May be MedCentral employees or external
 - Collection agency, billing services for other providers (physicians, ambulance, etc)

Have access to all information needed to perform their work – no authorization needed from the patient

Patient can not refuse information release for payment once treatment has been given

Operations

- Quality Improvement Activities
- Case Management
- Administrative / Management functions
- Competence reviews / training
- Auditing activity
- Business planning and development

Have access to all information needed to perform their work on behalf of the organization – no authorization needed from the patient

To do less would interfere with the health system's ability to function

The "Facility Directory"

- Unless the patient "opts out" – we can tell anyone who asks:
 - that the person is here as a patient
 - where they are (room number, in surgery, etc.)
 - statement of condition (good, fair, serious, poor, etc.)
- Clergy can be told religious affiliation
- Special set of rules for psych and substance abuse patients

Authorization

- Other than Treatment, Payment or Operations –release of any information not part of the "facility directory" requires patient authorization or approval
 - The patient's family members
 - Your family members
 - Other employees not involved in the care of the person
 - Media
- Special circumstance if release is required by law

What information is "protected"?

Any link between the person's identity and their physical or mental condition

- Identifiers
 - Name (Address, phone number, e-mail address, etc)
 - Numbers (Social Security, Account, Room, Medical Record, etc.)
 - Dates (Birth, Date of service, admission, discharge, etc.)
 - Etc (photos, license plate, vehicle description, etc.)
- Medical Information
 - Diagnosis
 - Procedure
 - Specific location of service (cancer care, OB)
 - Specific provider of service (Cardiologist, Infectious Disease specialist)

What rights do patients have?

- Access
- Amend
- Accounting of disclosures
- Restrict

Patients have the right to access their information

- Read / review the information
 - We may make provision to go over information with the patient and provide explanation
- Obtain a copy
 - We have a right to charge a copying fee
- Special circumstances for Psych / Substance Abuse

Patients have a right to request an amendment to their information

- May add information to the record
- May NOT remove information from the record
- Requests must be made in writing
- Request to amend the record may be denied
- Patients have a right to know where their information was disclosed
- Excludes disclosures for Treatment, Payment and Operations
- Excludes disclosure specifically authorized by the patient
- What's left?
 - Public Health Activities (required reporting of disease, birth, death, etc.)
 - Mandated reporting to authorities (Adverse events, product recalls, etc.)
 - Court Order, Law enforcement
 - Etc

Patients have a right to restrict use and disclosure of information

- Not be included in the facility directory (don't tell anyone I'm here)
- Not disclose information to particular individuals or groups (don't tell my wife what's wrong)
- Alternate communication (don't call my house, contact me at work)
- Legal issues may over-ride
- "Unreasonable" requests don't need to agreed to

Who decides what's "reasonable"?

- Healthcare provider decides
- Patients may complain to federal authorities
- Precedent / guidance will be set in court

How will patients know their rights?

- “Notice of Privacy Practices”
 - Posted on the website
 - Displayed in waiting areas
 - Distributed to patients “at the beginning of a face-to-face encounter”
- Beginning April 16, 2003
- Not necessary at each encounter, required to provide again if notice changes

Expect new policies / procedures!

- Read them!
 - Understand them!
 - Follow them!

Ask Questions!!!

It's IMPORTANT !

It's the LAW !

You are PERSONALLY responsible for information you release!

- Authorized or appropriate release?
 - Wonderful – you've done your job!
- Inappropriate release, didn't get caught?
 - Whew – you got lucky!
- Inappropriate release in error, patient objected
 - Up to \$100 fine per incident, \$25,000 per year, per standard
- Inappropriate intentional release
 - Up to \$50,000 fine, and 1 year in prison
- Releasing information obtained under false pretenses
 - Up to \$100,000 fine, and 5 years in prison
- Inappropriate intentional release, with intent for personal gain
 - Up to \$250,000 fine, and 10 years in prison

If you're giving out patient information . . .

. . . in any format. . . (Spoken, written, copied, faxed, e-mailed, etc.)

- . . . make sure the disclosure is . . .
- The right information
- To the right person
- At the right location

AND - Necessary for treatment payment or operations OR Authorized by the patient

So, I need to find a soundproof room every time I want to talk with a patient?

No – the law recognizes “incidental” disclosures

Take “reasonable safeguards”

- Announcing a name in a waiting room or paging
 - (give as little information as possible)
- Asking clinical questions in a semi-private room
 - (keep your voice as low as possible, close the curtain)
- Leaving a message on an answering machine
 - (give as little information as possible, request call back)

Denise Haynes
Corporate Compliance Officer
MedCentral Health System
dhaynes@medcentral.org

Questions?

- Look for additional information
 - New policies / procedures
 - Newsletter information
 - Posterboard displays
- Ask! Call Corporate Compliance

HIPAA – Part 4 Security

Isn't Security the same as Privacy?

NOPE!

Privacy refers to the right of an individual to control his personal health information

Security is the physical, technical and administrative safeguards that are in place to protect the integrity, availability and confidentiality of information.

My information may be secure, without being private!

“Common” Security Threats

- Hackers
- Viruses
- Interception of information during transmission
- Compromise of passwords
- Imposters
- Carelessness with treatment of information
- Disasters (fire, flood, computer “crash”)
- Break-in

What the Rule says:

- Security requires continual monitoring and review
- Information should only be available on a “need to know” basis
- Applies to electronic and paper-based records that contain “Protected Health Information”

Administrative Safeguards

- Policies and procedures for receipt, handling and disposal of health information
- Certification by an outside firm – technical assessment of security of records
- Access Control (Control who can access what records – based on need to know)
- Auditing of access to information (who actually DID access records – were they right to do so, or just “snooping”)
- Training of workforce (what's OK, and what's not)

Physical Safeguards

- Storage media controls (back-up systems, storage and disposal of hardware and diskettes)
- Work station use (location, visibility, screen filters)
- Locks and key control

Technical Safeguards

- Validation of data
- Message authentication (are you sure about who you're communicating with?)
- Encryption
- Alarms for unauthorized access through the network

Final Rule not released yet!

- Expect to see more information, policies and procedures, etc.

Denise Haynes
Corporate Compliance Officer
MedCentral Health System
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HIPAA Post - test

Corporate Compliance is the responsibility of:

1. Board Members
2. Administration
3. Corporate Compliance Department
4. All Employees

Appropriate methods to report an issue / concern do NOT include:

1. Call the hotline
2. Talk with your co-workers and friends
3. Contact your manager / supervisor
4. Call the compliance officer

You need to worry about getting into trouble if you report a concern

1. True
2. False

Corporate Compliance really only applies to the finance / business office employees

1. True
2. False

“Portability” under HIPAA means that

1. The printout of the regulations is not too heavy to carry around
2. Insurance coverage for medical conditions continues with a new job
3. I have to carry my insurance policy with me at all times

Administrative Simplification

(with seven types of transactions, seventeen different sets of codes and 5000 pages of instructions) is simple

1. True
2. False

The patient has a right to determine how their health information is used and shared

1. True
2. False

Which of the following does not automatically have the right to patient information?

1. The patient
2. The patient's family and/or spouse
3. A healthcare worker directly involved with the care of the patient
4. A healthcare worker who will be directly involved with the care of the patient

It's OK to tell my family all about an interesting patient I had, as long as I tell them it's confidential information

1. True
2. False

Unless the patient has requested otherwise, it's OK to give out a patient's room number to anyone who asks

Denise Haynes
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1. True
2. False

I can talk about a patient as long as I use their room number instead of their name

1. True
2. False

Patients have a right to look at their medical record

1. True
2. False

Patients have a right to white-out information that the nurse wrote in the chart if they don't agree with it

1. True
2. False

Patients have a right to request that they be contacted through a post office box rather than a home address

1. True
2. False

If I give out information when I shouldn't, only the hospital can be fined or sued – not me personally

1. True
2. False

If I'm talking to a very hard-of-hearing patient, I should . . .

1. Try to provide as much privacy as possible (pull the curtain, shut the door, etc.)
2. Be sure the patient has a hearing aid in if available
3. Say what needs to be said – if someone overhears it would be an "incidental" disclosure
4. All of the above

Unless the patient has requested otherwise, it's OK to give out a patient's specific diagnosis to anyone who asks

1. True
2. False

A part of the security rule is that information be "backed up" in the event of an emergency

1. True
2. False

HIPAA requires that information be maintained regarding who accessed what records – known as an "audit trail"

1. True
2. False