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HIPAA Compliance in the Outpatient Setting

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The bad news

- OCR flooded with complaints
- 14,900 complaints received as of 9-8-05
- Private healthcare practices most commonly identified type of entity reported



The good news



- Only 231 cases referred to Department of Justice for investigation
- 68% closed
- Lapse in compliance will not result in immediate investigation and fines.
- OCR committed to voluntary compliance

The Department of Health and Human Resources states...

“We are committed to promoting and encouraging voluntary compliance with the HIPAA rules through education, cooperation, and technical assistance...When potential violations come to our attention through a complaint or compliance review, OCR or CMS’s Office of HIPAA Standards (OHS), as appropriate, attempts to resolve the matter informally.

Many such matters are resolved at this initial stage of contact. However, even where a matter is not resolved through voluntary compliance (for example, by means of a corrective action plan); and OCR or CMS may provide technical assistance to help the covered entity achieve compliance.”

Five most frequently cited allegations

1. Impermissible use or disclosure of an individual's identifiable health information



Five most frequently cited allegations

1. Impermissible use or disclosure of an individual's identifiable health information
2. Lack of adequate safeguards



Five most frequently cited allegations



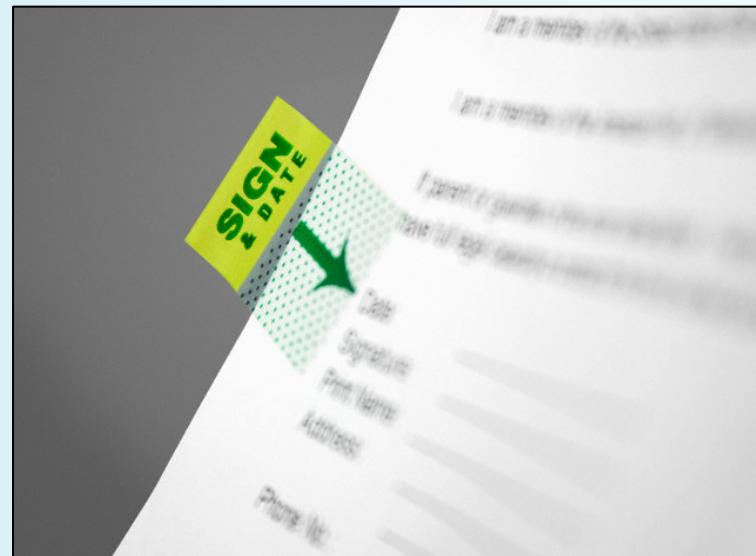
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3. Refusal or failure to provide the individual with access to his/her records

Five most frequently cited allegations

4. Disclosure of more information than is minimally necessary



Five most frequently cited allegations



5. Failure to obtain a valid authorization for a disclosure

Practical Compliance Strategies:

- Designate a Privacy Officer
- Designate a Security Officer
- Make HIPAA part of your culture
- Provide staff training
 - Initial employee training
 - Ongoing training:
 - HIPAA Highlights – once per month
 - Periodic reminders (security requirement)
 - Conduct Awareness Walk-Through

Use Cheat Sheets



- What is PHI?
- When can PHI be shared without an authorization?
- Valid Authorization
- Disclosures Required by Law
- Subpoena Checklist
- Accounting of Disclosures

Appropriate Safeguards

- Administrative
- Technical
- Physical



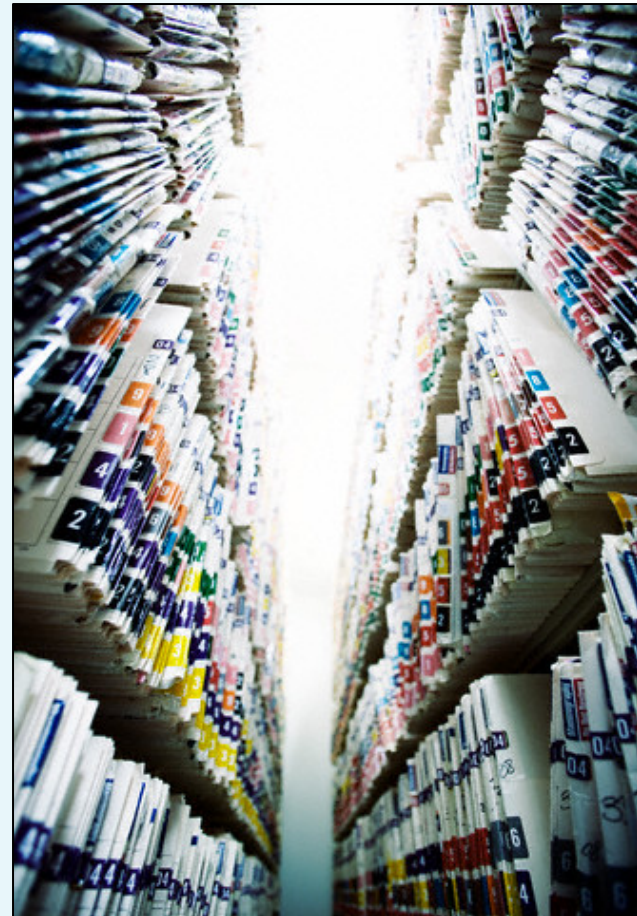
See Safeguard Reminders Handout

Appropriate Safeguards

- Administrative
 - Back-up procedures in place
 - Back-up tapes secured
 - Employee access determined and monitored
 - Periodic security reminders given to staff
 - Security incidents documented
 - Email/Internet policies
- Technical
- Physical

Appropriate Safeguards

- Administrative
- Technical
- Physical
 - Workstations arranged so casual observers can not view screens
 - Servers secured
 - Facility secured
 - Medical records security
 - Trash containing PHI is shredded
 - PHI transported out of the facility is secured



Appropriate Safeguards

- Administrative
- Technical
- Physical
 - Faxes
 - Confirm fax number before sending
 - Confirm fax being received in a secure location
 - Use facility cover sheet with confidentiality statement
 - Record successful transmission/confirmation
 - Destroy any PHI you receive in error
 - Technical
 - Physical



Appropriate Safeguards

- Administrative
- Technical
- Physical



Administrative



- Policies and Procedures
 - Verifying Identity
 - Staff training
 - Disciplinary action for employees who violate the policies
 - Complaint process

Policies and Procedures

- Notice of Privacy Practices
 - How distributed
 - How acknowledgment of receipt is obtained
 - Revisions

Policies and Procedures

Individual Rights

- Access to records
- Requesting amendment
- Request accounting
- Request restrictions
- Request confidential communications



Policies and Procedures

- Process for recording 'Accounting of Disclosures'



Policies and Procedures

- Minimum necessary
- Valid authorization
- Business associates



Policies and Procedures

Security Standard

- Security Management Process
 - Risk Assessment/ Risk Management
- Access Management
- Security Incidents
- Physical and Technical Safeguards
- Contingency Plan
 - Backup/Recovery
 - Emergency Mode Plan

Know when to get help



- OHCA
- Research
- Marketing

What to do if you receive notification of a complaint investigation

- Review complaint
- Collect facts
- Refresh staff
- Respond to the OCR
 - Provide only information requested
 - Take notes
 - Ask for documentation resolving the issue

Questions?

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